

**KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

Closing: February 22, 2002

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TRANSCRIPT OF PROCEEDINGS

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State of West Virginia



Certificate

*I, Joe Manchin, III, 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 30, 2002

Joe Manchin III

*By: [Signature] Secretary of State
Administrative Assistant*

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.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

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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).

§ 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 or 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 rev-

enue 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.

holders a statutory mortgage lien is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

In general. — The provision granting bond-

§ 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).

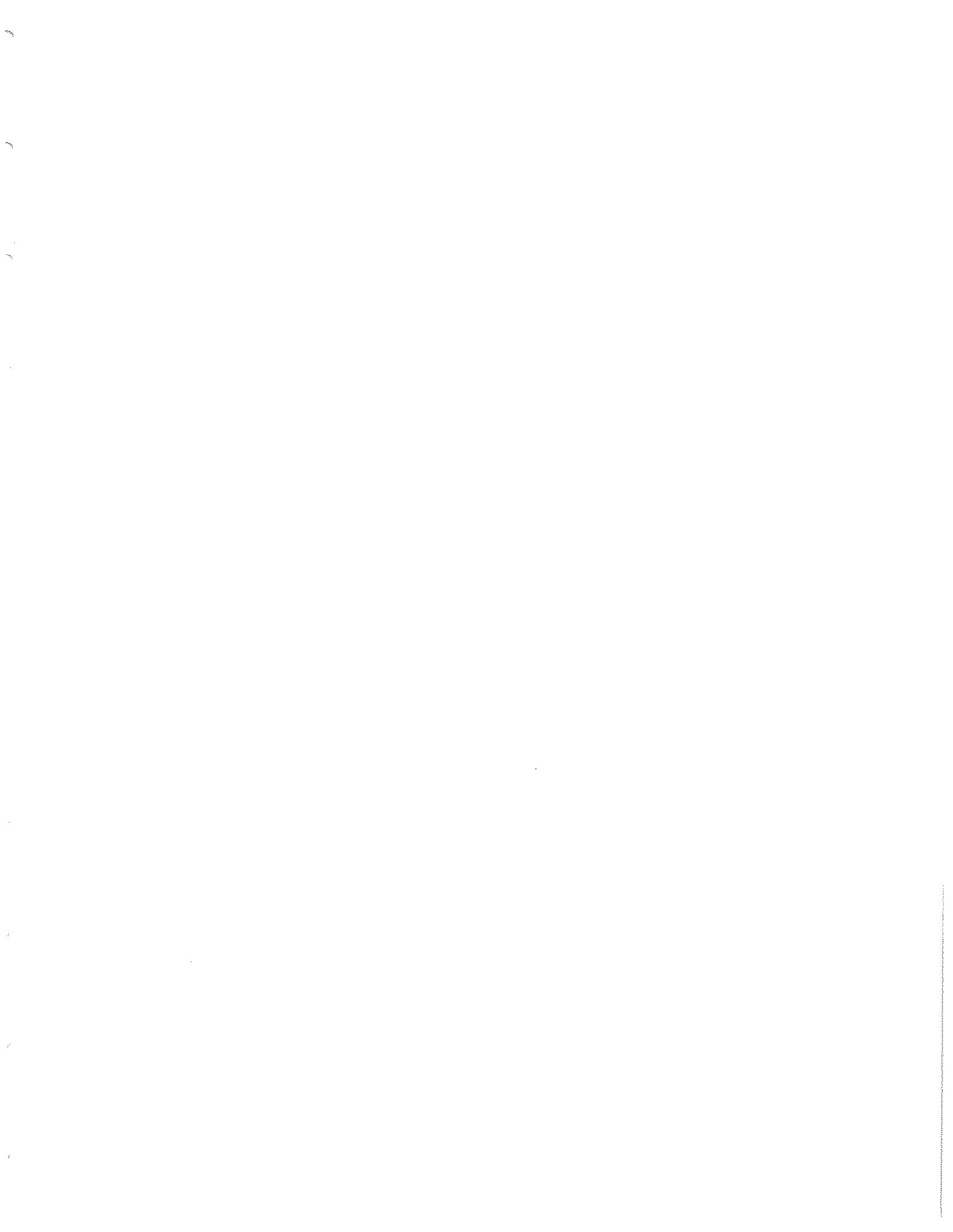
Eminent domain. — Although construction

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.	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.	
16-13B-6. Petition of property owners for creation of assessment district.	
16-13B-7. Receipt of petition of property owners; ordinance or order authorizing creation of assessment district and construction of project.	
	16-13B-8. Assessment district to be a public corporation and political subdivision; powers thereof; community improvement boards.
	16-13B-9. Provisions for construction of a project.
	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.



PETITION FOR CREATION OF PUBLIC SERVICE DISTRICT PURSUANT TO ARTICLE 13-a OF CHAPTER 16 OF THE CODE OF WEST VIRGINIA, AS AMENDED.

TO THE COUNTY COURT OF FAYETTE COUNTY, WEST VIRGINIA:

THE UNDERSIGNED, all legal voters residing within and owning real property within the limits of the territory described below, DO HEREBY PETITION the County Court of the County of Fayette, West Virginia, to create and establish a public service district in the County of Fayette, West Virginia, embracing the territorial limits described below, pursuant to the provisions of Chapter 147 of the Acts of the Legislature of West Virginia, Regular Session of 1953, constituting Article 13-a of Chapter 16 of the Code of West Virginia of 1931, as amended.

The name and corporate title of said public service district shall be the "Kanawha Falls Public Service District."

The territory to be embraced in said public service district shall be as follows:

"Beginning at a point in Kanawha River approximately 2000 feet below the mouth of Boomer Branch, thence N. 60° 00' E. 10,000 feet, S. 35° 00' E. 4800 feet, S. 60° 00' W. 7000 feet, S. 51° 00' E. 9000 feet, N. 75° 00' E. 6000 feet, S. 70° 00' E. 3000 feet, N. 27° 00' E. 5000 feet, N. 10° 00' W. 12,000 feet, N. 40° 00' E. 15,000 feet, N. 30° 00' W. 14,000 feet, N. 52° 00' E. 4000 feet, N. 83° 00' E. 3000 feet to a point in Bells Creek a line between Nicholas and Fayette Counties, thence with and down Bells Creek S. 19° 00' E. 1000 feet, S. 19° 00' W. 2000 feet, S. 52° 00' E. 2000 feet, S. 45° 00' E. 1000 feet, S. 57° 00' W. 2000 feet, S. 45° 00' W. 1000 feet, S. 40° 00' E. 2000 feet to Gauley River, thence down the Gauley River S. 1° 00' W. 2000 feet, S. 16° 00' E. 1000 feet, S. 42° 00' E. 1000 feet, S. 58° 00' E. 3000 feet, S. 44° 00' E. 2000 feet, S. 12° 00' W. 1000 feet, S. 21° 00' W. 2000 feet, S. 34° 00' W. 2000 feet, S. 40° 00' W. 4000 feet, S. 35° 00' W. 3000 feet, S. 21° W. 1000 feet, S. 4° 00' E. 1000 feet, S. 36° 00' E. 2000 feet, S. 28° 00' E. 1000 feet, S. 1° 00' E. 1000 feet, thence leaving Gauley River S. 52° 00' E. 6000 feet, thence S. 31° 00' W. 3000 feet to New River thence down New River N. 51° 00' W. 6000 feet to mouth of Gauley River, (beginning of Kanawha River) thence down Kanawha River, S. 82° 00' W. 2000 feet, S. 62° 00' W. 2000 feet, S. 17° 00' W. 2000 feet, S. 18° 00' E. 3000 feet, S. 11° 00' W. 1000 feet, S. 32° 00' W. 1000 feet, S. 45° 00' W. 2000 feet, S. 28° 00' W. 1000 feet, S. 13° 00' W. 3000 feet, S. 45° 00' W. 1000 feet, S. 66° 00' W. 1000 feet, N. 85° 00' W. 3000 feet, thence leaving Kanawha River S. 20° 00' W. 2000 feet, N. 75° 00' W. 7000 feet, S. 20° 00' E. 1000 feet, N. 75° 00' W. 3000 feet, N. 20° 00' E. 3500 feet to Kanawha River, thence down Kanawha River N. 68° 00' W. 4000 feet, N. 40° 00' W. 3000 feet, N. 12° 00' W. 2000 feet, N. 39° 00' W. 3500 feet the beginning, all being a portion of Kanawha and Falls District, and containing generally the communities of Boomer, Deepwater, Alloy, Falls View, Charlton Heights, Glen Ferris, Gauley Bridge, Brownsville, Belva and contiguous areas, all of which are in Fayette County, State of West Virginia."

The purpose of said public service district shall be to construct, or acquire by purchase or otherwise, and maintain, operate, improve and extend properties supplying water and sewerage services within such territory, and also outside such territory to the extent permitted by law.

The territory described above does not include within its limits the territory of any other public service district organized under the law hereinbefore referred to, nor does such territory include within its limits any city, incorporated town or other municipal corporation.

The undersigned petitioners hereby deposit with this petition the sum of \$ _____ to advance the cost of the publication of the notice of public hearing upon the creation and establishment of said public service district, which said sum is to be returned to petitioners from the proceeds of any bonds issued by said public service district if the same shall be created and established. If said public service district shall not be created, and established, then the cost of said publication of the notice of said public hearing shall be borne by petitioners, and neither the County of Fayette nor the County Court of said County, or any political subdivision, agency or instrumentality of said County shall have any liability therefor.

PETITION FOR CREATION OF PUBLIC SERVICE DISTRICT PURSUANT TO ARTICLE 13-a OF CHAPTER 16 OF THE CODE OF WEST VIRGINIA, AS AMENDED.

NAME	RESIDENCE	DESCRIPTION OF REAL PROPERTY OWNED BY PETITIONER IN PROPOSED DISTRICT	DATE OF SIGNING
W. W. Jennings	Falls View, W. Va.	Tram-house - 7 acre	Aug. 12, 1955
Mrs. L. C. Wills	Falls View W. Va.	5 apt. one 4 house	Aug. 13, 1955
G. B. Hamon	Falls View	2 houses	Aug. 13/55
H. M. Huddleston	Falls View	1 house & lot	Aug 13-55
L. C. Young	Falls View	1 house & 4 lots	Aug 13th, 1955
Wm. W. Duda	Falls View	1 Lot	8-13-55
M. W. Davis	Falls View	2 houses	8-13-55
V. Smith	Falls View	19 apt. filling station 6 houses	8-13-55
Miles Plumley	Falls View	1 barber shop 4 houses	8-13-55
Ysauro Domingos	Falls View	store & restaurant Bldg. 4 apt. 2 houses	8-13-55
A. W. Cairns	Falls View	1 house & lot	8-13-55
Archie Huddleston	Falls View	house & lot	8-13-55
A. R. Beyer	Falls View	house	8-13-55
E. Odging	Falls View	one house	8-13-55
Wilson Huddleston	Falls View	(house)	8/15/55
Sherman Johnson	Falls View	(house)	8/15/55
J. W. Pate	Falls View	house & store	8-15-55
Josephine Baker	Falls View	6 apt. Charlton Wright store building & apt.	8-15
James P. Huddleston	Falls View	1 house	8/15
Ray E. Boyd	Falls View	1 house	8-15
Robert Cairns	Falls View	3 houses	8-15
Kenneth Huddleston	Falls View	2 houses	8/15

PETITION FOR CREATION OF PUBLIC SERVICE DISTRICT PURSUANT TO ARTICLE 13-a OF CHAPTER 16 OF THE CODE OF WEST VIRGINIA, AS AMENDED.

NAME	RESIDENCE	DESCRIPTION OF REAL PROPERTY OWNED BY PETITIONER IN PROPOSED DISTRICT	DATE OF SIGNING
32. S. H. Adams	Garley Bridge, W. Va.	Residence	Aug 18-55
33. R. L. Ogden	Garley Bridge	Rent	Aug 18-55
34. C. W. Reinhardt	Garley Bridge	Residence	Aug 18, 1955
35. G. S. Armstrong	Garley Bridge	Residence	Aug 18, 1955
36. Carson Drug Store	Garley Bridge	Residence	Aug 18, 1955
37. Carl Crawford	Garley Bridge	"	"
38. Crawford Maytag	Garley Bridge	"	"
39. G. B. Lewis	Lewis Store Co	G.B.	" "
40. E. N. Dressler	Garley Bridge	Rent	" "
41. W. L. Crandall	"	"	" "
42. Dr. H. H. Atkins	Garley Bridge, W. Va.	"	Aug 18, 1955
43. Mrs. C. A. Conley	Garley Bridge, W. Va.	"	" "
44. Mrs. Willie Black	Garley Bridge, W. Va.	"	" "
45. Mrs. Ed Neal	Garley Bridge	W. Va.	" "
46. Edmond Hill	Garley Bridge, W. Va.	"	" "
47. W. S. ...	Garley Bridge, W. Va.	"	" "
48. John L. ...	Garley Bridge, W. Va.	"	" "
49. ...	Garley Bridge, W. Va.	"	" "
50. Mary L. Waldo	Garley Bridge, W. Va.	"	" "
51. Gen. ...	"	"	" "
52. Joseph ...	Garley Cleaners	"	" "
53. Carroll Miller	Garley Bridge	"	" "
54. Mrs. E. V. ...	Garley Bridge	"	" "

PETITION FOR CREATION OF PUBLIC SERVICE DISTRICT PURSUANT TO ARTICLE 13-a OF CHAPTER 16 OF THE CODE OF WEST VIRGINIA, AS AMENDED.

NAME	RESIDENCE	DESCRIPTION OF REAL PROPERTY OWNED BY PETITIONER IN PROPOSED DISTRICT	DATE OF SIGNING
78	Willis Hamble	Boomer House & Lot	8/13/55
79	OE Walker	Boomer House & Lot	8-23-55
80	Paul Dick	Boomer House & Lot	8-23-55
81	Howard Viers	Boomer House & Lot	8/24/55
82	Fred D Phil	Boomer House + Lot	8-24-55
83	George R. King	Christchurch Boomer House & Lot	8-24-55
84	Cherene W. Thomas	Boomer House & Lot	8-24-55
85	D. H. Mowatt	Boomer " " "	8-24-55
86	John X. Green	Boomer " " "	8-25-55
87	David E. Nutter	Boomer " " "	8-25-55
88	Harvey Graves	Boomer " " "	8-25-55
89	Robert L. Gussner	Boomer " " "	8-25-55
90	W. A. J. Austin	" " "	8-25-55
91	James F. Nutter	" " "	8-25-55
92	Louis Ferris	" " "	8-25-55
93	Dave Fields	" " "	8-25-55
94	W. H. Badgley	" " "	8-25-55
95	N. S. Kingaley	Boomer " " "	8-25-55
96	A. M. McGraw	" " "	8-25-55
97	Bob Niseman	" " "	8-25-55
98	John D. Smith	" " "	8-25-55
99	Howard Niseman	" " "	8-25-55

Telephone
Hillside 2-4156

Montgomery,
West Virginia

The Montgomery Herald

"SERVING THE UPPER KANAWHA VALLEY"

CERTIFICATE OF PUBLICATION Fee for publication \$78.60

I, Robert K. Holliday, Editor of The Montgomery Herald, a weekly newspaper, published in the City of Montgomery, County of Fayette, State of West Virginia, do declare that the "Notice Of Public hearing On Creation of Kanawha Falls Public Service District" herewith attached, was published in said newspaper in its issue dated the 15th day of September, 1955.

(SIGNED) Robert K. Holliday
Robert K. Holliday
Editor

SIGNED AND SWORN TO and before me this 28th day of September, 1955.

(SIGNED) Marjorie Merriam
Marjorie Merriam
Notary Public

My commission expires January 24, 1965.

A HOLLIDAY PUBLICATION

NOTICE
a legally sufficient public hearing was
filed with the Clerk of the County
Court of Fayette County, West Vir-
ginia, and has been presented to the
County Court of Fayette County for
the creation of a public service district
within Falls and Kanawha District in
Fayette County, for the purpose of
constructing or acquiring by purchase
or otherwise and the maintenance,
operation, improvement and extension
of public service properties supplying
water and sewerage services within
said district and also outside said dis-
trict to the extent permitted by law;
to be named "Kanawha Falls Public
Service District"; and having the
following described boundaries:

"BEGINNING at a point in Kana-
wha River approximately 2000 feet be-
low the mouth of Boomer Branch,
thence N. 60o 00' E. 10,000 feet, S. 35o
00' E. 4800 feet, S. 60o 00' W. 7000 feet,
S. 51o 00' E. 5000 feet, N. 75o 00' E.
6000 feet, S. 70o 00' E. 3000 feet, N.
27o 00' E. 5000 feet, N. 10o 00' W.
12,000 feet, N. 40o 00' E. 15,000 feet, N.
30o 00' W. 14,000 feet, N. 52o 00' E.
4000 feet, N. 83o 00' E. 3000 feet to a
point in Bells Creek a line between
Nicholas and Fayette Counties, thence
with and down Bells Creek S. 19o 00'
E. 1000 feet, S. 19o 00' W. 2000 feet,
S. 52o 00' E. 2000 feet, S. 45o 00' E.
1000 feet, S. 57o 00' W. 2000 feet, S.
45o 00' W. 1000 feet, S. 40o 00' E. 2000
feet to Gauley River, thence down the
Gauley River S. 1o 00' W. 2000 feet,
S. 16o 00' E. 1000 feet, S. 42o 00' E.
1000 feet, S. 58o 00' E. 3000 feet, S. 44o
00' E. 2000 feet, S. 12o 00' W. 1000
feet, S. 21o 00' W. 2000 feet, S. 34o 00'
W. 2000 feet, S. 40o 00' W. 4000 feet,
S. 35o 00' W. 3000 feet, S. 21o W. 1000
feet, S. 4o 00' E. 1000 feet, S. 36o 00'
E. 2000 feet, S. 28o 00' E. 1000 feet, S.
1o 00' E. 1000 feet, thence leaving
Gauley River S. 52o 00' E. 6000 feet,
thence S. 31o 00' W. 3000 feet to New
River thence down New River N. 51o
00' W. 6000 feet to mouth of Gauley
River, (beginning of Kanawha River)
thence down Kanawha River, S. 82o 00'
W. 2000 feet, S. 62o 00' W. 2000 feet,
S. 17o 00' W. 2000 feet, S. 18o 00' E.
2000 feet, S. 11o 00' W. 1000 feet, S.
32o 00' W. 1000 feet, S. 45o 00' W.
2000 feet, S. 24o 00' W. 1000 feet, S.
12o 00' W. 3000 feet, S. 45o 00' W.
1000 feet, S. 66o 00' W. 1000 feet, N.
85o 00' W. 3000 feet, thence leaving
Kanawha River S. 26o 00' W. 2000
feet, N. 75o 00' W. 7000 feet, S. 20o 00'
E. 1000 feet, N. 75o 00' W. 3000 feet,
N. 20o 00' E. 3500 feet to Kanawha
River, thence down Kanawha River
N. 65o 00' W. 4000 feet, N. 46o 00' W.
3000 feet, N. 12o 00' W. 2000 feet, N.
39o 00' W. 2500 feet the beginning, all
being a portion of Kanawha and Falls
District, and containing generally the
communities of Boomer, Deepwater,
Abay, Falls View, Charlton Heights,
Glen Ferris, Gauley Bridge, Browns-
ville, Beiva and contiguous areas, all
of which are in Fayette County, State
of West Virginia."

All persons residing in or owning or
having any interest in property in said
proposed public service district are
hereby notified that the County Court
of Fayette County will conduct a pub-
lic hearing on September 29, 1955, at
10:00 o'clock A. M., in the County
Court House at Fayetteville, West
Virginia, at which time and place all
interested persons may appear before
the County Court and shall have an
opportunity to be heard for and
against the creation of the proposed
public service district.

By Order of the County Court this
7th day of September, 1955.

Mrs. Lucy Neely
County Court Clerk.

Adopted by the County Court Sep-
tember 7, 1955.

E. W. Kelly
President.

Attest:
Mrs. Lucy Neely
Clerk.

L-1c-8-18

Fayetteville, West Virginia

September 29, 1955

The County Court of Fayette County, West Virginia, met in ^{special} regular session pursuant to law and to the rules of said Court at the County Court House, Fayetteville, West Virginia, at 10 o'clock A.M. The meeting was called to order and the roll being called there were present _____

E. W. Kelly, President, presiding, and the following named Commissioners:

Carl B. Vickers and Orval Kessler

Absent: None.

*** *** ***

This being the date fixed by prior action of the County Court for conducting the public hearing on the creation of the proposed Kanawha Falls Public Service District, as contemplated and provided for in a resolution and order adopted by the County Court on September 7, 1955, the President announced that all persons residing in or owning or having any interest in property in such proposed public service district desiring to be heard for or against the creation of said district would be heard and all such interested persons desiring to be heard were given full opportunity.

The County Court then further discussed the creation of said public service district, whereupon Carl B. Vickers introduced and caused to be read a proposed resolution and order, entitled:

"A RESOLUTION AND ORDER creating Kanawha Falls Public Service District in Fayette County, West Virginia,"

and moved that all rules otherwise requiring deferred consideration or several readings be suspended and said proposed resolution and order be adopted.

Orval Kessler seconded the motion and after due consideration the President put the question on the motion and the roll being called, the

following voted:

Aye: E. W. Kelly, Carl B. Vickers and Orval Kessler

Nay: None.

Whereupon the President declared the motion duly carried and said resolution and order duly adopted.

Carl B. Vickers introduced and caused to be read a proposed resolution and order, entitled:

"A RESOLUTION AND ORDER appointing members to the public service board of the Kanawha Falls Public Service District,"

and moved that all rules otherwise requiring deferred consideration or several readings be suspended and said proposed resolution and order be adopted.

Orval Kessler seconded the motion and after due consideration the President put the question on the motion and the roll being called, the following voted:

Aye: E. W. Kelly, Carl B. Vickers, Orval Kessler

Nay: None.

Whereupon the President declared the motion duly carried and said resolution and order duly adopted.

*** *** ***

On motion and vote the meeting adjourned.

E. W. Kelly
President

ATTEST:

Miss Lacey Decker
Clerk

A RESOLUTION AND ORDER creating Kanawha Falls
Public Service District in Fayette County,
West Virginia.

*** *** ***

WHEREAS, the County Court of Fayette County, West Virginia, did heretofore by a resolution and order adopted September 7, 1955, fix a date for a public hearing on the creation of the proposed Kanawha Falls Public Service District and in and by said resolution and order provide that all persons residing in or owning or having any interest in property in the proposed public service district might appear before the County Court at this meeting and have the opportunity to be heard for and against the creation of said district; 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 said district, but no written protest has been filed by the requisite number of qualified voters registered and residing within said proposed public service district and said County Court has given due consideration to all matters for which such hearing was offered; and

WHEREAS, it is now deemed desirable by said County Court to adopt a resolution and order creating said district:

NOW, THEREFORE, Be It and It is Hereby Resolved and Ordered by the County Court of Fayette County, West Virginia, as follows:

Section 1. That a public service district within Fayette County, West Virginia, is hereby created, and said district shall have the following described boundaries:

Beginning at a point in Kanawha River approximately 2000 feet below the mouth of Boomer Branch, thence N. 60° 00' E. 10,000 feet, S. 35° 00' E. 4800 feet, S. 60° 00' W. 7000 feet, S. 51° 00' E. 9000 feet, N. 75° 00' E. 6000 feet, S. 70° 00' E. 3000 feet, N. 27° 00' E. 5000 feet, N. 10° 00' W. 12,000 feet, N. 40° 00' E. 15,000 feet, N. 30° 00' W. 14,000 feet, N. 52° 00' E. 4000 feet, N. 83° 00' E. 3000 feet to a point in Bells Creek a line between Nicholas and Fayette Counties, thence with and down Bells Creek S. 19° 00' E. 1000 feet, S. 19° 00' W. 2000 feet, S. 52° 00' E. 2000 feet, S. 45° 00' E. 1000 feet, S. 57° 00' W. 2000 feet, S. 45° 00' W. 1000 feet, S. 40° 00' E. 2000 feet to Gauley River, thence down the Gauley River S. 1° 00' W. 2000 feet, S. 16° 00' E. 1000 feet, S. 42° 00' E. 1000 feet, S. 58° 00' E. 3000 ft, S. 44° 00' E. 2000 feet, S. 12° 00'

W. 1000 feet, S. 21° 00' W. 2000 feet, S. 34° 00' W. 2000 feet, S. 40° 00' W. 4000 feet, S. 35° 00' W. 3000 feet, S. 21° 00' W. 1000 feet, S. 4° 00' E. 1000 feet, S. 36° 00' E. 2000 feet, S. 28° 00' E. 1000 feet, S. 1° 00' E. 1000 feet, thence leaving Gauley River S. 52° 00' E. 6000 feet, thence S. 31° 00' W. 3000 feet to New River thence down New River N. 51° 00' W. 6000 feet to mouth of Gauley River, (beginning of Kanawha River) thence down Kanawha River, S. 82° 00' W. 2000 feet, S. 62° 00' W. 2000 feet, S. 17° 00' W. 2000 feet, S. 18° 00' E. 3000 feet, S. 11° 00' W. 1000 feet, S. 32° 00' W. 1000 feet, S. 45° 00' W. 2000 feet, S. 28° 00' W. 1000 feet, S. 13° 00' W. 3000 feet, S. 45° 00' W. 1000 feet, S. 66° 00' W. 1000 feet, N. 85° 00' W. 3000 feet, thence leaving Kanawha River S. 20° 00' W. 2000 feet, N. 75° 00' W. 7000 feet, S. 20° 00' E. 1000 feet, N. 75° 00' W. 3000 feet, N. 20° 00' E. 35000 feet to Kanawha River, thence down Kanawha River N. 68° 00' W. 4000 feet, N. 40° 00' W. 3000 feet, N. 12° 00' W. 2000 feet, N. 39° 00' W. 3500 feet the beginning, all being a portion of Kanawha and Falls District, and containing generally the communities of Boomer, Deepwater, Alloy, Falls View, Charlton Heights, Glen Ferris, Gauley Bridge, Brownsville, Belva and contiguous areas, all of which are in Fayette County, State of West Virginia.

Section 2. That said public service district so created shall have the name and corporate title of "Kanawha Falls Public Service District" and shall constitute a public corporation and political subdivision of the State of West Virginia having all of the rights and powers conferred on public service districts by the laws of the State of West Virginia and particularly Article 13A of Chapter 16 of the West Virginia Code.

Section 3. That the County Court of Fayette County, West Virginia, has determined that the territory within Fayette County, West Virginia, having the hereinabove described boundaries, is so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying both water and sewerage services within such territory by said public service district will be conducive to the preservation of public health, comfort and convenience of such area.

ADOPTED BY THE COUNTY COURT September 29, 1955

E. M. Kelly

 President

ATTEST:

Mrs. Lucy Kelly

 Clerk

A RESOLUTION AND ORDER appointing members
to the Public Service Board of the Kanawha
Falls Public Service District.

*** *** ***

WHEREAS, the County Court of Fayette County, West Virginia, did heretofore by resolution and order adopted September 29, 1955 create the Kanawha Falls Public Service District; and

WHEREAS, under the provisions of Article 13A of Chapter 16 of the West Virginia Code the powers of said public service district shall be vested in and exercised by a public service board; and

WHEREAS, since there is no city, incorporated town or other municipal corporation included within said district, it is provided by said Article 13A of Chapter 16 of the West Virginia Code that this County Court shall appoint three members of said board, who shall be persons residing within the district:

NOW, THEREFORE, Be It and It Is Hereby Resolved and Ordered by the County Court of Fayette County, West Virginia, as follows:

Section 1. That the County Court of Fayette County, West Virginia, hereby finds and determines that W. W. Jennings, Jr, Clyde Rinehart, and W. G. Fitzgerald, are persons residing within the Kanawha Falls Public Service District, and the aforesaid persons are hereby appointed as members of the public service board of said district and their respective terms of office shall be as follows:

W. W. Jennings, Jr, for a term of six years from the first day of the month in which this resolution and order is adopted;

Clyde Rinehart, for a term of four years from the first day of the month in which this resolution and order is adopted; and

W. G. Fitzgerald, for a term of two years from the first day of the month in which this resolution and order is adopted.

Section 2. The aforesaid persons shall meet as soon as practicable, at the office of the Clerk of said County Court and shall qualify by taking an oath of office, and thereafter said appointees constituting the initial public service board of the Kanawha Falls Public Service District shall meet and organize in compliance with the provisions of Article 13A of Chapter 16 of the West Virginia Code.

ADOPTED BY THE COUNTY COURT Sept 29, 1955

E. M. Kelly
President

ATTEST:

Mrs. Leay Neely
Clerk

STATE OF WEST VIRGINIA)
) SS.
COUNTY OF FAYETTE)

I, Miss Lacy Neely, hereby certify that I am the duly qualified and acting Clerk of the County Court of Fayette County, West Virginia, and that the foregoing constitutes a true, correct and complete transcript of the proceedings of said County Court as had under date of Sept 29, 1955, and resolutions and orders then adopted relating to the creation of Kanawha Falls Public Service District, and appointment of members to the public service board of said district.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of said Court at Fayetteville, West Virginia this Sept 29, 1955.

Miss Lacy Neely
County Court Clerk

IN THE COUNTY COURT OF FAYETTE COUNTY, WEST VIRGINIA

RE: KANAWHA FALLS PUBLIC SERVICE DISTRICT

P E T I T I O N

Your petitioner, Kanawha Falls Public Service District, respectfully shows unto the Court that it was created pursuant to Chapter 16, Article 13A, of the Code of West Virginia, on September 29, 1955, by the action of this Court and that its boundaries were established as follows:

Beginning at a point in Kanawha River approximately 2000 feet below the mouth of Boomer Branch, thence N 60-00 E 10,000 feet, S 35-00 E 4800 feet, S 60-00 W 7000 feet, S 51-00 E 9000 feet, N 75-00 E 6000 feet, S 70-00 E 3000 feet, N 27-00 E 5000 feet, N 10-00 W 12,000 feet, N 40-00 E 15,000 feet, N 30-00 W 14,000 feet, N 52-00 E 4000 feet, N 83-00 E 3000 feet to a point in Bells Creek a line between Nicholas and Fayette Counties, thence with and down Bells Creek S 19-00 E 1000 feet, S 19-00 W 2000 feet, S 52-00 E 2000 feet, S 45-00 E 1000 feet, S 57-00 W 2000 feet, S 45-00 W 1000 feet, S 40-00 E 2000 feet to Gauley River, thence down the Gauley River S 1-00 W 2000 feet, S 16-00 E 1000 feet, S 42-00 E 1000 feet, S 58-00 E 3000 feet, S 44-00 E 2000 feet, S 12-00 W 1000 feet, S 21-00 W 2000 feet, S 34-00 W 2000 feet, S 40-00 W 4000 feet, S 35-00 W 3000 feet, S 21-00 W 1000 feet, S 4-00 E 1000 feet, S 36-00 E 2000 feet, S 28-00 E 1000 feet, S 1-00 E 1000 feet, thence leaving Gauley River S 52-00 E 6000 feet, thence S 31-00 W 3000 feet to New River, thence down New River N 51-00 W 6000 feet to mouth of Gauley River, (beginning of Kanawha River) thence down Kanawha River, S 82-00 W 2000 feet, S 62-00 W 2000 feet, S 17-00 W 2000 feet, S 18-00 E 3000 feet, S 11-00 W 1000 feet, S 32-00 W 1000 feet, S 45-00 W 2000 feet, S 28-00 W 1000 feet, S 13-00 W 3000 feet, S 45-00 W 1000 feet, S 66-00 W 1000 feet, N 85-00 W 3000 feet, thence leaving Kanawha River S 20-00 W 2000 feet, N 75-00 W 7000 feet, S 20-00 E 1000 feet, N 75-00 W 3000 feet, N 20-00 E 35,000 feet to Kanawha River, thence down Kanawha River N 68-00 W 4000 feet, N 40-00 W 3000 feet, N 12-00 W 2000 feet, N 39-00 W 3500 feet to the beginning, all being a portion of Kanawha and Falls District, and containing generally the communities of Boomer, Deepwater, Alloy, Falls View, Charlton Heights, Glen Ferris, Gauley Bridge, Brownsville, Belva and contiguous areas, all of which are in Fayette County, State of West Virginia.

Your petitioner says that the portion of its territorial boundary lying to the south of Kanawha River does not follow or conform to natural boundary lines or magisterial district lines. That your petitioner has not since its establishment operated any water or sewage facilities to that portion of its territorial boundary lying to the south of Kanawha River.

The extension of any of its present existing facilities to the area aforesaid, or the establishment of an independent water processing facility therein, is not feasible. The population thereof is small, and is considerably scattered. There are no sizeable industries or other concerns which would demand any sizeable quantities of water. The revenue that would be produced by an extension of any existing water facility, or the establishment of an independent one, would not be sufficient to defray the expense thereof.

The facilities which are being operated by your petitioner to the north of Kanawha River were, when acquired, in a state of considerable disrepair and antiquated. Much repair and replacement has been necessary. Much remains to be done in order to maintain existing services. The revenue derived by your petitioner from the operation of its facilities has had to be applied to the matters aforesaid. Future revenues will of necessity have to be applied to now needed repair and replacement of existing facilities, and such as will develop in future.

Your petitioner says that no surplus exists, or will exist, from the revenue of existing facilities which could be applied to supplement revenues from the extension or establishment of facilities to the south of Kanawha River.

Because of the limited amount of revenue available the members of the Board of Kanawha Falls Public Service District

have been required to devote a very substantial portion of their time to the conducting of the affairs of your petitioner. A further extension thereof such as would be entailed by establishment of further facilities would not be possible.

There is pending before the Public Service Commission of West Virginia a complaint filed by Deepwater Citizens Committee, an Association of persons, of Deepwater, West Virginia, being Case No. 5340, by which it is sought to compel your petitioner to extend or establish water facilities to Deepwater, West Virginia, lying to the south of Kanawha River.

Your petitioner says that it would be to the best interest of Kanawha Falls Public Service District that its boundaries be re-established in such manner that the present portion thereof which lies south of Kanawha River be not included within its boundaries, and that its boundaries be fixed as follows:

Beginning at a point in Kanawha River approximately 2000 feet below the mouth of Boomer Branch, thence N 60-00 E 10,000 feet, S 35-00 E 4800 feet, S 60-00 W 7000 feet, S 51-00 E 9000 feet, N 75-00 E 6000 feet, S 70-00 E 3000 feet, N 27-00 E 5000 feet, N 10-00 W 12,000 feet, N 40-00 E 15,000 feet, N 30-00 W 14,000 feet, N 52-00 E 4000 feet, N 83-00 E 3000 feet to a point in Bells Creek a line between Nicholas and Fayette Counties, thence with and down Bells Creek S 19-00 E 1000 feet, S 19-00 W 2000 feet, S 52-00 E 2000 feet, S 45-00 E 1000 feet, S 57-00 W 2000 feet, S 45-00 W 1000 feet, S 40-00 E 2000 feet to Gauley River, thence down the Gauley River S 1-00 W 2000 feet, S 16-00 E 1000 feet, S 42-00 E 1000 feet, S 58-00 E 3000 feet, S 44-00 E 2000 feet, S 12-00 W 1000 feet, S 21-00 W 2000 feet, S 34-00 W 2000 feet, S 40-00 W 4000 feet, S 35-00 W 3000 feet, S 21-00 W 1000 feet, S 4-00 E 1000 feet, S 36-00 E 2000 feet, S 28-00 E 1000 feet, S 1-00 E 1000 feet, thence leaving Gauley River S 52-00 E 6000 feet, thence S 31-00 W 3000 feet to New River, thence down New River N 51-00 W 6000 feet to mouth of Gauley River (beginning of Kanawha River), thence down Kanawha River, S 82-00 W 2000 feet, S 62-00 W 2000 feet, S 17-00 W 2000 feet, S 18-00 E 3000 feet, S 11-00 W 1000 feet, S 32-00 W 1000 feet, S 45-00 W 2000 feet, S 28-00 W 1000 feet, S 13-00 W 3000 feet, S 45-00 W 1000 feet, S 66-00 W 1000 feet, N 85-00 W 3000 feet, thence down Kanawha River with its various meanders to the point of beginning, all being a portion of Falls District and containing generally the communities of Boomer, Alloy, Falls View, Charlton Heights, Glen Ferris, Gauley Bridge, Brownsville, Belva and contiguous areas, all of which are in Fayette County, State of West Virginia.

WHEREFORE, your petitioner prays that this Court set a date for hearing hereon and do cause notice to be given to all persons who would be affected by the re-establishment of the boundaries of Kanawha Falls Public Service District as aforesaid, by publication thereof in a newspaper of general circulation in Fayette County, West Virginia, at least ten (10) days prior to the date of such hearing, and that the Court do re-establish the boundaries of your petitioner, Kanawha Falls Public Service District along the lines set forth in the paragraph hereof immediately preceding, and grant unto your petitioner other appropriate relief.

Respectfully submitted,

KANAWHA FALLS PUBLIC SERVICE DISTRICT

By [Signature]

MAHAN, HIGGINS, TRICIFF & GRANNEY

By [Signature]
Attorney for Petitioner

STATE OF WEST VIRGINIA,
COUNTY OF FAYETTE, TO-WIT:

Before the undersigned Notary Public in and for the County and State aforesaid, this day personally appeared W. W. JENKINGS, JR., who being by me first duly sworn says that he is a member of the Board of Kanawha Falls Public Service District and has knowledge of the facts set forth in the foregoing petition, and that the facts and allegations therein contained are true except so far as they are therein stated to be upon information, and that insofar as they are therein stated to be upon information, he believes them to be true.

[Signature]

Taken, subscribed and sworn to before me this 20th day of March, 1962.

My commission expires March 5, 1969.

[Signature]
NOTARY PUBLIC

IN THE COUNTY COURT OF FAYETTE COUNTY, WEST VIRGINIA

IN RE: PETITION KANAWHA FALLS PUBLIC SERVICE DISTRICT

This 28th day of March, 1962, came the petitioners by R. J. Thrift, Jr., their attorney, and tendered and asked leave to file their duly verified petition, whereby petitioners pray for a re-establishment of the boundary lines of the Kanawha Falls Public Service District in such manner as not to include within its boundaries that portion of its present territory which lies to the south of Kanawha River, and further, the petitioners move that the Court set a date for hearing upon the matters raised by said petition.

The petition appearing proper, it is ordered filed and the Court fixes the 14 day of ~~April~~ ^{MAY}, 1962, as the date for hearing thereon and the time of hearing at 9:30 A.M. The Clerk of this Court shall cause a notice to be published in a newspaper of general circulation in Fayette County, West Virginia of said hearing for one week, at least ten days before the date set for hearing, all of which is accordingly ADJUDGED, ORDERED and DECREED.

W. J. Stallard
PRESIDENT
C. D. Richer
COMMISSIONER
Oswal Kissler
COMMISSIONER

IN THE CIRCUIT COURT OF
FAYETTE COUNTY, WEST VIR-
GINIA

UPON PETITION

IN RE: KANAWHA FALLS PUB-
LIC SERVICE DISTRICT

On the 1st day of May, 1962, at
9:30 a.m. in the County Court Room
of the Court House at Fayetteville,
Fayette County, West Virginia, the
County Court of Fayette County,
West Virginia will have a public
hearing, which all having any inter-
est therein are invited to attend up-
on the petition of Kanawha Falls
Public Service District, wherein it
is prayed that the County Court of
Fayette County, West Virginia re-
establish the boundaries of said
Kanawha Falls Public Service Dis-
trict in such manner that the pre-
sent portion thereof which lies
south of Kanawha River be not in-
cluded within its boundaries and
that its boundaries be fixed, as fol-
lows:

Beginning at a point in Kanaw-
ha River approximately 2000 feet
below the mouth of Boomer Branch
thence N 60-00 E 10,000 feet, S
35-00 E 4800 feet, S 60-00 W 7000
feet, S 51-00 E 9000 feet, N 75-00
E 6000 feet, S 70-00 E 300 ft., N
27-00 E 5000 feet, N 10-00 W 12,
000 feet, N 40-00 E 15,000 feet, N
30-00 W 14,000 feet, N 52-00 E
4000 feet, N 83-00 E 3000 feet to a
point in Bells Creek a line between
Nicholas and Fayette Counties,
thence with and down Bells Creek
S 18-00 E 1000 feet, S 19-00 W
2000 feet, S 52-00 E 2000 feet, S
45-00 E 1000 feet, S 57-00 W 2000
feet, S 45-00 W 1000 feet, S 40-00
E 2000 feet to Gauley River, thence
down the Gauley River S 1-00 W
200 feet, S 16-00 E 1000 feet, S
42-00 E 1000 feet, S 58-00 E 3000
feet, S 44-00 E 2000 feet, S 12-00
W 1000 feet, S 21-00 W 2000 feet,
S 34-00 W 2000 feet, S 40-00 W
4000 feet, S 35-00 W 3000 feet, S
21-00 W 1000 feet, S 4-00 E 1000
feet, S 85-00 E 2000 feet, S 28-00
E 1000 feet, S 1-00 E 1000 feet,
thence leaving Gauley River S 62-
00 E 6000 feet, thence S 31-00 W
3000 feet to New River, thence
down New River N 51-00 W 6000
feet to mouth of Gauley River (be-
ginning of Kanawha River), thence
down Kanawha River, S 82-00 W
2000 feet, S 62-00 W 2000 feet, S
17-00 W 2000 feet, S 18-00 E 3000
feet, S 11-00 W 1000 feet, S 32-00
W 1000 feet, S 45-00 W 2000 feet,
S 38-00 W 1000 feet, S 13-00 W
3000 feet, S 45-00 W 1000 feet, S
66-00 W 1000 feet, N 85-00 W 3000
feet, thence down Kanawha River

with its various meanders to the
point of beginning, all being a por-
tion of Falls District and contain-
ing generally the communities of
Boomer, Alloy, Falls View, Charl-
ton Heights, Gian Ferris, Gauley
Bridge, Brownsville, Belya and
contiguous areas, all of which are
in Fayette County, State of West
Virginia.

CERTIFICATE OF PUBLICATION

The State Sentinel

State of West Virginia,
County of Fayette, ss

I, Marie Haskell Secretary of
THE STATE SENTINEL, a weekly newspaper published at
Fayetteville, W. Va. upon my oath to state that an

NOTICE

printed copy of which is hereto attached was published in
said newspaper on the date, or dates, shown below:

April 4, 1962

and if required by law, a clipping of such publication was
posted at the front door of the Court House of said County
on the day following the first publication thereof.

Marie Haskell

Subscribed and sworn to before me this 5 day of

April, 19 62

Marie Haskell

Notary Public

My commission expires July 11, 1965

Publisher's bill, \$ 23.24

Certificate to be delivered to:

R. J. Thrift Jr.

All who may consider that their interests would be adversely affected by the re-establishment of the boundaries of Kanawha Falls Public Service District in the manner above set forth are hereby notified to attend and defend.

Mrs. Lacy Neely

Clerk of The County Court
Fayette County, West Virginia

4-4-IT

IN THE COUNTY COURT OF FAYETTE COUNTY, WEST VIRGINIA

RE: KANAWHA FALLS PUBLIC SERVICE DISTRICT

O R D E R

This matter came on to be further heard on this 6th day of February, 1963, upon the petition of Kanawha Falls Public Service District heretofore regularly and duly filed; upon the notice regularly and duly given in manner and form required by law more than ten days prior to the date of the original hearing herein by publication in The State Sentinel, a newspaper of general circulation in Fayette County, West Virginia, publisher's certificate whereof is regularly and duly filed in the record of this proceeding; upon the appearance of Deepwater Citizens Committee, an association of persons of Deepwater, West Virginia, in person, and by Gordon Billheimer, their attorney, and upon the various proceedings had herein upon said petition and upon the orders of continuance of this case and notices given in pursuance thereof; and upon all orders made and entered in relation hereto, and this cause having been set down for hearing upon this date.

It appearing to the Court that the object and purpose of petitioners' petition is to re-establish its boundaries in such manner that the portion thereof which lies to the south of Kanawha River be not included within its boundaries and territorial limit and that the same be expressly excluded therefrom and that this will be accomplished by re-establishing the boundaries of said Kanawha Falls Public Service District according to the metes and bounds description set forth in said petition and as prayed for therein:

And it further appearing to the Court that the best interests of Kanawha Falls Public Service District and of those citizens living south of Kanawha River and in particular in the general area which comprises the community of Deepwater, would be served by granting the prayer of said petition for the reasons set forth in said petition and otherwise, it is, accordingly, ORDERED that the boundaries of Kanawha Falls Public Service District be, and the same are hereby re-established and defined in manner and form as follows:

Beginning at a point in Kanawha River approximately 2000 feet below the mouth of Boomer Branch, thence N 60-00 E 10,000 feet, S 35-00 E 4800 feet, S 60-00 W 7000 feet, S 51-00 E 9000 feet, N 75-00 E 6000 feet, S 70-00 E 3000 feet, N 27-00 E 5000 feet, N 10-00 W 12,000 feet, N 40-00 E 15,000 feet, N 30-00 W 14,000 feet, N 52-00 E 4000 feet, N 83-00 E 3000 feet to a point in Bells Creek a line between Nicholas and Fayette Counties, thence with and down Bells Creek S 19-00 E 1000 feet, S 19-00 W 2000 feet, S 52-00 E 2000 feet, S 45-00 E 1000 feet, S 57-00 W 2000 feet, S 45-00 W 1000 feet, S 40-00 E 2000 feet to Gauley River, thence down the Gauley River S 1-00 W 2000 feet, S 16-00 E 1000 feet, S 42-00 E 1000 feet, S 58-00 E 3000 feet, S 44-00 E 2000 feet, S 12-00 W 1000 feet, S 21-00 W 2000 feet, S 34-00 W 2000 feet, S 40-00 W 4000 feet, S 35-00 W 3000 feet, S 21-00 W 1000 feet, S 4-00 E 1000 feet, S 36-00 E 2000 feet, S 28-00 E 1000 feet, S 1-00 E 1000 feet, thence leaving Gauley River S 52-00 E 6000 feet, thence S 31-00 W 3000 feet to New River, thence down New River N 51-00 W 6000 feet to mouth of Gauley River (beginning of Kanawha River), thence down Kanawha River, S 82-00 W 2000 feet, S 62-00 W 2000 feet, S 17-00 W 2000 feet, S 18-00 E 3000 feet, S 11-00 W 1000 feet, S 32-00 W 1000 feet, S 45-00 W 2000 feet, S 28-00 W 1000 feet, S 13-00 W 3000 feet, S 45-00 W 1000 feet, S 66-00 W 1000 feet, N 85-00 W 3000 feet, thence down Kanawha River with its various meanders to the point of beginning, all being a portion of Falls District and containing generally the communities of Boomer, Alloy, Falls View, Charlton Heights, Glen Ferris, Gauley Bridge, Brownsville, Belva and contiguous areas, all of which are in Fayette County, State of West Virginia.

The intent and purpose hereof is that the portion of territory lying within the boundaries of Kanawha Falls Public Service District as originally defined, which lie to the south of Kanawha River be, and the same is now hereby withdrawn from the

territorial limits of said Kanawha Falls Public Service District
and shall no longer be considered a part thereof.

ORDER

ENTER

C. W. Vickroy
Commissioner

Orval Kessler
Commissioner

Arvid Stollard
Commissioner

*OK for Gordon
Bushman for
Paymaster Citizens
Committee*

IN THE COUNTY COMMISSION OF FAYETTE COUNTY, WEST VIRGINIA

In re:

ENLARGING THE BOUNDARIES OF THE KANAWHA FALLS
PUBLIC SERVICE DISTRICT PURSUANT TO ARTICLE 13A
OF CHAPTER 16 OF THE CODE OF WEST VIRGINIA, AS AMENDED

RECEIVED
JAN 9 1989

ORDER

On this the 4th day of January, 1989, came Jack Thompson, Attorney at Law, on behalf of Gordon Billheimer, Attorney of record for Kanawha Falls Public Service District, a domestic corporation, pursuant to a Petition previously filed and an Order setting the date for a public hearing pursuant notice which was published in the Montgomery Herald, Montgomery, Fayette County, West Virginia, on December 7, 1988, a copy of said Notice and the Certificate of Publication having been tendered to the Commission on this date, and further pursuant to notice properly posted within the area of the proposed boundary changes.

Whereupon, counsel moved that the Fayette County Commission approve the enlargement of the boundaries of the Kanawha Falls Public Service District pursuant to the aforesaid Petition, which Petition contained a legal description of the territory proposed to be encompassed by the enlargement of the boundaries together with a map showing the proposed boundary changes.

Whereupon, John L. Witt, President, inquired as to whether or not there was anyone present who opposed the proposed boundary change, and there being no one present in opposition to said change, John H. Lopez, Commissioner, moved for the approval of the boundary change pursuant to the previously filed Petition, and Gene Carte, Jr., Commissioner, seconded said motion, and after due consideration, the President put the question on the motion and the roll being called, the following voted:

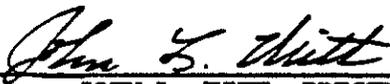
Aye: Gene Carte, Jr., John H. Lopez, Jr., and John L. Witt

Nay: None.

Whereupon, the President declared the motion duly carried and said Order duly adopted on motion and vote.

Therefore, it is ORDERED that the boundaries of the Kanawha Falls Public Service District, a domestic corporation, are hereby enlarged to encompass the following:

Beginning at a point in the Kanawha River approximately 2000 feet below the mouth of Boomer Branch, being the same point that the original Kanawha Falls Public Service District boundary began; thence N 31° W, 5100 feet more or less to a point on the east bank of the said river, said point being the southern most point in the Longacre Addition to the City of Smithers as enacted September 13, 1972; thence, with said Smithers boundary N 28° 20' E, 1147 feet; thence S 50° 20' E, 6080 feet more or less to a point on the original boundary of the Kanawha Falls Public Service District; thence S, 60° W, 3000 feet to the point of the beginning, containing 254 acres, more or less.

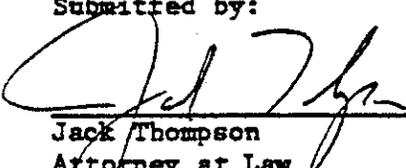


JOHN L. WITT, PRESIDENT

Attest: _____

CLERK

Submitted by:

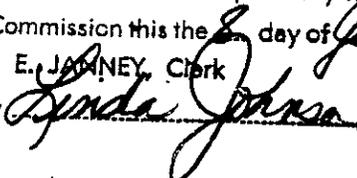


Jack Thompson
Attorney at Law
311 Washington Street
Montgomery, WV 25136
442-5161 or 949-1981

West Virginia, County of Fayette:
I, H. E. JANNEY, Clerk of the County Commission of Fayette County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix my seal of said Commission this the 8 day of June, 1989

H. E. JANNEY, Clerk

By 

Deputy

The County Commission of Fayette County, West Virginia, met this day in regular session held this 4th day of January, 1989, at 10:00 a.m. pursuant to the call of John L. Witt, President, Gene Carte, Jr., Commissioner, and John H. Lopez, Commissioner, said call including:

"To consider the Petition of Kanawha Falls Public Service District asking for the enlargement of certain boundary lines of Kanawha Falls Public Service District, in the area therein described, and to hear the protest, if any, or comments of citizens affected, if any, within the area so encompassed, and to enter a proper Order, etc., all of which was pursuant to publication of a notice of said hearing."

The meeting was called to order and the roll being called, there was present, John L. Witt, President, presiding, and the following named Commissioners: John H. Lopez and Gene Carte, Jr.

And were absent: None.

John L. Witt, President, asked whether or not there were any persons there to comment upon the Petition, and there being none, received a copy of the legal notice published in the Montgomery Herald and the publication certificate, then considered the vote upon the relief requested in the Petition, and John H. Lopez, Commissioner, then moved that the Commission approve the boundary enlargement as outlined in the aforesaid Petition.

After due consideration, the President put the question on the motion and the roll being called, the following voted:

Aye: Gene Carte, Jr., John H. Lopez, and John L. Whitt

Nay: None

Whereupon, the President declared the motion duly carried and said Order was duly adopted on motion and vote.


CLERK


PRESIDENT

STATE OF WEST VIRGINIA
COUNTY OF FAYETTE, to-wit:

I, Howard Janney, hereby certify that I am the duly qualified Clerk of the County Commission of Fayette County, West Virginia, and that the foregoing constitutes a true, correct and complete transcript of the proceedings of said County Commission relating to the enlarging of the boundaries of the Kanawha Falls Public Service District as had under date of January 4, 1989, and a resolution and order then adopted relating to the proposed enlargement of the boundaries of the Kanawha Falls Public Service District, all as shown by the official records in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the seal of said Commission at Fayette, West Virginia, this January 4, 1989.

(SEAL)


COUNTY COMMISSION CLERK
FAYETTEVILLE, WEST VIRGINIA

ENTERED

89-B

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: May 5, 1989

CASE NO. 89-081-WS-PC

FAYETTE COUNTY COMMISSION, a
public corporation.Petition for permission to enlarge
boundaries of the Kanawha Falls Public
Service District.

FINAL

5/25/89

ADMINISTRATIVE LAW JUDGE'S DECISIONPROCEDURE

On January 4, 1989, the Fayette County Commission, a public corporation, Fayette County, adopted an order enlarging certain boundary lines of the Kanawha Falls Public Service District to provide water and sewer service to additional areas in Fayette County.

In accordance with the provisions in West Virginia Code §16-13A-2, it is necessary for the Public Service Commission to schedule a hearing in Fayette County for the purpose of completing compliance with the requirements of said Code provision.

By order entered March 29, 1989, this matter was set for a hearing to be held in the County Commissioner's Office, Fayette County Court House, Fayetteville, West Virginia, on April 20, 1989. The hearing was held as scheduled. Appearing on behalf of the Petitioner was Ms. Charlotte Holley, Administrator of the Fayette County Commission. Appearing on behalf of the Commission Staff was Ron Robertson, Jr., Esquire, Staff Attorney, Charles Knurek, Public Service District Division, and David Hippchen, Staff Engineer.

No parties appeared in protest to the petition.

By Joint Staff Memorandum dated March 21, 1989, Mr. Ronald Robertson, Jr., Esquire, Staff Attorney, advised that his review of the case indicates that the County Commission had substantially complied with the requirements of West Virginia Code §16-13A-2 and he recommended approval of the enlarging of the boundaries of the District.

FINDINGS OF FACT

1. The Fayette County Commission filed a petition requesting the Commission's approval to enlarge the existing boundaries of the Kanawha Falls Public Service District to provide water and sewer service to additional areas in Fayette County.

2. The Commission Staff has reviewed the procedure followed by the Fayette County Commission in this case and found it to be in substantial compliance with the Code provisions and recommended approval. (See Joint Staff Memorandum dated March 21, 1989).

3. By order entered March 29, 1989, a hearing was set to be held in this matter at the Fayette County Court House, Fayetteville, on April 20, 1989.

4. At the hearing held on April 20, 1989, no one appeared to make protest to the petition of the Fayette County Commission to the enlarging of the boundary lines of the Kanawha Falls Public Service District. (Tr., p. 4).

CONCLUSION OF LAW

The Administrative Law Judge is of the opinion and finds that, since the Fayette County Commission is in substantial compliance with the required provisions as set forth in West Virginia Code §16-13A-2, and at the public hearing held on April 20, 1989, no parties appeared in protest to the petition of the Commission, the petition of the Fayette County Commission to enlarge the boundary lines of the Kanawha Falls Public Service District to provide water and sewer services to additional areas in Fayette County. can be granted.

ORDER

IT IS, THEREFORE, ORDERED that the petition of the Fayette County Commission, a public corporation, Fayette County, to enlarge certain boundary lines of the Kanawha Falls Public Service District to provide water and sewer service to additional areas in Fayette County, be, and the same hereby is, approved.

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 shall 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.



Robert W. Glass
Administrative Law Judge

RWG:mal

IN THE COUNTY COMMISSION OF FAYETTE COUNTY, WEST VIRGINIA

PETITION FOR ENLARGING OF THE BOUNDARIES OF THE
KANAWHA FALLS PUBLIC SERVICE DISTRICT, FOR SEWAGE TREATMENT ONLY

TO THE COUNTY COMMISSION OF FAYETTE AND KANAWHA COUNTIES, WEST VIRGINIA:

The Kanawha Falls Public Service District a Public Corporation previously created by the County Commission of Fayette County, West Virginia, does hereby petition the County Commission of Fayette County, West Virginia, and the County Commission of Kanawha County, West Virginia, to expand and enlarge its boundaries with territorial limitations as described below, pursuant to the provisions of Chapter 16, Article 13A, Section 2 of the Code of West Virginia as amended.

The proposed enlargement of the existing public service district boundaries is described as follows:

Beginning at a point with approximate latitude N 38° 10' 01" and longitude W 81° 18' 07", more or less, which is the northern most corner shared by the Longacre Addition to the City of Smithers and the Addition to the Kanawha Falls Public Service District as enacted January 4, 1989, and proceeding in a northerly direction along the corporate boundary of the City of Smithers approximately 9,500 feet, more or less, to the northernmost point of said corporate boundary some 300 feet northwest of State Route 2 and also some 600 feet north of the intersection of State Route 2 and State Route 2/2, thence, southerly along said corporate boundary approximately 4,200 feet, more or less, to a point on the Kanawha County - Fayette County line, thence, northerly approximately 5,400 feet to a point on the ridge on the north side of Canoe Hollow with approximate coordinates of N 38° 11' 46" latitude and W 81° 17' 53" longitude, more or less, thence northwesterly into Kanawha County approximately 2,700 feet crossing Horse Fork of Burnett Hollow to a point on the ridge located on the west side of Horse Fork having approximate coordinates of N 38° 12' 02" and W 81° 18' 25", more or less, thence parallel to said county line approximately 2,000 feet, more or less, to a point on the ridge north of Burnett Hollow with approximate coordinates of N 38° 12' 18" latitude and W 81° 18' 11" longitude, more or less, thence approximately 3,600 feet due east to a point on said county line with approximate coordinates of N 38° 12' 18" latitude and W 18° 17' 27" longitude, more or less, thence northerly some 41,000 feet, more or less, along said county line to the point where the boundaries for Kanawha County and Fayette County and Nicholas County and Clay County converge; thence with Fayette County - Nicholas County line down Bell Creek 11,880 feet, more or less thence S 52° 00' W 4,500 feet, more or less; thence S 30° 00' E 14,800 feet thence S 40° 00' W 11,880 feet, more or less, to a point located 1.15 miles west of Gauley River having a latitude of N 38° 10' 56" and longitude W 81° 12' 58" known as the beginning point for the boundary of Gauley River Public Service

District which is the most western corner shared by Gauley River Public Service District and the original boundary of Kanawha Falls Public Service District thence some 51,000 feet, more or less, along the original boundary of Kanawha Falls Public Service District to the point of beginning.

There is attached hereto as Exhibit "A" a map of the proposed extension of boundaries.

The extension in Fayette County lies wholly in Valley District. The extension in Kanawha County lies wholly in Cabin Creek District.

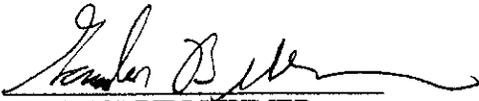
All territory encompassed by the proposed enlargement of the Kanawha Falls Public Service District is in the counties of Fayette and Kanawha, West Virginia. The purpose for the expansion of the boundaries of the public service district is to extend sewage treatment service within such territory and outside of such territory to the extent permitted by law. The new boundary encompasses the location for the Mt. Olive Correctional Facility, presently under construction and also the unincorporated areas of Cannelton and Carbondale. It is expected that the District will also serve Smithers, West Virginia.

Your petitioner prays that:

1. The County Commission will take cognizance of this matter;
2. Set a date for a public hearing not less than twenty (20) days nor more than forty (40) days from the date of acceptance of this petition for filing;
3. To notify the Clerk of the Kanawha County Commission that the District shall extend into that county to give them an opportunity to set a proper hearing. Order notice to be published as a Class 1 legal advertisement designating the time, date and place of said public hearing together with the posting of five (5) similar notices to be placed in conspicuous places within the proposed territorial extension, and that notice be given to the Public Service Commission of West Virginia at the proper time of the intentions of the Fayette County Commission and it have such other orders as this Court may desire.
4. If approved, notify the Public Service Commission of West Virginia of the proposed boundary enlargement.

KANAWHA FALLS PUBLIC SERVICE DISTRICT,

BY: Joe J. Crabbey
COMMISSIONER



GORDON BILLHEIMER
BILLHEIMER & ARMSTRONG
Counsel for the Petitioner
311 Washington Street
Montgomery, WV 25136
(304) 442-5161

VERIFICATION

STATE OF WEST VIRGINIA,
COUNTY OF FAYETTE, to-wit:

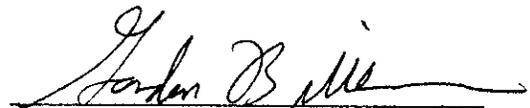
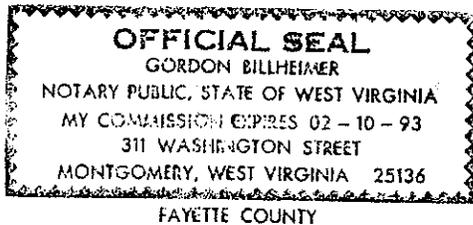
The undersigned, after first being duly sworn, does state that he has read the foregoing Petition and knows the contents therein are true except insofar as they are therein stated to be upon information, and so far as they are therein stated to be upon information, he believes them to be true.

KANAWHA FALLS PUBLIC SERVICE DISTRICT,

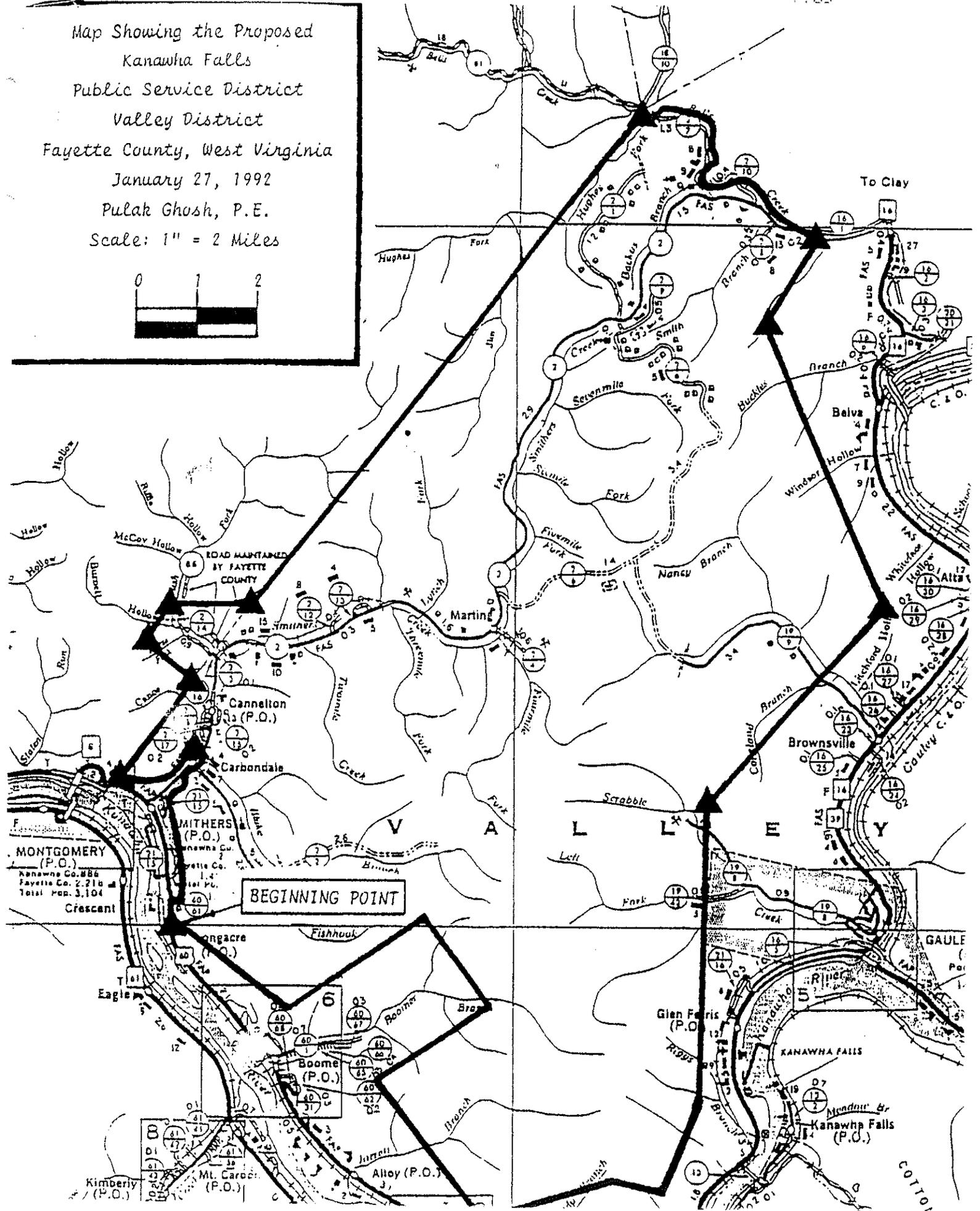
BY: 
COMMISSIONER

Taken, subscribed and sworn to before me, the undersigned Notary Public, in my said State and County, this the 21st day of November, 1992.

My Commission expires:


NOTARY PUBLIC

Map Showing the Proposed
 Kanawha Falls
 Public Service District
 Valley District
 Fayette County, West Virginia
 January 27, 1992
 Pulak Ghosh, P.E.
 Scale: 1" = 2 Miles



IN THE COUNTY COMMISSION OF FAYETTE COUNTY, WEST VIRGINIA

**A RESOLUTION AND ORDER FIXING A DATE OF HEARING ON THE ENLARGING
OF THE BOUNDARIES OF THE KANAWHA FALLS PUBLIC SERVICE DISTRICT
WITHIN FAYETTE AND KANAWHA COUNTIES, WEST VIRGINIA; AND PROVIDING
FOR THE PUBLICATION OF A NOTICE OF SUCH HEARING**

WHEREAS, there has hereto been filed in the Office of the Clerk of the County Commission of Fayette County, West Virginia, a Petition to this County Commission for the enlarging of the boundaries of the Kanawha Falls Public Service District to provide for sewage treatment within Fayette and Kanawha Counties, West Virginia; and

WHEREAS, said County Commission Clerk has presented such Petition to this County Commission at this meeting; and

WHEREAS, pursuant to the provisions of Article 13A of Chapter 16 of the Code of West Virginia, this County Commission is required to fix a date of hearing on the enlarging of the boundaries of the Kanawha Falls Public Service District;

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

1. The County Commission of Fayette County, West Virginia, hereby finds and declares that there has been filed in the Office of the County Commission Clerk and presented by said County Commission Clerk to this County Commission a Petition for enlarging the boundaries of the Kanawha Falls Public Service District within Valley District, Fayette County, West Virginia, which Petition contains a description sufficient to identify the territory to be embraced within the proposed public service district enlargement, and said County Commission further finds and declares that said Petition in all respects meets the requirements of Article 13A of Chapter 16 of the Code of West Virginia.

2. That said Petition, among other things, states as follows:

a. That the name of the corporate title of said public service district is the Kanawha Falls Public Service District.

b. The territory to be embraced by the proposed boundary changes shall be as follows:

Beginning at a point with approximate latitude N 38° 10' 01" and longitude W 81° 18' 07", more or less, which is the northern most corner shared by the Longacre Addition to the City of Smithers and the Addition to the Kanawha Falls Public Service District as enacted January 4, 1989, and proceeding in a northerly direction along the corporate boundary of the City of Smithers approximately 9,500 feet, more or less, to the northernmost point of said corporate boundary some 300 feet northwest of State Route 2 and also some 600 feet north of the intersection of State Route 2 and State Route 2/2, thence, southerly along said corporate boundary approximately 4,200 feet, more or less, to a point on the Kanawha County - Fayette County line, thence, northerly approximately 5,400 feet to a point on the ridge on the north side of Canoe Hollow with approximate coordinates of N 38° 11' 46" latitude and W 81° 17' 53" longitude, more or less, thence northwesterly into Kanawha County approximately 2,700 feet crossing Horse Fork of Burnett Hollow to a point on the ridge located on the west side of Horse Fork having approximate coordinates of N 38° 12' 02" and W 81° 18' 25", more or less, thence parallel to said county line approximately 2,000 feet, more or less, to a point on the ridge north of Burnett Hollow with approximate coordinates of N 38° 12' 18" latitude and W 81° 18' 11" longitude, more or less, thence approximately 3,600 feet due east to a point on said county line with approximate coordinates of N 38° 12' 18" latitude and W 18° 17' 27" longitude, more or less, thence northerly some 41,000 feet, more or less, along said county line to the point where the boundaries for Kanawha County and Fayette County and Nicholas County and Clay County converge; thence with Fayette County - Nicholas County line down Bell Creek 11,880 feet, more or less thence S 52° 00' W 4,500 feet, more or less; thence S 30° 00' E 14,800 feet thence S 40° 00' W 11,880 feet, more or less, to a point located 1.15 miles west of Gauley River having a latitude of N 38° 10' 56" and longitude W 81° 12' 58" known as the beginning point for the boundary of Gauley River Public Service District which is the most western corner shared by Gauley River Public Service District and the original boundary of Kanawha Falls Public Service District thence some 51,000 feet, more or less, along the original boundary of Kanawha Falls Public Service District to the point of beginning.

There is attached hereto as Exhibit "A" a map of the proposed extension of boundaries.

The extension in Fayette County lies wholly in Valley District. The extension in Kanawha County lies wholly in Cabin Creek District.

c. The purpose for enlarging the boundaries of the public service district is to construct, maintain, operate, improve and extend properties supplying sewage service within such territory to serve the Mount Olive Correctional Facility, Cannelton and Carbondale, West Virginia, and to make a connection to serve Smithers, West Virginia.

3. That on the 15th day of December, 1992, at the hour of 10:00 o'clock a.m., this County Commission shall meet in the County Courthouse at Fayetteville, West Virginia, for the purpose of

conducting a public hearing on the proposed enlarging of the boundaries of said public service district at which time and place all persons residing in, owning, or having any interest in property in the area encompassed by the boundary enlargement may appear before this County Commission and shall have the opportunity to be heard for or against the boundary enlargement of the said district, and at such hearing, this County Commission shall consider and determine the feasibility of the proposed boundary enlargement of the public service district.

4. That the County Commission Clerk is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on the 2nd day of December, 1992, in the Montgomery Herald, a newspaper of general circulation in Fayette County.

5. That the County Commission Clerk is hereby authorized and directed, in addition to the above notice of publication, to cause notice of such hearing in substantially the form hereinafter set forth to be posted in at least five (5) conspicuous places in the area proposed to be encompassed by the boundary enlargement on or before the 5th day of December, 1992.

6. That the Clerk of this Commission shall notify the Clerk of the Kanawha County Commission of the Petition and Order so that a proper hearing may be had in that County.

ADOPTED BY THE COUNTY COMMISSION: November 25, 1992.


PRESIDENT

**NOTICE OF PUBLIC HEARING ON ENLARGING ITS BOUNDARIES
OF KANAWHA FALLS PUBLIC SERVICE DISTRICT**

NOTICE IS HEREBY GIVEN that a legally sufficient petition has been filed with the Clerk of the County Commission of Fayette County, West Virginia, and has been presented to the County Commission of Fayette County, for the purpose of enlarging the boundaries of the **KANAWHA FALLS PUBLIC SERVICE DISTRICT** for constructing or acquiring by purchase or otherwise providing for the maintenance, operation, improvement and extension of public service properties supplying **SEWER** services within said boundary enlargement, and also outside said district to the extent permitted by law; and have the following described boundaries:

Beginning at a point with approximate latitude N 38° 10' 01" and longitude W 81° 18' 07", more or less, which is the northern most corner shared by the Longacre Addition to the City of Smithers and the Addition to the Kanawha Falls Public Service District as enacted January 4, 1989, and proceeding in a northerly direction along the corporate boundary of the City of Smithers approximately 9,500 feet, more or less, to the northernmost point of said corporate boundary some 300 feet northwest of State Route 2 and also some 600 feet north of the intersection of State Route 2 and State Route 2/2, thence, southerly along said corporate boundary approximately 4,200 feet, more or less, to a point on the Kanawha County - Fayette County line, thence, northerly approximately 5,400 feet to a point on the ridge on the north side of Canoe Hollow with approximate coordinates of N 38° 11' 46" latitude and W 81° 17' 53" longitude, more or less, thence northwesterly into Kanawha County approximately 2,700 feet crossing Horse Fork of Burnett Hollow to a point on the ridge located on the west side of Horse Fork having approximate coordinates of N 38° 12' 02" and W 81° 18' 25", more or less, thence parallel to said county line approximately 2,000 feet, more or less, to a point on the ridge north of Burnett Hollow with approximate coordinates of N 38° 12' 18" latitude and W 81° 18' 11" longitude, more or less, thence approximately 3,600 feet due east to a point on said county line with approximate coordinates of N 38° 12' 18" latitude and W 18° 17' 27" longitude, more or less, thence northerly some 41,000 feet, more or less, along said county line to the point where the boundaries for Kanawha County and Fayette County and Nicholas County and Clay County converge; thence with Fayette County - Nicholas County line down Bell Creek 11,880 feet, more or less thence S 52° 00' W 4,500 feet, more or less; thence S 30° 00' E 14,800 feet thence S 40° 00' W 11,880 feet, more or less, to a point located 1.15 miles west of Gauley River having a latitude of N 38° 10' 56" and longitude W 81° 12' 58" known as the beginning point for the boundary of Gauley River Public Service District which is the most western corner shared by Gauley River Public Service District and the original boundary of Kanawha Falls Public Service District thence some 51,000 feet, more or less, along the original boundary of Kanawha Falls Public Service District to the point of beginning.

The extension in Fayette County lies wholly in Valley District. The extension in Kanawha County lies wholly in Cabin Creek District.

The purpose for enlarging the boundaries of the public service district is to construct, maintain, operate, improve and extend properties supplying sewage service within such territory to serve the Mount Olive Correctional Facility, Cannelton and Carbondale, West Virginia, and to make a connection to serve Smithers, West Virginia.

All persons residing in or owning or having any interest in property in the area to be encompassed by the proposed boundary enlargement are hereby notified that the County Commission of Fayette County will conduct a public hearing on December 15, 1992, at ten o'clock a.m. (10:00 a.m.) in the County Courthouse in Fayetteville, West Virginia, at which time and place all interested persons may appear before the County Commission and shall have an opportunity to be heard for and against the proposed boundary changes.

By order of the County Commission this 25th day of November, 1992.

HOWARD JANNEY
COUNTY COMMISSION CLERK

A F F I D A V I T

STATE OF WEST VIRGINIA,
COUNTY OF FAYETTE, to-wit:

The undersigned, Gordon Billheimer, after first being duly sworn does state that he is the attorney for the Kanawha Falls Public Service District and that he is representing the Kanawha Falls Public Service District before the County Commission of Fayette County, West Virginia, in a petition to enlarge the boundaries of the Kanawha Falls Public Service District for an additional sewer project to include the community of Cannelton in Fayette and Kanawha Counties.

By statute, the Notice of the Commissioner's hearing date must be published in a newspaper of general circulation and must be posted in a public place in five different locations within the District.

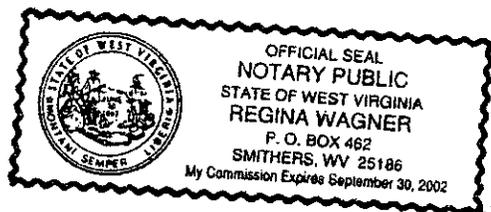
The undersigned does state that he has posted the Notice of Hearing to be held on December 15, 1992, before the Fayette County Commission in the following places as of November 25, 1992:

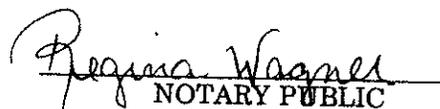
1. Front door, Fayette County Courthouse, Fayetteville, West Virginia.
2. Kanawha Falls Public Service District Office in Gauley Bridge, West Virginia
3. Town Hall, Smithers, West Virginia
4. Cannelton Post Office, Cannelton, West Virginia.
5. Assemblies of God, Cannelton, West Virginia.
6. Town Hall, Gauley Bridge, West Virginia.

He further states that he posted a copy of said notice on November 30, 1992, at the front door of the City Hall of the City of Montgomery, West Virginia, and further, this affiant saith not.


GORDON BILLHEIMER

Taken, subscribed and sworn to before me this the 14th day of December, 1992.




REGINA WAGNER
NOTARY PUBLIC

IN THE COUNTY COMMISSION OF FAYETTE COUNTY, WEST VIRGINIA

IN RE:

ENLARGING THE BOUNDARIES OF THE KANAWHA FALLS PUBLIC SERVICE DISTRICT PURSUANT TO ARTICLE 13A OF CHAPTER 16 OF THE CODE OF WEST VIRGINIA, AS AMENDED

O R D E R

On this the 15th day of December, 1992, came the Kanawha Falls Public Service District, a public corporation, pursuant to a Petition previously filed and an Order setting the date for a public hearing pursuant to notice which was published in the Montgomery Herald, a newspaper of general circulation in Montgomery, Fayette County, West Virginia, on December 2, 1991, a copy of said Notice and the Certificate of Publication having been tendered to the Commission on this date, and further pursuant to five notices conspicuously posted within the area of the Public Service District. Such posting was certified to the Commission by an affidavit of Gordon Billheimer, counsel for the Public Service District.

Whereupon, Gordon Billheimer, counsel for the Public Service District moved that the Fayette County Commission approve the enlargement of the boundaries of the Kanawha Falls Public Service District pursuant to the aforesaid Petition, which Petition contained a legal description of the territory proposed to be encompassed by the enlargement of the boundaries together with a map showing the proposed boundary changes. Mr. Billheimer informed the Court that the District wished to enlarge its boundaries to provide sewage treatment to the Mount Olive Correctional Facility, the area of Cannelton and the City of Smithers.

Whereupon, John L. Witt, President, inquired as to whether or not there was anyone present who opposed the proposed boundary change and there being no one present in opposition to said change, John H. Lopez, Commissioner, moved for the approval of the boundary change pursuant to the previously filed Petition, and Gene Carte, Jr., Commissioner, seconded said motion, and after many questions and much deliberation, the President put the questions on the motion and the roll being called, the following voted:

Aye: Gene Carte, Jr., John H. Lopez and John L. Witt

Nay: None

Whereupon, the President declared the motion duly carried and said Order duly adopted on motion and vote.

Therefore, it is **ORDERED** that the boundaries of the Kanawha Falls Public Service District, a public corporation, are hereby enlarged to encompass the following:

Beginning at a point with approximate latitude N 38° 10' 01" and longitude W 81° 18' 07", more or less, which is the northern most corner shared by the Longacre Addition to the City of Smithers and the Addition to the Kanawha Falls Public Service District as enacted January 4, 1989, and proceeding in a northerly direction along the corporate boundary of the City of Smithers approximately 9,500 feet, more or less, to the northernmost point of said corporate boundary some 300 feet northwest of State Route 2 and State Route 2/2, thence southerly along said corporate boundary approximately 4,200 feet, more or less, to a point on the Kanawha County - Fayette County line, thence, northerly approximately 5,400 feet to a point on the ridge located on the north side of Canoe Hollow with approximate coordinates of N 38° 12' 02" and W 81° 18' 25", more or less, thence parallel to said county line approximately 2,000 feet, more or less, to a point on the ridge north of Burnett Hollow with approximate coordinates of N 38° 12' 18" latitude and W 81° 18' 11" longitude, more or less, thence approximately 3,600 feet due east to a point on said county line with approximate coordinates of N 38° 12' 18" latitude and W 18° 17' 27" longitude, more or less, thence northerly some 41,000 feet, more or less, along said county line to the point where some boundaries for Kanawha County and Fayette County and Nicholas County and Clay County converge thence with Fayette County - Nicholas County line down Belle Creek 11,800 feet, more or less, thence S 52° 00' W 4,500 feet, more or less, thence S 30° 00' E 14,800 feet thence S 40° 00' W 11,880 feet, more or less, to a point located 1.15 miles west of Gauley River having a latitude of N 38° 10' 56" and longitude W 81° 12' 58" known as the beginning point for the boundary of Gauley River Public Service District which is the most western corner shared by Gauley River Public Service District and the original boundary of Kanawha Falls Public Service District thence some 51,000 feet, more or less, along the original boundary of Kanawha Falls Public Service District to the point of beginning.

All territory encompassed by the proposed enlargement of the Kanawha Falls Public Service District is in the counties of Fayette and Kanawha, West Virginia. The purpose for the expansion of the boundaries of the public service district is to extend sewage treatment service within such territory and outside of such territory to the extent permitted by law.

It is **ORDERED** that a certified copy of this Order be sent to the Public Service Commission pursuant to West Virginia Code 16-13A-2 and also a copy to the County Commission of Kanawha County.


JOHN L. WITT, PRESIDENT

ATTEST:


CLERK

Submitted by:



Gordon Billheimer
Attorney at Law
Counsel for Kanawha Falls
Public Service District
311 Washington Street
Montgomery, WV 25136
(304) 442-5161

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: June 7, 1993

CASE NO. 92-1163-PSD-PC

FAYETTE AND KANAWHA COUNTY COMMISSIONS,
political subdivisions, Fayette and
Kanawha Counties.

Petition to expand boundaries of Kanawha
Falls Public Service District to provide
sewer service to new prison at Mt. Olive
and to the "Bull Push" area of Kanawha
County.

RECOMMENDED DECISION

PROCEDURE

On December 3, 1992, the Fayette and Kanawha County Commissions (County Commissions), political subdivisions, Fayette and Kanawha Counties, filed a joint application with the Public Service Commission, pursuant to West Virginia Code §24-2-12 and §16-13A-2, for permission to enlarge and expand the boundaries of Kanawha Falls Public Service District (District) in order to provide sewer service to the new prison site at Mt. Olive and to the "Bull Push" area of Kanawha County. The proposed extension in Fayette County lies wholly in Valley District, and the proposed extension in Kanawha County lies wholly in Cabin Creek District.

On December 22, 1992, the Commission Referral Order was entered, referring this matter to the Division of Administrative Law Judges (ALJ Division) and requiring the ALJ Division to render a recommended decision on or before July 23, 1993. Pursuant thereto, on January 29, 1993, the Administrative Law Judge (ALJ) issued a Procedural Order establishing a procedural schedule to be followed in the processing and resolution of this matter, including an April 28, 1993 hearing date. By Procedural Order issued April 7, 1993, the hearing in this matter was rescheduled to be held on May 3, 1993. The April 7, 1993 Procedural Order required the Notice of Hearing attached thereto to be published at least ten days prior to the May 3, 1993 hearing date.

On May 3, 1993, the hearing was held as scheduled before the ALJ. The Kanawha County Commission appeared by counsel, Betty L. Caplan, Esquire. The Fayette County Commission did not appear. The Kanawha Falls Public Service District appeared by counsel, Gordon Billheimer, Esquire. Commission Staff appeared by counsel, Staff Attorney Cassius H. Toon, Esquire. No one appeared in opposition to the application.

EVIDENCE

No evidence was presented at the hearing. However, reference was made to the Final Joint Staff Memorandum, dated April 27, 1993, and filed in this proceeding on April 28, 1993, by Staff Attorney Toon. Attached thereto was the Final Memorandum, dated April 13, 1993, from Senior Utilities Analyst Geert Bakker, Public Service District Division. Together, these Memoranda comprised Staff's final recommendation in this matter. Staff thereupon recommended approval of the application. Staff noted that proper publication of the Notice of Filing had been made. At the hearing, affidavits of publication were also recognized which indicated that the Notice of Hearing had been published as directed on April 21, 1993, in The Montgomery Herald, a newspaper published and of general circulation in Fayette County, and on April 15, 1993, in the Charleston Gazette, a newspaper published and of general circulation in Kanawha County.

DISCUSSION

Upon consideration of all of the above, the ALJ will approve the joint application made by the Kanawha County Commission and the Fayette County Commission, pursuant to Code §24-2-12 and §16-13A-2, for permission to enlarge and expand the boundaries of the Kanawha Falls Public Service District, since Staff has recommended approval thereof; since the Notice of Filing and Notice of Hearing were duly published as directed; and since no one appeared at the hearing in opposition to the proposed modification of the District's boundaries.

FINDINGS OF FACT

1. The Fayette and Kanawha County Commissions jointly filed an application with the Commission, pursuant to Code §24-2-12 and §16-13A-2, for permission to enlarge and expand the boundaries of Kanawha Falls Public Service District in order to provide sewer service to the new prison site at Mt. Olive and to the "Bull Push" area, in Valley District of Fayette County and in Cabin Creek District of Kanawha County. (See, Application filed December 2, 1992).
2. The Notice of Filing was duly published on December 2, 1992, in The Montgomery Herald and on December 5, 1992, in the Charleston Gazette. (See, Affidavits of Publication filed December 19, 1992; Final Joint Staff Memorandum, with Attachment, filed April 28, 1993).
3. The Notice of Hearing was duly published on April 21, 1993, in The Montgomery Herald and on April 15, 1993, in the Charleston Gazette. (See, Affidavits of Publication presented at the May 3, 1993 hearing).
4. No one appeared at the hearing in opposition to the application. No letters of opposition are lodged in the Commission's file. (See, Tr., generally; Commission's case file).

5. Commission Staff has recommended approval of the joint application. (See Final Joint Staff Memorandum, with Attachment, filed April 28, 1993).

CONCLUSION OF LAW

For all of the reasons set forth in Findings of Fact Nos. 2, 3, 4 and 5, it is reasonable to approve the application.

ORDER

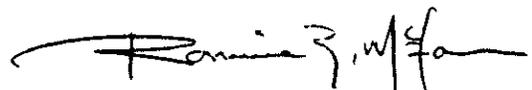
IT IS, THEREFORE, ORDERED that the joint application filed with the Commission on December 3, 1992, by the Kanawha County Commission and the Fayette County Commission, pursuant to Code §24-2-12 and §16-13A-2, for permission to enlarge and expand the boundaries of the Kanawha Falls Public Service District in order to provide sewer service to the new prison site at Mt. Olive, Fayette County, and to the "Bull Push" area of Kanawha County, be, and the same hereby is, approved.

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.

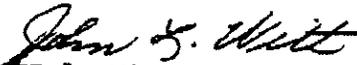


Ronnie Z. McCann
Administrative Law Judge

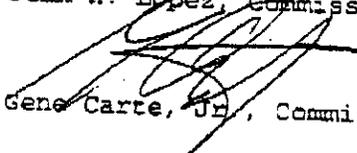
RZM:dfs

FAYETTE COUNTY COMMISSION

On this the 9th day of September, 1998, it appearing to the Fayette County Commission that due to the resignation of Mr. Roy Young a vacancy exists for a Board Member of the Kanawha Falls Public Service District and upon recommendation of the Commission, it is hereby ordered that Alfred "Al" Lynch of Boomer, West Virginia, be appointed to fill the unexpired term of Roy Young on said Kanawha Falls Public Service District, said term to expire September 1, 2003.


John L. Witt, President

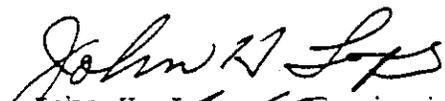

John H. Lopez, Commissioner

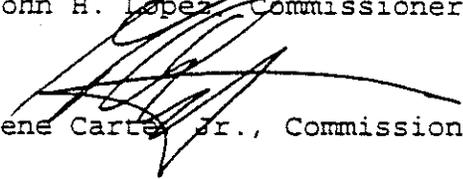

Gene Carte, Jr., Commissioner

FAYETTE COUNTY COMMISSION

On this the 26th day of August, 1998, it appearing to the Fayette County Commission that the term of Roger Wagner, II of Charlton Heights, West Virginia, as a Board Member of the Kanawha Falls Public Service District will expire on September 1, 1998 and upon recommendation of the Commission it is hereby ordered that Roger Wagner, II be reappointed to the Kanawha Falls Public Service District, said term to expire September 1, 2004.

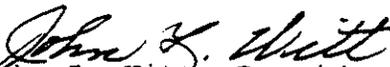

John L. Witt, President


John H. Lopez, Commissioner

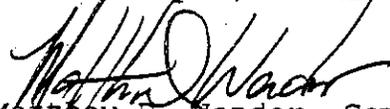

Gene Carter, Jr., Commissioner

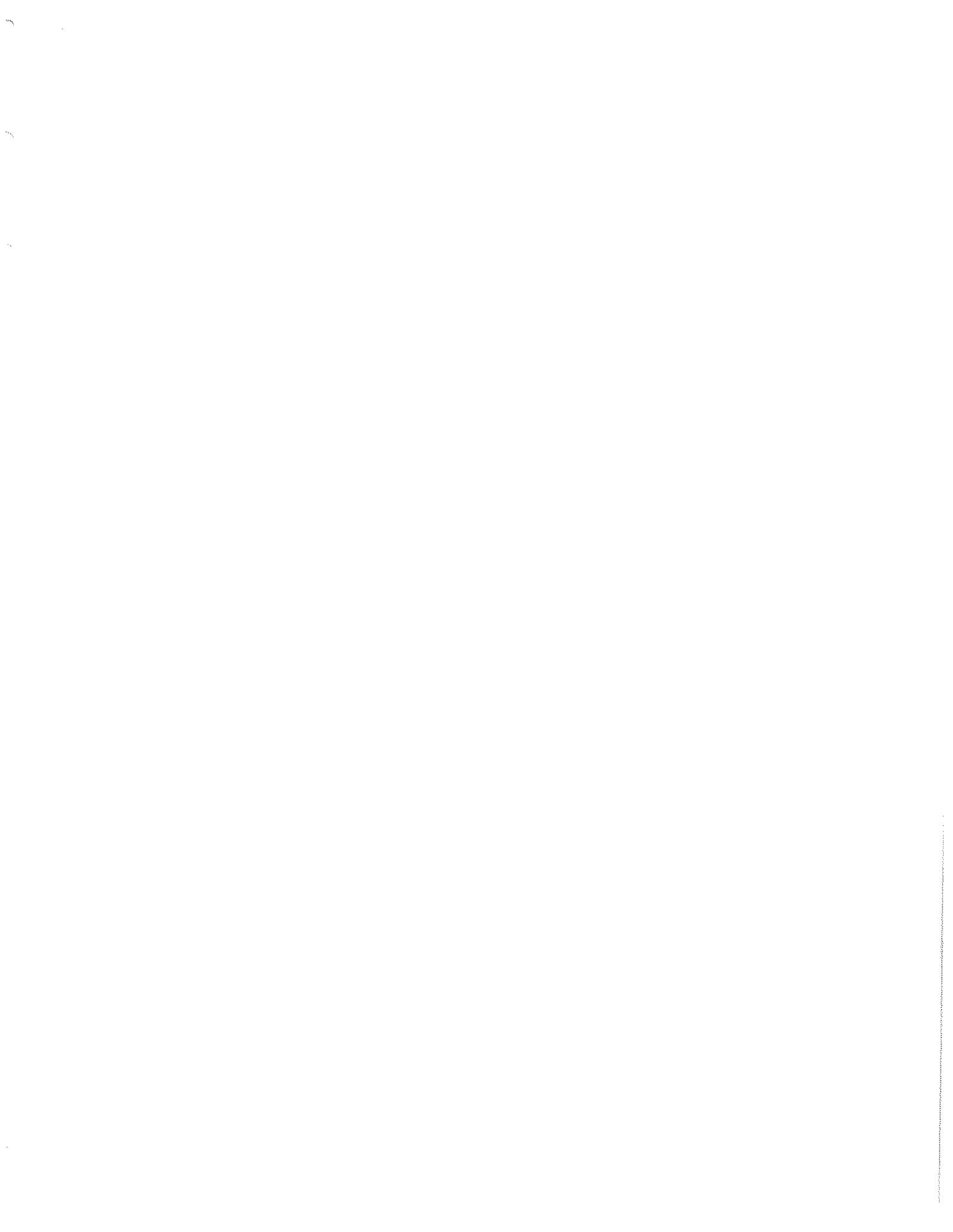
FAYETTE COUNTY COMMISSION

On this the 15th day of August, 2001, it appearing to the Fayette County Commission that the term of Nancy K. Ferrell of Boomer, West Virginia, as a Board Member of the Kanawha Falls Public Service District will expire on September 1, 2001 and upon recommendation of the Commission it is hereby ordered that Nancy K. Ferrell be reappointed to the Kanawha Falls Public Service District, said term to expire September 1, 2007.


John L. Witt, President


John H. Lopez, Commissioner


Matthew D. Wender, Commissioner



OFFICIAL OATH

STATE OF WEST VIRGINIA,

COUNTY OF FAYETTE, ss:

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of member of the Kanawha Falls Public Service District, Fayette County, WV,

in said county and state to the best of my skill and judgement: SO HELP ME GOD.

Alfred Lynch
Alfred "Al" Lynch

Subscribed and sworn to before me in my said county and state this the

9 day of Sept., 19 98

Kevin E. Holliday
~~Deputy~~ County Clerk

OFFICIAL OATH

STATE OF WEST VIRGINIA,

COUNTY OF FAYETTE, ss:

I DO SOLEMNLY SWEAR THAT I WILL _____

perform the duties of Board member, Kanawha Falls Public

Service District, Fayette County, West Virginia, for the

term ending Sept. 1, 2004,

IN SAID COUNTY AND STATE TO THE BEST OF MY SKILL AND JUDGMENT:

SO HELP ME GOD.

Roger Wagner

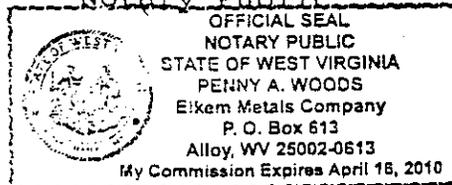
Roger Wagner

SUBSCRIBED AND SWORN TO BEFORE ME IN MY SAID COUNTY AND

STATE THIS 17th DAY OF October, 2001.

Penny A Woods

Notary Public



OFFICIAL OATH

STATE OF WEST VIRGINIA,

COUNTY OF FAYETTE, ss:

I DO SOLEMNLY SWEAR THAT I WILL _____

~~perform the duties of Board of Directors, Kanawha Falls PSD, Fayette County,~~

~~West Virginia, for the term beginning Sept. 1, 2001, for a six-year term,~~

IN SAID COUNTY AND STATE TO THE BEST OF MY SKILL AND JUDGMENT:

SO HELP ME GOD.

Nancy K. Ferrell

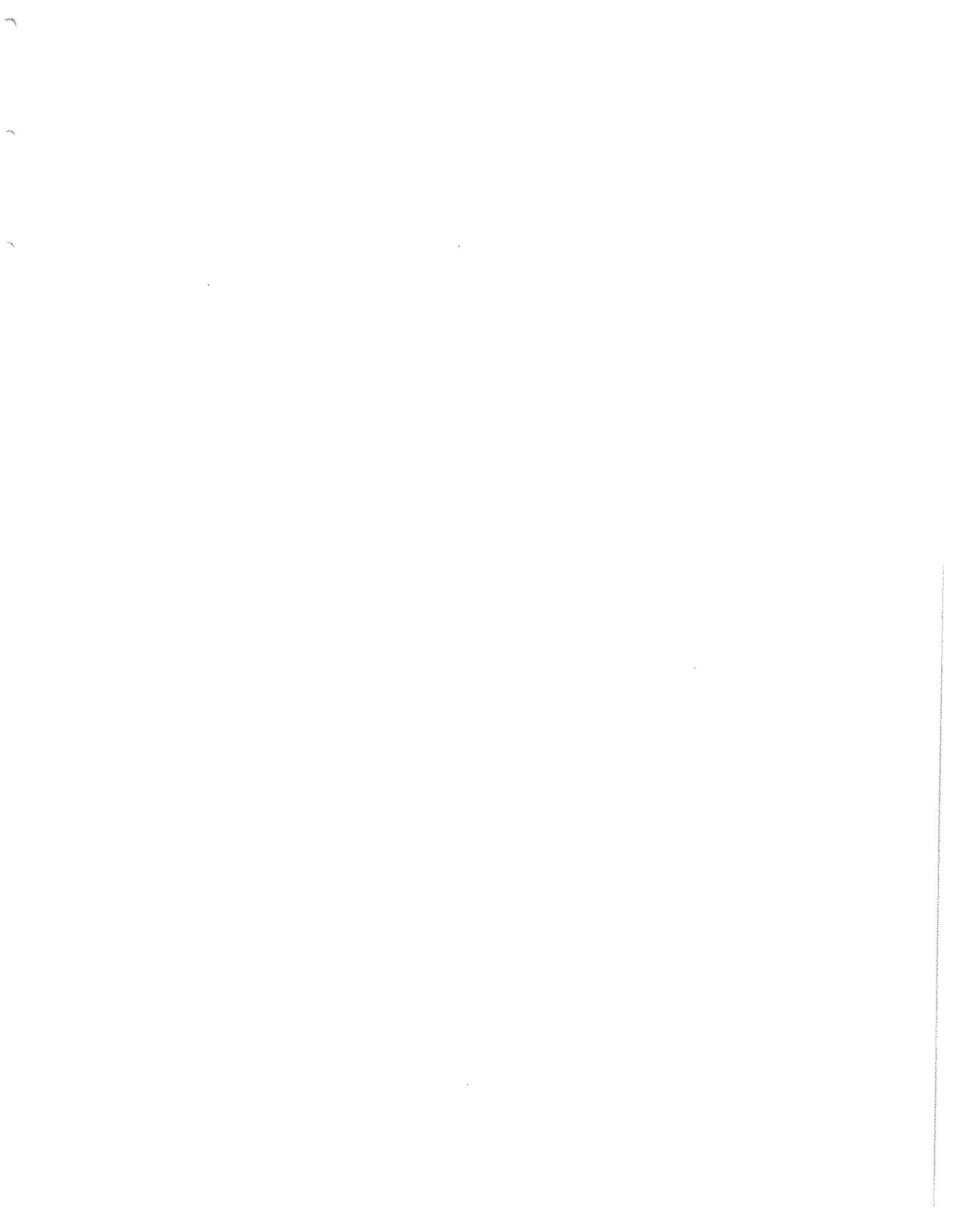
Nancy K. Ferrell

SUBSCRIBED AND SWORN TO BEFORE ME IN MY SAID COUNTY AND

STATE THIS 10 DAY OF Oct., 2001.

Kelvin E. Holliday

Kelvin E. Holliday
Fayette Co. Clerk



RULES OF PROCEDURE

KANAWHA FALLS PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. The name of this Public Service District shall be KANAWHA FALLS PUBLIC SERVICE DISTRICT (the "District").

Section 2. The principal office of the District will be located in Gauley Bridge, West Virginia.

Section 3. The official seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Kanawha Falls Public Service District, and in the center "seal" as follows:

Section 4. The fiscal year of the District shall begin on the 1st day of January in each year and shall end on December 31 of the such year.

ARTICLE II

PURPOSE

Section 1. The District is organized and operated exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act").

ARTICLE III

MEMBERSHIP

Section 1. The members of the Public Service Board of the District (the "Board") shall be those persons appointed by The County Commission of Fayette County, West Virginia (the "County Commission"), 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 District 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 District 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.

Section 4. Each board member shall, within 6 months of taking office, successfully complete the training program established and administered by the Public Service Commission of West Virginia in conjunction with the West Virginia Department of Environmental Protection and the West Virginia Bureau for Public Health.

Section 5. 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 12 months after such board member's term has expired or after such board member has resigned from the Board.

Section 6. Salaries of the board members shall be established as provided in Chapter 16, Article 13A, Section 4 of the Act. The District shall certify the number of customers served to the Public Service Commission of West Virginia on the first day of July each year. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties.

Section 7. 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.

ARTICLE IV

MEETINGS OF THE BOARD

Section 1. The members of the Board shall hold regular monthly meetings on such days of each month and 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, a majority of the members of the Board shall constitute a quorum. Each member of the Board shall have one vote at any meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise waived, notice to members of regular meetings shall be by letter or telephone. Unless otherwise waived, notice to members of each special meeting shall be by letter or telephone not less than 48 hours 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 shall be transacted at such special meeting.

Section 4. Pursuant to Chapter 6, Article 9A, Section 3 of the Code of West Virginia, 1931, as amended, notice of the date, time, place and agenda of all regularly scheduled meetings of the Board, and the date, time, place and purpose of all special meetings of the Board, shall be made available, in advance, to the public and news media as follows:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of these Rules of Procedure and in July 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 regular meeting place of the Board and at the Fayette County Courthouse, where notices customarily are posted, 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 also be posted at the same location by the Secretary not less than 48 hours before such regular meeting is to be held.

The Board shall also instruct the Secretary to, and the Secretary shall, distribute to each of the newspapers and other news media listed below a notice identical to

that posted:

<u>News Media</u>	<u>Address</u>
The Montgomery Herald	P.O. Box 240 Montgomery, WV 25136
Charleston Gazette	1001 Virginia Street, East Charleston, WV 25301

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 48 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Board, notice of such modification shall immediately be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 2. Notice of Special Meetings. Not less than 48 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the Fayette County Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 48 hours prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used,

marked or stamped with first class postage and deposited in the United States mail.

A copy of such notice posted and distributed pursuant to this Rule No. 2 shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 3. Emergency Meetings. The Board may hold a meeting without providing the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof 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.

Rule No. 4. Executive Sessions. 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 Code of West Virginia, 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 Code of West Virginia, 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 Code of West Virginia, 1931, as amended.

Rule No. 5. Minutes. 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 Code of West Virginia, 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.

Rule No. 6. No Actions by Reference. 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 rule 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.

Rule No. 7. Broadcasting of Meetings. Except as otherwise provided in this rule, any radio or television station is entitled to broadcast all or any part of a Board meeting required to be open. The Board may regulate the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting, so as to prevent undue interference with the meeting. The Board shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference; provided, that if the Board, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the Board, acting in good faith and consistent with the purposes of this rule, may require the pooling of the equipment and the personnel operating it.

Rule No. 8. Telephonic Meetings. 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 5. All meetings of any committee of the Board shall be subject to the Rules of Procedure set forth in Section 4 above.

ARTICLE V

OFFICERS

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

Section 2. The officers of the Board shall be elected each year by the members at the first meeting after the first day of January of each 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 next annual organizational 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. He/She shall, together with the Secretary, sign the minutes of all meetings at which he/she shall preside. He/She shall attend generally to the executive business of the Board and exercise such powers as may be conferred upon him/her by the Board, by these Rules of Procedure, or prescribed by law. He/She shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements, or other documents 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. If the Chairperson is absent from any meeting, the remaining members of the Board shall select a temporary chairperson.

Section 3. 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. He/She shall, together with the Chairperson, sign the minutes of the meetings at which he/she is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other documents and papers of the Board. He/She shall also perform such other duties as may be required of him/her by law or as may be conferred upon him/her from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out 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/her 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. The Treasurer shall keep and preserve all financial records of the District for 10 years and shall at all times have such records readily available for public inspection. At the end of his/her term of office, the Treasurer shall promptly deliver all financial records of the District to his successor in office. He/She shall also perform such other duties as may be required of him/her by law or as may be conferred upon him/her from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

Section 5. No money may be paid out by the District except upon an order signed by the Chairperson and Secretary, or such other person or persons authorized by the Chairperson or the 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.

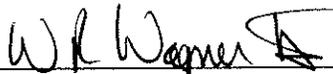
Section 6. The members and officers of the Board shall make available to the County Commission, at all times, all of its books and records pertaining to the District's operation, finances and affairs, for inspection and audit.

ARTICLE VII

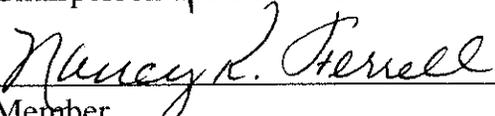
AMENDMENTS TO RULES OF PROCEDURE

Section 1. These Rules of Procedure may be altered, changed, amended or added to at any regular or special meeting of the Board when a quorum is present and a majority of those present vote for the alteration, change, amendment or addition; but no such alteration, change, amendment or addition shall be made at any special meeting unless notice of the intention to propose such alteration, change, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such special meeting.

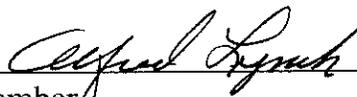
Adopted this 20th day of February, 2002.



Chairperson and Member



Member



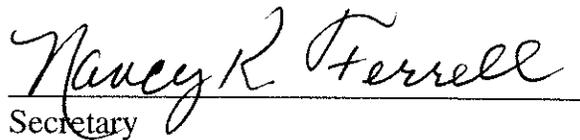
Member

CERTIFICATION

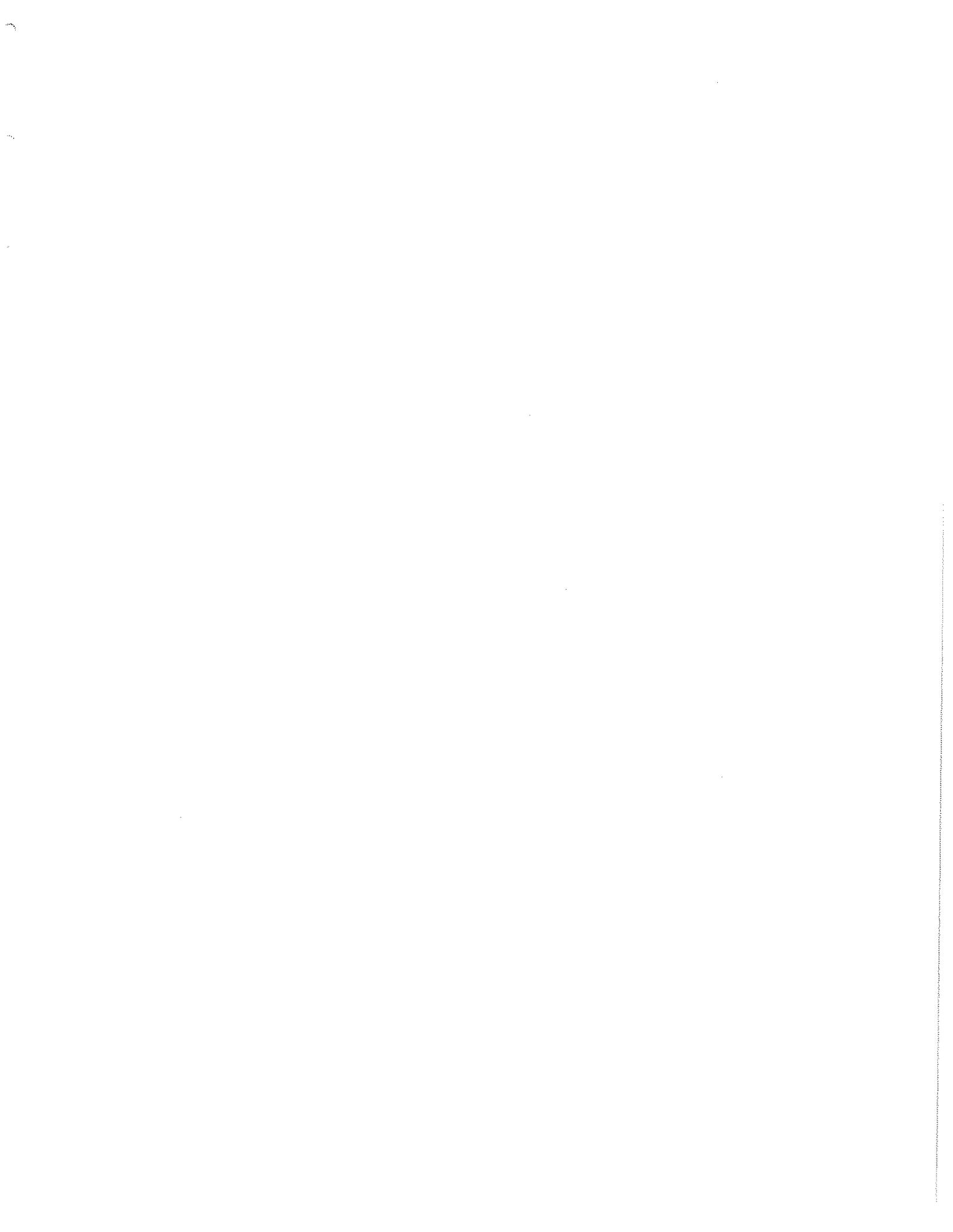
Certified a true copy of the Rules of Procedure duly adopted by the Board of Kanawha Falls Public Service District on February 20, 2002.

Dated this 22nd day of February, 2002.

[SEAL]


Secretary

1/28/02
006699/00302



Kanawha Falls Public Service District

January 17, 2002

The monthly meeting of the Kanawha Falls Public Service District Board was held on Thursday, January 17, in the Gauley Bridge office at 5:00 PM. Those present were: Roger Wagner, Chairman, Nancy Ferrell and Alfred Lynch, Board Members, Billy Preast, General Manager, Duane Tyree and Tommy Barber, Sewer Department, and Linda Dubee.

The meeting was called to order by Mr. Wagner. Mrs. Ferrell made a motion which was seconded by Mr. Lynch to accept the minutes of the December meeting as presented. It was moved by Mrs. Ferrell and seconded by Mr. Lynch to approve invoices submitted for payment upon review of the financial statements prepared by Adkins & Young. All in favor.

The next order of business was the election of officers. Mrs. Ferrell made a motion that officers remain the same for the year 2002. Positions are: Mr. Wagner-Chairman, Mrs. Ferrell-Secretary, and Mr. Lynch-Treasurer. Mr. Lynch seconded the motion with all in favor.

A motion was made by Mr. Lynch and seconded by Mrs. Ferrell to accept the 2002 budget prepared by Adkins & Young.

As discussed at the December meeting, no further action will be taken on the Youell complaint other than replace the cap at the cleanout.

The City of Smithers has been notified by the WV Infrastructure and Jobs Development Council that in order to receive the binding commitment the City must adhere to a certain project schedule.

Angie Vealey, with Smith, Cochran, & Hicks, advised Mr. Preast of a meeting scheduled for February 7 in Charleston to discuss this matter.

Mr. Preast said he was in contact with Rosemary Christian this week and he felt the tank project could be under construction by March 1.

Falls View Presbyterian Church has asked for an adjustment on a bill amounting to \$504.17. The office was told the tenant renting the parsonage, which is connected to the Church's meter, left a hose running. The District's adjustment policy only allows for adjusting an underground line leak. The Board has adhered strictly to this policy in the past. Mr. Wagner asked that the PSC be contacted to see if there would be any flexibility in this situation.

Ralph Bassett submitted a proposal of \$2,350 to do the 2001 audit. Mrs. Ferrell made a motion which was seconded by Mr. Lynch to accept the proposal.

Mr. Winter has the opportunity to return to the mines. Working for one year would assure him a pension. He has asked the Board about working part time for that year. This was agreed upon with the stipulation that he will not be entitled to holiday pay, sick days, or insurance. Retirement will continue. Time and a half will be paid for time worked over eight hours per day. His current accumulated sick days will be frozen and Mr. Winter has asked about carrying his vacation until he returns full time. An agreement will be drawn up outlining what was discussed with Mr. Winter. Wagner asked that Hanna check over what was discussed before a binding commitment is made.

Mr. Winter has agreed to switch position and pay rate with Duane Tyree. Mr. Tyree will remain in the supervisor's position upon Mr. Winter's return to full time.

Mr. Tyree reported he and Alex Moore would soon be receiving Class IV Wastewater classification. The Board pledged support to Mr. Tyree and congratulated him and the sewer crew on their accomplishments.

Mr. Tyree asked about his third week of vacation. There was some controversy interpreting the handbook's explanation of earned vacation per years of service. Therefore, Mr. Wagner asked that Mr. Adkins be contacted for his interpretation.

The river crossing is being reviewed by FEMA representatives in Pennsylvania. At this point, \$135,000 has been pledged.

The Board asked that employee evaluations be brought up to date.

There being no further discussion, Mr. Lynch made a motion which was seconded by Mrs. Ferrell to adjourn the meeting at 6:00 PM.

W R Wagner
Robert Lynch
Nancy R. Ferrell

EXCERPT OF MINUTES
KANAWHA FALLS PUBLIC SERVICE DISTRICT
JANUARY 17, 2002

The undersigned hereby certifies that the following is a true and accurate excerpt of the minutes of the monthly meeting of the Kanawha Falls Public Service District held on January 17, 2002 in Gauley Bridge, West Virginia at 5:00 p.m., to-wit:

Upon motion of Nancy Ferrell and seconded by Alfred Lynch, the following persons were elected as officers of the Kanawha Falls Public Service District Board for the year 2002, to-wit:

Roger Wagner, Chairman
Nancy Ferrell, Secretary
Alfred Lynch, Treasurer

The undersigned further certifies that the foregoing action of the Kanawha Falls Public Service District Board has not been modified since January 17, 2002 and is currently in effect.



NANCY FERRELL
SECRETARY
FEBRUARY 14____, 2002



PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: June 26, 2001

FINAL
7-2-01
By Commission Order

CASE NO. 01-0238-PWD-CN

KANAWHA FALLS PUBLIC SERVICE DISTRICT,
a public utility.

Application for a certificate of convenience and necessity to construct an upgrade to its existing potable water distribution system, including, but not limited to, the replacement of certain existing water tanks and other necessary appurtenances, in Fayette County.

RECOMMENDED DECISION

On February 7, 2001, Kanawha Falls Public Service District (Kanawha Falls), by counsel H. Wyatt Hanna, III, pursuant to W.Va. Code §§ 16-13-25 and 24-2-11, prefiled with the Public Service Commission (Commission) for a certificate of convenience and necessity.

On February 26, 2001, Gauley River Public Service District (Gauley River) and Elkem Metal Company (Elkem), by counsel Mark E. Kauffelt, filed protests, requesting intervenor status and a hearing.

On March 27, 2001, the Commission converted the prefiling to an application for a certificate of convenience and necessity to construct an upgrade to Kanawha Falls's existing potable water distribution system, including, but not limited to, the replacement of certain existing water tanks and other necessary appurtenances, in Fayette County. Kanawha Falls also requested approval of the funding for the project and increases in its rates and charges.

Also on March 27, 2001, the Commission directed Kanawha Falls to publish a Notice of Filing, which provided that, if no protest was filed within thirty days after the date of publication, the

MEMO

Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application.

On April 2, 2001, the Commission, by Order, referred this matter to the Division of Administrative Law Judges for decision on or before October 23, 2001.

On April 6, 2001, Kanawha Falls, by counsel, filed an affidavit establishing that the Notice of Filing had been published on April 4, 2001, in The Montgomery Herald, published in Fayette County, and on April 10, 2001, an affidavit was filed establishing publication on April 5, 2001, in the Charleston Gazette and the Charleston Daily Mail, published in Kanawha County.

On April 12, 2001, Kanawha Falls filed a motion for rescission of the referral order, arguing that such rescission would help resolve this matter quickly. On May 1, 2001, the Commission denied the motion by Commission Order.

On May 7, 2001, Mr. Hanna filed a letter stating that he had spoken to Mr. Kauffelt, who had told him that, should Commission Staff recommend approval of the proposed rates, Gauley River and Elkem would withdraw their protests.

On May 16, 2001, Staff Attorney Ronald E. Robertson, Jr., filed an Initial Joint Staff Memorandum, with attached memorandum from Audra L. Blackwell, Engineer-in-Training II, Engineering Division, and William D. Rupel, Utilities Analyst, Utilities Division. Staff was reviewing this matter and would file its final recommendation when its investigation was complete.

On June 6, 2001, Mr. Robertson filed a Final Joint Staff Memorandum, and attached thereto was a detailed memorandum from Ms. Buckley and Mr. Holley. Staff recommended that the certificate of convenience and necessity be granted and the funding and proposed rate increases be approved.

On June 7, 2001, Gauley River and Elkem, by counsel, withdrew their protests.

On June 26, 2001, Kanawha Falls filed the letters of commitment actually awarding the necessary funding.

FINDINGS OF FACT

1. On March 27, 2001, the Commission converted a pre-filing from Kanawha Falls Public Service District to an application for a certificate of convenience and necessity to construct an upgrade to its existing potable water distribution system, including, but not limited to, the replacement of certain existing water tanks and other necessary appurtenances, in Fayette County.

Kanawha Falls also requested approval of the funding for the project and increases in its rates and charges. (See application filed February 28, 2001; March 27, 2001 letter).

2. The project will consist of approximately 3,000 linear feet of 6-inch, 150 linear feet of 4-inch, and 400 linear feet of 2-inch water lines; the construction of a 217,000 gallon water tank at Boomer, a 106,000 gallon water tank at Charlton Heights, a 330,600 gallon tank at Gauley Bridge, and a 106,000 gallon tank at Gauley Bridge High Service; the demolition of the existing water storage tanks at Glen Ferris, Charlton Heights and Gauley Bridge; the upgrading of the Boomer pressure reducing station and the Charlton Heights booster pump station; the bypass and abandonment of the existing Gauley Bridge High Service Tank Booster Pump Station; the addition of two new pressure reducing stations; and all necessary valves, controls and appurtenances. (See application; Initial Joint Staff Memorandum filed May 15, 2001; Final Joint Staff Memorandum filed June 6, 2001).

3. The total project cost is estimated at \$1,180,000, including construction costs of \$915,000. (See application; Final Joint Staff Memorandum)..

4. The project will be funded by a \$750,000 grant from the Appalachian Regional Commission and a \$430,000 loan from the United States Rural Utility Service. The loan bears a 4.875% annual interest rate and has a repayment period of forty years, with payments for the first two years consisting of interest only. (See application; Final Joint Staff Memorandum; June 26, 2001 filings).

5. Kanawha Falls's distribution system and plant are in good condition. However, the present storage tanks leak badly. If they were not replaced, the plant would have to be operated constantly to fulfill storage requirements of the State of West Virginia Office of Environmental Health Services. Staff opined that the project is necessary. (See Final Joint Staff Memorandum).

6. The District presently has approximately 1,185 customers. The cost per customer would be \$996, which Staff opined is quite reasonable. The project should decrease the unaccounted water loss from 22.7% to below 15%, and should save Kanawha Falls \$9,322 in annual operation and maintenance expenses. (See Final Joint Staff Memorandum).

7. The plans and specifications are in general conformance with the Commission's rules and regulations. (See Final Joint Staff Memorandum).

8. The State of West Virginia Office of Environmental Health Services approved the project by issuance of Permit No. 14,470 on April 26, 2000. (See Final Joint Staff Memorandum; permit filed February 28, 2001).

9. Staff recommended that the proposed rate increases of approximately 8% be approved. The proposed and Staff-recommended tariff is provided at Appendix A hereto. (See application; Final Joint Staff Memorandum).

10. The Notice of Filing was published on April 4, 2001, in The Montgomery Herald, published in Fayette County, and on April 5, 2001, in the Charleston Gazette and the Charleston Daily Mail, published in Kanawha County. (See April 6 and 8, 2001 filings).

11. Gauley River Public Service District, the only resale customer of Kanawha Falls, and Elkem Metal Company, its only industrial customer, filed protests but withdrew them after Commission Staff recommended that the proposed rates and charges be approved. No other protests were filed. (See February 28 and July 7, 2001 filings; case file generally).

CONCLUSION OF LAW

It is appropriate to grant the application, pursuant to W. Va. Code §§16-13A-25 and 24-2-11, and to approve the project, its funding, and the proposed rate increases, because the public convenience and necessity require the project; the funding is appropriate; the only protests filed have been withdrawn; and Commission Staff has recommended such approval.

ORDER

IT IS, THEREFORE, ORDERED that the application filed March 27, 2001, by Kanawha Falls Public Service District for a certificate of convenience and necessity to construct an upgrade to its existing potable water distribution system, including, but not limited to, the replacement of certain existing water tanks and other necessary appurtenances, in Fayette County, be granted and the project be approved.

IT IS FURTHER ORDERED that the funding for the project, consisting of a \$750,000 grant from the Appalachian Regional Commission and a \$430,000 loan from the United States Rural Utility Service, be approved.

IT IS FURTHER ORDERED that the rate increases contained in the Approved Tariff, attached hereto as Appendix A, be approved, to become effective upon completion of the project.

IT IS FURTHER ORDERED that Kanawha Falls Public Service District file with the Commission's Tariff Office an original and five (5) copies of the approved tariff and a statement of the in-service date of the project within thirty (30) days of the date that the certificated project becomes operational.

IT IS FURTHER ORDERED that, if there is any change in the cost of the project, estimated at \$1,180,000, or in the terms, conditions, or scheduling of the project, Kanawha Falls Public Service District file a petition with the Commission for approval of such revisions.

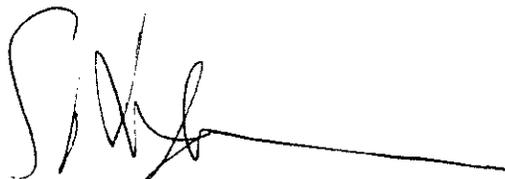
IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon Commission Staff 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 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 Executive 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.



Sunya Anderson
Administrative Law Judge

SA:s
010238a.wpd

KANAWHA FALLS PUBLIC SERVICE DISTRICT
CASE NO. 01-0238-PWD-CN
APPROVED TARIFF

AVAILABILITY OF SERVICE

Availability for general domestic, commercial and industrial service.

RATE

First	1,000 gallons used per month	\$10.80 per 1,000 gallons
Next	2,000 gallons used per month	\$ 5.40 per 1,000 gallons
All Over	3,000 gallons used per month	\$ 3.97 per 1,000 gallons

MINIMUM RATE

No bill shall be rendered for less than the following amounts, according to the size of the meter:

5/8 or 3/4 inch meter	\$ 10.80 per month
1 inch meter	\$ 27.00 per month
1-1/2 inch meter	\$ 54.00 per month
2 inch meter	\$ 86.40 per month
4 inch meter	\$ 270.00 per month
6 inch meter	\$ 540.00 per month
8 inch meter	\$ 864.00 per month

UNMETERED RATE ----- \$27.55 per month

When water service is unmetered or otherwise unmeasurable by the PSD, the unmetered rate shall apply. (Based on 4,500 gallons).

TAP FEE ----- \$300.00 per occurrence

The charge for making a tap for a service connection is \$300.00.

RECONNECTION FEE ----- \$25.00 per occurrence

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days of the billing date, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

RETURNED CHECK CHARGE

If a check received is returned by a bank for any reason, the bank's charge to Kanawha Falls Public Service District shall be the District's charge to the customer for such bad check, but such charge to customer shall not exceed \$15.00.

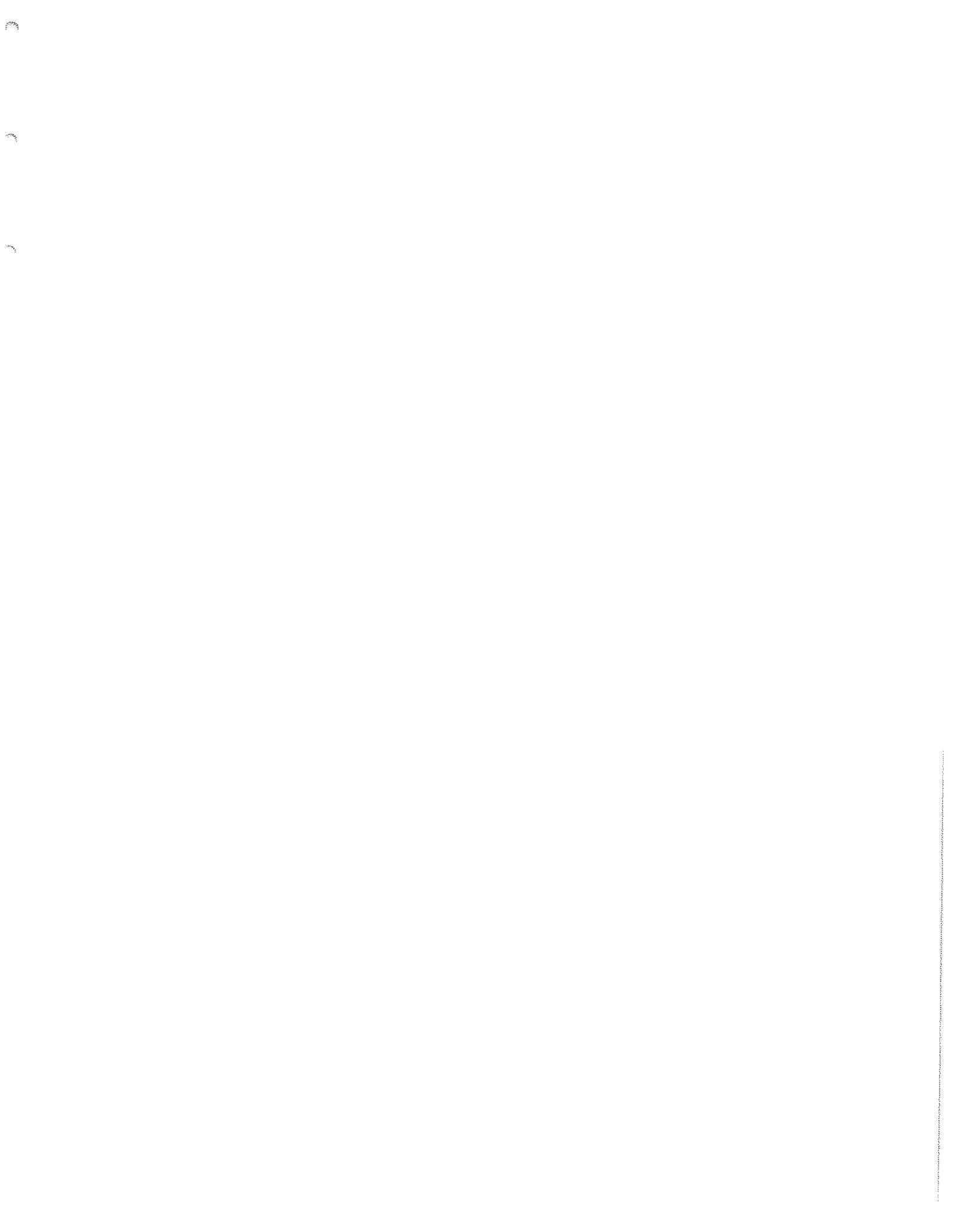
RESALE RATE ----- \$1.97 per 1,000 gallons per month.

INDUSTRIAL RATE - ELKEM METAL COMPANY

\$2.44 per 1,000 gallons per month.

LEAK ADJUSTMENT INCREMENT

\$1.14 per 1,000 gallons. To be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate is used to calculate consumption above customer's historical average usage.





United States
Department of
Agriculture
Rural Development

Federal Building, Room 320
75 High Street
Morgantown, WV 26505
Telephone: (304) 291-4796
Fax: (304) 291-4159
TTY/TDD: (304) 284-5941

March 23, 1998

Roy E. Young, Chairman
Kanawha Falls Public Service District
P.O. Box 448
Gauley Bridge, WV 25085

Dear Mr. Young:

This letter, with Attachments 1 through 10 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by the Rural Utilities Service (RUS) by written amendment to this letter. Any changes not approved by RUS shall be cause for discontinuing processing of the application.

The Rural Utilities Service Water and Waste Disposal Loan and Grant Program is administered by USDA - Rural Development, formerly known as the Farmers Home Administration.

This letter is not to be considered as loan approval or as representation to the availability of funds. The docket may be completed on the basis of an RUS loan in the amount of \$430,000, and other funding in the amount of \$750,000, for a total project cost of \$1,180,000. The other funding is planned in the form of a grant from the Appalachian Regional Commission.

The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you. The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. The enclosures and attachments listed below are attached to the copies as noted. Enclosed are the following:

Attachment No. 1 - Project Construction Budget (All Copies)

Attachment No. 2 - Water and Waste Processing Checklist for Kanawha Falls PSD
(All Copies)

Rural Development is an Equal Opportunity Lender. Complaints of
discrimination should be sent to: Secretary of Agriculture,
Washington, DC 20250.



- Attachment No. 3 - RUS Instruction 1780, Subparts A and B (Applicant Copy)
- Attachment No. 4 - RUS Instruction 1780, Subpart C (Engineer Copy)
- Attachment No. 5 - RUS Instruction 1780, Subpart D (Attorney and Bond Counsel Copies)
- Attachment No. 6 - Agreement (RUS Bulletin 1780-13) (Engineer Copy)
- Attachment No. 7 - Supplemental General Conditions (RUS Bulletin 1780-14) (Engineer Copy)
- Attachment No. 8 - Government Auditing Standards (Revision 1994) (Accountant Copy)
- Attachment No. 9 - Labor Standards Provisions
- Attachment No. 10 - Various other RD Forms as identified on Attachment No. 2

Your documents concerning the creation of your authority are administratively acceptable; however, they will be further reviewed by our Office of the General Counsel at the time your file is forwarded for closing instructions. Any changes required by our Office of the General Counsel will be included in the closing instructions.

The conditions referred to above are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 4.875% interest rate and a monthly amortization factor of .00483, which provides for a monthly payment of \$2,077.00. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account and a depreciation reserve account, which together equal 10% of the annual debt service each year for the life of the loan. Five percent (5%) will be deposited into both accounts until an annual debt payment has been accumulated. Thereafter, the entire 10% will be deposited into the depreciation reserve account.

You are reminded that your authority may be required to refinance (graduate) the unpaid balance of its RUS loan, in whole or in part, upon the request of RUS if at any time it shall be determined the authority is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time.

2. Security - The loan must be secured by a statutory lien of first priority, a pledge of the system's revenues and other agreements between you and RUS as set forth in the bond resolution which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in Form RD 1942-47 which is mentioned later.

3. Users - This conditional commitment is based upon you providing evidence that there will be at least 1,128 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of a certification from you that identifies and attests to the number of users that are actually connected to the PSD's existing water system which is to be partially replaced by the new system, at the time you request authorization to advertise the project for construction bids.

Before RUS can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and currently using the system.

The RUS loan commitment is based on the PSD providing service to two (2) large volume users. Evidence must be provided to show those users will actually be connected to the system when it is completed and that the monthly water usage projected by the engineer for those users is reasonable. In the event any of those users refuse the offered service, the PSD must obtain enough additional revenue (i.e., increase in user rates, sign up of an adequate number of other users, reduction in project scope to reduce debt service and O&M, etc.) to make up the projected income that would be lost by not having those users on the system.

4. Bond Counsel - The services of a recognized bond counsel are required. The bond counsel will prepare the form of resolution to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.
5. Engineering Services - It will be necessary for you to obtain the services of an engineer. For your convenience, Form RD 1942-19, "Agreement for Engineering Services," or ~~EJCDC No. 1910-1~~, "Standard Form of Agreement between Owner and Engineer for Professional Services" may be used to obtain the services of an engineer and are enclosed for your use.
6. Legal Services - You must obtain the services of a local attorney. For your convenience RUS Bulletin 1780-7, "Legal Services Agreement" is enclosed for your use.
7. Accounting Services - You must obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:
 - a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).
 - b. Prior to the advertisement of bids, your accountant must certify that the accounts and records as required by your bond resolution have been established and are operational.

- c. Currently, the PSD provides for annual audits which combine the operation of its water and sewer facilities. The PSD's financial records and preparation of the annual audit must be separated for each utility. The PSD should provide documentation prior to loan closing to evidence these changes.

The Accountant's Agreement should be submitted to RUS for review. Compensation in the contract should include only those services identified above and not include payment for construction management services from the accountant unless RUS concurrence is obtained.

RUS regulations (Attachment No. 3) outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements for your PSD. The attached booklet, "Government Auditing Standards (Revised 1994)" (Attachment No. 8) outlines audit requirements. You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends \$300,000 or more in federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system operation.

8. Facility Control - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:
 - a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
 - b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the PSD already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.
 - c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.

- d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions.
 - e. On the day of loan closing, the PSD's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the PSD has already acquired real property(s) (land or facilities), the PSD's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.
9. Permits - Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:
- State Department of Health
10. Public Service Commission Approvals - You must obtain the following from the Public Service Commission of West Virginia:
- a. A Certificate of Convenience and Necessity.
 - b. Approval of user charges that are acceptable to you and the Rural Utilities Service.
 - c. Approval of financing for the project's proposed financing arrangements.

The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1. A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.

11. Insurance and Bonding Requirements -

Prior to preliminary loan closing, you must acquire the following insurance and bond coverage:

- a. Liability Insurance - Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. The limits of liability coverage noted herein should be considered as suggested amounts only. RUS recommends that you consider analyzing your actual needs in detail before you obtain coverage in a specific amount.

- b. Workers' Compensation - In accordance with appropriate State laws.
- c. Position Fidelity Bond(s) - All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The minimum coverage acceptable to RUS will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).
- d. National Flood Insurance - In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:
 - (1) If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
 - (2) Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.
- e. Real Property Insurance - Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

12. Contract Documents, Final Plans and Specifications -

- a. The contract documents should consist of the following:
 - (1) "Agreement" (RUS Bulletin 1780-13) and Attachments 1 through 9 (Attachment No. 6) or other agreement approved by RUS.
 - (2) "Supplemental General Conditions" (RUS Bulletin 1780-14). One copy of this item is attached hereto (Attachment No. 7). Additional copies must be reproduced by the engineer.
 - (3) "Labor Standards Provisions" - Title 29, Subtitle A, Part 5, Section 5.5, Contract Provisions and Related Matters. One copy of this item is attached hereto (Attachment No. 9). Additional copies must be reproduced by the engineer.

- b. The contract documents must provide, as a minimum, the following insurance:
- (1) Liability Insurance - Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. This coverage must include indemnification of the PSD and its engineer. RUS Bulletin 1780-13, Attachment 9, suggests certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.
 - (2) Builder's Risk Insurance - On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.
 - (3) Workers' Compensation - In accordance with applicable State laws.
- c. The contract documents and final plans and specifications must be submitted to RUS for approval.
- d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.
13. Disbursement of Funds - The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of any disbursements required of your PSD, over 30 day periods. Any funds not disbursed immediately upon receipt must be deposited in an interest bearing account in accordance with OMB Circular A-133. Interest earned on these funds must be remitted promptly, at least quarterly, to the Rural Utilities Service. The PSD must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RUS.
14. Other Grants - Prior to advertisement for construction bids, you must provide evidence showing the approval of the other grants. This evidence should include a copy of the grant award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the "other" grant funds are available for expenditure. This evidence should consist of at least a letter from the grantor stating the funds are available for expenditure.
15. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:
- Form RD 442-7 - "Operating Budget"
 - Form RD 1940-1 - "Request for Obligation of Funds"
 - Form RD 1942-47 - "Loan Resolution (Public Bodies)"
 - Form RD 400-1 - "Equal Opportunity Agreement"
 - Form RD 400-4 - "Assurance Agreement"

Form AD 1047 - "Certification Regarding Debarment - Primary"
Form AD 1049 - "Certification Regarding Drug-Free Workplace"
Form RD 1910-11 - "Applicant Certification, Federal Collection Policies"
FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"
Standard Form LLL - "Disclosure of Lobbying Activities" (If Applicable)

16. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan docket. All the items listed must be included in the loan docket when it is forwarded to the USDA - Rural Development State Office with a request for loan closing instructions to be issued.
17. Upon receipt of the loan docket, which contains all the items required above, RUS may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RUS project funds will be considered to be ARC grant funds and refunded to RUS. If the amount of unused RUS project funds exceeds the ARC grant, that part would be RUS loan funds.

In accordance with the intent of Congress as expressed in the FY 1997 Appropriations Act, recipients of water and waste assistance provided by the Rural Utilities Service are encouraged, in expending the assistance, to purchase only American-made equipment and products.

Please complete and return the enclosed Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire further consideration be given your application.

If the conditions set forth in this letter are not met within six (6) months from the date hereof, RUS reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the six-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is

determined the budget is no longer current and/or adequate, RUS reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely yours,


BOBBY LEWIS
State Director

Enclosures

cc: Administrator, RUS
ATTN: Water and
Environmental Programs
Washington, DC

Rural Development Specialist
Beckley, WV

Ralph W. Bassett, Jr.
Certified Public Accountant
Milton, WV

Gordon Billheimer
Attorney at Law
Montgomery, WV

Ghosh Engineers, Inc. (Paul)
Charleston, WV

Bond Counsel

Project Construction Budget

Project Cost	ARC Grant	RUS Loan	Total
Construction	750,000	165,000	915,000
Construction Contg.		50,000	50,000
Land and Rights		20,000	20,000
Legal (Local)		9,000	9,000
Engineering		134,000	134,000
Basic - \$57,400			
Inspection - \$60,100			
Special - \$16,500			
Bond Counsel		9,000	9,000
Accounting		2,500	2,500
Interest		21,000	21,000
Project Contg.		19,500	19,500
TOTAL	750,000	430,000	1,180,000

Rates

Available for general domestic, commercial and industrial service:

First	1,000 gals. @	\$9.60 per M gals.
Next	2,000 gals. @	\$5.94 per M gals.
Next	2,000 gals. @	\$5.38 per M gals.
Next	5,000 gals. @	\$4.89 per M gals.
Over	10,000 gals. @	\$4.52 per M gals.

Minimum Charge

No bill shall be rendered for less than the following amounts according to the size of meter installed:

5/8" x 3/4" meter -	\$15.54 per month
3/4" meter -	\$23.31 per month
1" meter -	\$38.85 per month
1 1/2" meter -	\$77.70 per month
2" meter -	\$124.32 per month
3" meter -	\$233.10 per month
4" meter -	\$388.50 per month
6" meter -	\$777.00 per month
8" meter -	\$1,243.20 per month

(Minimum Monthly Bill \$15.54 for 2,000 gallons)

Delayed Payment Penalty

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to net amount shown.

If any bill is not paid within sixty (60) days after date, water service to the customer will be discontinued. Water service will not be restored until all past due water bills have been paid in full and all accrued penalties plus a reconnection charge have been paid.

Connection Charge

There shall be a charge of \$150.00 for connection to the system.

Reconnection Charge

\$20.00

Use and Income Analysis - Found on Page 3.

Budget

Income		\$546,254 (R)
Expenses		
O & M	\$333,000	
*Debt Service	193,656	
**Reserve	19,365	
		\$546,021
Balance and Depreciation		<u>\$ 233</u>

Operating and Maintenance Expenses

Pumping	\$43,000
Water Treatment	25,000
Transmission	17,000
Customer Account	1,500
Administrative	67,000
Payroll	150,000
Taxes	13,000
Other	16,500
TOTAL	<u>\$333,000</u>

*Existing Debt Service - \$168,732
Proposed Debt Service - \$ 24,924

**Existing Debt Service Reserve - \$16,873
Proposed Debt Service Reserve - \$ 2,492

Total Debt Service - \$193,656

Total Debt Service Reserve - \$19,365

Block	M Gallons	Number of Users	Minimum Bills	First 1M Gallons	Next 2M Gallons	Next 2M Gallons	Next 5M Gallons	Over 10M Gallons	Total Revenue
0 - 1,000 gals.	62	100	100						
1,001 - 3,000 gals.	777	373		373	404				
3,001 - 5,000 gals.	1,400	356		356	712	332			
5,001 - 10,000 gals.	1,652	254		254	508	508	382		
Over 10,000 gals.	1,313	43		43	86	86	215	883	
Total	5,204	1,126	100	1,026	1,710	926	597	883	
Rate			9.60	9.60	5.942	5.382	4.899	4.521	
Monthly Income			960.00	9,849.60	10,160.82	4,983.73	2,924.70	3,992.04	32,870.89
Annual Income									x 12
Gauley River PSD									394,450.68
60,415 M Gals. @ 1.35									
Elkem Metals									81,560.25
52,032 M Gals. @ 1.35									
Total Income from Sale of Water									70,243.20
									<u>546,254.13</u>

5,252,000 gal/m / 4,500 = 1,168 EDUs
1,168 EDUs + 2 Bulk = 1,170 EDUs

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE
Water and Waste Processing Checklist

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
SF 424.2	Application for Federal Assistance	3	1780.31(b)	App.		Have	3
	Public Notice of Intent to File App. / Environ. Notice	1	1780.19(a) 1940-G	App.			3
	Regional Planning & Development Council Review	2	1780.33(b)	App.		Have	3
	State Clearing-house Review or IJDC Review	2	1780.33(b)	App.		Have	3
Bulletins 1780-2 1780-3	Preliminary Engineering Report	2	1780.33(c)	Eng.		Have	6
	Bond Ordn. or Resol. on Outstanding Debts	1	1780.33(e)	App./Att.			2
	Bonds or Notes Outstanding Debts	1	1780.33(e)	App./Att.		Have	2
	Audit for last year of operation	1	1780.33(e)	App./Acct.		Have	1
AD 1049	Certification Regarding Drug-Free Workplace	1	1780.33(h)	App.		Have	5

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
	Minutes Adopting Drug-Free Workplace Program	1	LOC	App.			5
RD 1940-20	Request for Env. Info/ Attachments	2	1780.33(f)	App./Eng.		Have	3
Bulletin 1780-22	Applicant Eligibility Certification/ Other Credit Certification	1	1780.33(d)	App.		HAVE	3
Exhibit A / A-1	Certifications Regarding Lobbying	2	1780.33(h)	App.		Have	2
1940-21	Env. Assessment for Class I Action	2	1940-G	RUS/Eng.			3
	Site Visit		S.I. 1780-2	RUS			3
	Statement from Historical Preservation Office	2	Exhibit H 1940-G	App.			3
	Comments from Dept. of Commerce, Labor & Environ. Resources (DEP)	2	Exhibit H 1940-G	App.		Have	3
	Comments from U.S. Fish and Wildlife Service (Endangered Species)	2	Exhibit H 1940-G	App.		Have	3

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
	Comments from U.S. Forest Service (Wild & Scenic Rivers)	2	Exhibit H 1940-G	App.		N/A	3
	Comments from Advisory Council on Historic Preservation	2	Exhibit H 1940-G	App.		N/A	3
	Farmland Conversion Impact Rating	1	Exhibit H 1940-G	RUS/ NRCS		N/A	3
	FONSI / Evidence of Publication	1	Exhibit 1 RD 1940-G News Ad	RUS/App.			3
	Adoption of Environ. Review by other Federal Agency	2	1940-G Case Record	RUS		N/A	3
	Copy of Existing Rate Tariff	2	1780.33	App.		Have	8
	Applicant's IRS Tax Number (TIN)	1	1780.33(g)	App.		Have	3
	Agency Determination on the Availability of "Other Credit" with Documentation	1	1780.7(d)	RUS		Have	3
	Agency Determination on Procurement	1	1780.70(d)	RUS			6
	Review for Outstanding Judgment	1	1780.7(g)	RUS			3
	Processing Conference	1	1780.39(a)	RUS			3

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
	Staff Engineer PER Review	1	1780.33(c)	RUS			6
	Staff Review Financial Statements	1	S.I. 1780.2	RUS			1
	Bill Analysis for existing system(s)	2	1780.33(c)	App./Eng.		Have	8
	Projected Bill Analysis for New Users	2	1780.33(c)	App./Eng.		Have	8
	Statement reporting the <u>total</u> number of <u>potential</u> users		1780.33(c)	App./Eng.			8
RD 1942-19 or other approved	Agreement between Owner & Engineer	3	1780.39(b)	App./Eng.			6
Bulletin 1780-7 or other approved	Legal Services Agreement with Local Attorney	3	1780.39 (b)(2)	App./Att.		Have	5
	Legal Services Agreement with Bond Counsel	1	1780.39 (b)(3)	App./ Bond Counsel			5
	Agreement for Accounting Services	1	1780.39 (b)(2)	App./Acct.			5
	Documentation on Service Area	1	1780.11	RUS		HAVE	3

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
	Relationships/ Associations with Agency Employees	1	1780.1(f)			HAVE	3
RD 1942-45	Project Summary	3	1780.41(a)	RUS		HAVE	1
RD 442-7	Operating Budget	3	1780.33(h)	App.		HAVE	3
RD 1942-14	Project Fund Analysis	3	1780.41(a)	RUS		HAVE	2
Bulletin 1780-1	Project Selection Criteria	2	1780.17	RUS		Have	1
	Letter of Conditions	7	1780.41 (a)(5)	RUS		HAVE	3
RD 1942-46	Letter of Intent to Meet Conditions	2	1780.41 (a)(6)	App.		HAVE	3
RD 1940-1	Request for Obligation of Funds	4	1780.41(a)	RUS/App.		HAVE	2
	Evidence of "Other Funds"	1	1780.44(f)	App.		Have	2
AD 1047	Certification Regarding Debarment (Primary)	1	1780.33(h)	App.		Have	5
AD 1048	Certification Regarding Debarment (Contractor)	1 ea.	1780.33(h)	All Appropriate Vendors			5

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
RD 1910-11	Applicant Certification, Federal Collection Policies	1	1780.33(h)	App.		Have	3
	Positive Program to Encourage Connections when Completed	1	1780.39 (c)(5)	App.			5
	Verification of Users	1	1780.44(b)	RUS			3
	Preliminary Bond Transcript Documents w/o Defeasance Provisions	2	1780.83	Bond Counsel			2
	Right-of-Way Map	1	1780.44(g)	Eng.			Sep. File
	Deeds and/or Options		1780.44(g)	App./Att.			
RD 1927-9	Preliminary Title Opinion	1	1780.44 (g)(2)	App./Att.			5
RD 1927-10	Final Title Opinion	1	1780.44 (g)(2)	App./Att.			5
	Narrative Opinion from Attorney	1	1780.44(g)	Att.			5
	Waiver of Title Defects Letter	1	1780.44 (g)(2)(ii)	RUS			

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
RD 442-22	Opinion of Counsel Relative to R/Ways		1780.44 (g)(1)	Att.			5
RD 1942-47	Loan Resolution	1	1780.45 (a)(2)	App.		HAVE	5
	Copy of PSC Rule 42 Exhibit	1	State	Att./Acct.			3
	Agreement with Accountant	1	1780.39 (b)(2)	App./Acct.			6
RD 400-1	Equal Opportunity Agreement	1	1901-E	App.		HAVE	6
RD 400-4	Assurance Agreement	1	1901-E	App.		HAVE	3
	Bond Transcript Documents w/o Defeasance Provisions	3	1780.83	Bond Counsel			Sep. File
	OGC Closing Instructions	1	1780.44(h)	RUS			5
	S/O Closing Instructions	1	1780.44(h)	RUS			5
	Contract Documents, Plans and Specifications	2		Eng.			Sep. File
	Dept. of Health Approval	1	1780.15(d)	Eng.			6
400-8	Comp. Review	1	1901-H 1901.204	RUS			5
1924-16	Record of PreConstruction Conference	1	1780.76(a)	RUS/Eng.			6

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
	Bid Tabulation	1	1780.61(b)	Eng.			6
	Resume' of Inspector	1	1780.76(c)	Eng.			6
	Liability Insurance		1780.39(g)	App.			7
	Workers' Compensation Certificate	1	1780.39(g)	App.			7
	Flood Insurance Policy	1	1780.39(g)	App.			7
440-24	Fidelity Bond	1	1780.39(g)	App.			7
	OGC Final Opinion	1	1780.45(g)	RUS			5

Subpart D - Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants Subpart D - Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants"

§1780.80 General.

This subpart includes information for use by public body applicants in the preparation and issuance of evidence of debt (bonds, notes, or debt instruments, referred to as bonds in this subpart) and other necessary loan documents.

§1780.81 Policies related to use of bond counsel.

The applicant is responsible for preparation of bonds and bond transcript documents. The applicant will obtain the services and opinion of recognized bond counsel experienced in municipal financing with respect to the validity of a bond issue, except for issues of \$100,000 or less. With prior approval of the approval official, the applicant may elect not to use bond counsel. Such issues will be closed in accordance with the following:

- (a) The applicant must recognize and accept the fact that application processing may require additional legal and administrative time;
- (b) It must be established that not using bond counsel will produce significant savings in total legal costs;
- (c) The local attorney must be able and experienced in handling this type of legal work;
- (d) The applicant must understand that it will likely have to obtain an opinion from bond counsel at its expense should the Agency require refinancing of the debt;
- (e) Bonds will be prepared in accordance with this regulation and conform as closely as possible to the preferred methods of preparation stated in §1780.94; and
- (f) Closing instructions must be issued by OGC.

§1780.82 [Reserved]

§1780.83 Bond transcript documents

Any questions relating to Agency requirements should be discussed with Agency representatives. Bond counsel or local counsel, as appropriate, must furnish at least two complete sets of the following to the applicant, who will furnish one complete set to the Agency:

- (a) Copies of all organizational documents;
- (b) Copies of general incumbency certificate;
- (c) Certified copies of minutes or excerpts from all meetings of the governing body at which action was taken in connection with the authorizing and issuing of the bonds;
- (d) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding a favorable bond election, if one is necessary;
- (e) Certified copies of the resolutions, ordinances, or other documents such as the bond authorizing resolutions or ordinances and any resolution establishing rates and regulating use of facility, if such documents are not included in the minutes furnished;
- (f) Copies of the official Notice of Sale and the affidavit of publication of the Notice of Sale when State statute requires a public sale;
- (g) Specimen bond, with any attached coupons;
- (h) Attorney's no-litigation certificate;
- (i) Certified copies of resolutions or other documents pertaining to the bond award;
- (j) Any additional or supporting documents required by bond counsel;
- (k) For loans involving multiple advances of Agency loan funds, a preliminary approving opinion of bond counsel (or local counsel if no bond counsel is involved) if a final unqualified opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered at or before the time of the first advance of funds. It will state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan, subject only to changes occurring during the advance of funds, such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates;
- (l) Final unqualified approving opinion of bond counsel, (and preliminary approving opinion, if required) or local counsel if no bond counsel is involved, including an opinion as to whether interest on bonds will be exempt from Federal and State income taxes. With approval of the State program official, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation. It is permissible for such opinion to contain language referring to the last sentence of Section 306 (a)(1) or to Section 309A (h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 (a)(1) or 1929a (h)).

(c) Third preference - single instruments with installments of principal plus interest. If a single instrument with amortized installments is not legally permissible, use a single instrument providing for installments of principal plus interest accrued on the principal balance. For bonds with semiannual interest and annual principal, the interest is calculated by multiplying the principal balance times the interest rate and dividing this figure by two. Principal installments are to be scheduled so that total combined interest and principal payments closely approximate amortized payments.

(1) The repayment terms concerning interest only installments described in paragraph (b) of this section apply.

(2) The instrument shall contain in substance provisions indicating:

(i) Principal maturities and due dates;

(ii) Regular payments shall be applied first to interest due through the next principal and interest installment due date and then to principal due in chronological order stipulated in the bond; and

(iii) Payments on delinquent accounts will be applied in the following sequence:

(A) billed delinquent interest;

(B) past due interest installments;

(C) past due principal installments;

(D) interest installment due; and

(E) principal installment due.

(d) Fourth preference - serial bonds with installments of principal plus interest. If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be numbered consecutively and delivered in chronological order. Such bonds will conform to the minimum requirements of §1780.94. Provisions for application of payments will be the same as those set forth in paragraph (c)(2)(ii) of this section.

(e) Coupon bonds. Coupon bonds will not be used unless required by State statute. Such bonds will conform to the minimum requirements of §1780.94.

§1780.88 [Reserved]

§1780.89 Multiple advances of Agency funds using permanent instruments.

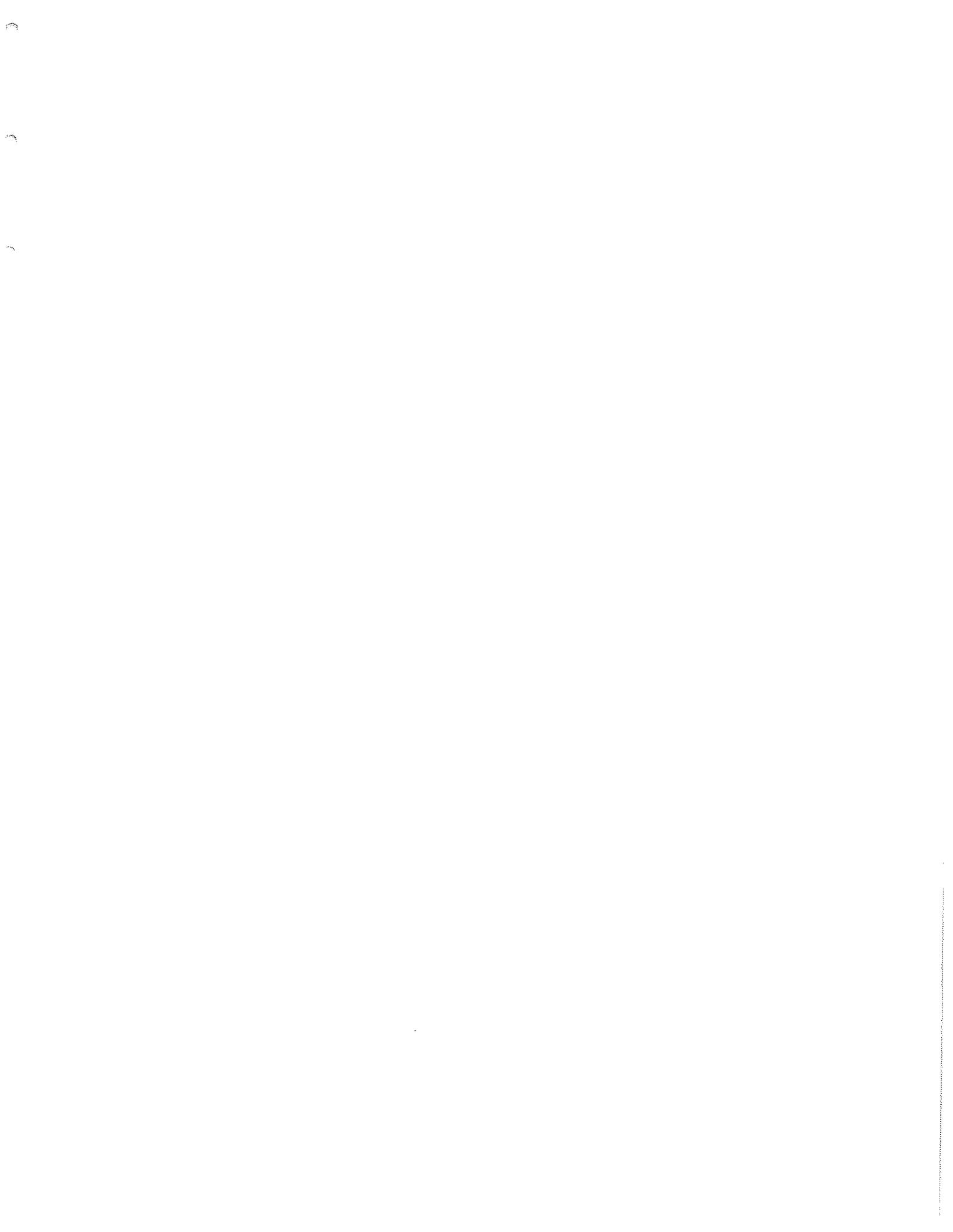
Where interim financing from commercial sources is not used, Agency loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed the amount needed during 30-day periods.

- (c) **Size and quality.** Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.
- (d) **Date of bond.** Bonds will normally be dated as of the day of delivery. However, the borrower may use another date if approved by the Agency. Loan closing is the date of delivery of the bonds or the date of delivery of the first bond when utilizing serial bonds, regardless of the date of delivery of the funds. The date of delivery will be stated in the bond if different from the date of the bond. In all cases, interest will accrue from the date of delivery of the funds.
- (e) **Payment date.** Loan payments will be scheduled to coincide with income availability and be in accordance with State law.
- (1) If income is available monthly, monthly payments are recommended unless precluded by State law. If income is available quarterly or otherwise more frequently than annually, payments must be scheduled on such basis. However, if State law only permits principal plus interest (P&I) type bonds, annual or semiannual payments will be used.
 - (2) The payment schedule will be enumerated in the evidence of debt, or if that is not feasible, in a supplemental agreement.
 - (3) If feasible, the first payment will be scheduled one full month, or other period, as appropriate, from the date of loan closing or any deferment period. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided. When principal payments are deferred, interest-only payments will be scheduled at least annually.
- (f) **Extra payments.** Extra payments are derived from the sale of basic chattel or real estate security, refund of unused loan funds, cash proceeds of property insurance and similar actions which reduce the value of basic security. At the option of the borrower, regular facility revenue may also be used as extra payments when regular payments are current. Unless otherwise established in the note or bond, extra payments will be applied as follows:
- (1) For loans with amortized debt instruments, extra payments will be applied first to interest accrued to the date of receipt of the payment and second to principal.
 - (2) For loans with debt instruments with P&I installments, the extra payment will be applied to the final unpaid principal installment.
 - (3) For borrowers with more than one loan, the extra payment will be applied to the account secured by the lowest priority of lien on the property from which the extra payments was obtained. Any balance will be applied to other Agency loans secured by the property from which the extra payment was obtained.
 - (4) For assessment bonds, see paragraph (k) of this section.
- (g) The place of payments on bonds purchased by the Agency will be determined by the Agency.
- (h) **Redemptions.** Bonds will normally contain customary redemption provisions. However, no premium will be charged for early redemption on any bonds held by the Government.

§1780.95 Public bidding on bonds.

Bonds offered for public sale shall be offered in accordance with State law and in such a manner to encourage public bidding. The Agency will not submit a bid at the advertised sale unless required by State law, nor will reference to Agency's rates and terms be included. If no acceptable bid is received, the Agency will negotiate the purchase of the bonds.

§§1780.96 - 1780.100 [Reserved]





February 5, 2002

Roger Wagner, II, Chairman
Kanawha Falls PSD
P. O. Box 448
Gauley Bridge, WV 25085

Dear Mr. Wagner:

The pre-closing date for the PSD's water tank project has been established as February 20, 2002. The pre-closing will begin at 10:00 a.m. at the PSD office followed by the pre-construction conference at 11:00 a.m.

Reference is made to our Letter of Conditions dated March 23, 1998. All of the requirements of this letter must be met.

Many of the aforementioned items have already been addressed. Those remaining items to be satisfied prior to loan closing include:

1. The PSD's local attorney must furnish Form RD 442-22, "Opinion of Counsel Relative to Rights of Way," showing no exceptions. This form should be dated February 22, 2002.
2. The PSD's local attorney must furnish Form RD 1927-10, "Final Title Opinion," on all land(s) being acquired. In addition, the attorney must provide a separate Final Title Opinion(s) covering all existing property owned by the PSD. The opinion(s) should be dated February 22, 2002.
3. The PSD's engineer must provide a resume of the proposed inspector(s).
4. The PSD must provide a letter accepting the proposed inspector(s).
5. The permit from the West Virginia Department of Highways must be on hand at the closing. The PSD should proceed to obtain necessary bond and forward same to the WVDOH requesting the permit be issued.

6. A certificate from the PSD's accountant that the accounts and records required by the bond resolution and the PSC have been established and are operational. The chart of accounts and record keeping books must be available for review at loan closing.
7. The PSD must provide evidence that it has acquired insurance and bond coverage in accordance with item 11 of the Letter of Conditions.
8. The PSD must furnish evidence that it provides State Workman's Compensation Insurance.

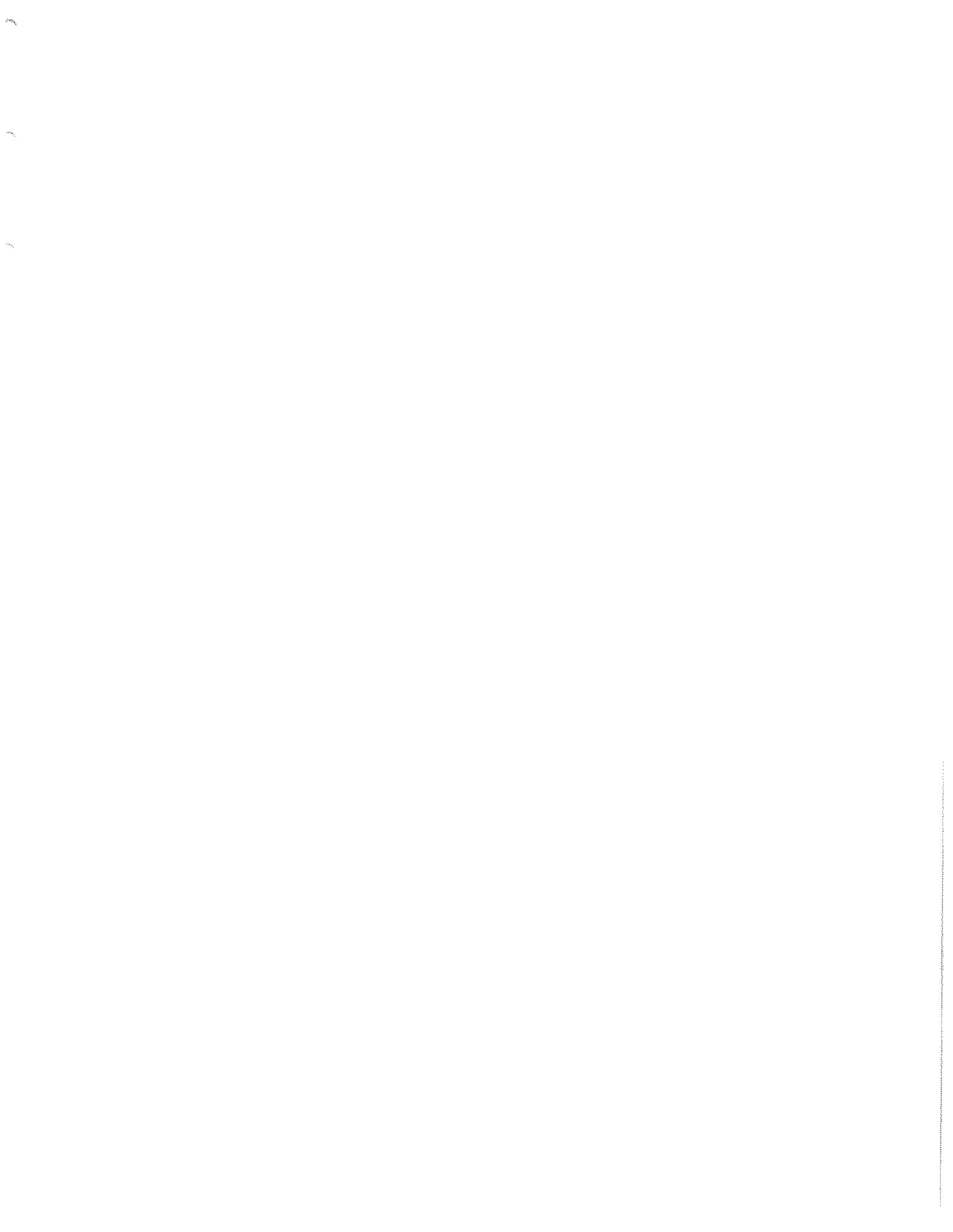
If you have any questions regarding these or any other matters pertaining to your loan, please contact this office.

Sincerely,

Rose Mary Christian
Rural Development Specialist

Enclosures

cc: State Director, Rural Development, Morgantown, WV
James C. Blankenship, Attorney at Law, Fayetteville, WV
H. Wyatt Hanna, III, Attorney at Law, Charleston, WV
✓ Francesca Tan, Jackson and Kelly, Bond Counsel, Charleston, WV
Stanley Adkins, CPA, Summersville, WV
William E. Cunningham, Ghosh Engineers, Inc., Charleston, WV



LOAN RESOLUTION
(Public Bodies)A RESOLUTION OF THE Board of DirectorsOF THE Kanawha Falls Public Service DistrictAUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING
A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITSWater System

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the Kanawha Falls Public Service District
(Public Body)(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of
FOUR HUNDRED THIRTY THOUSAND DOLLARS (430,000)pursuant to the provisions of Chapter 16, Article 13, of the State Code of West Virginia : and

WHEREAS, the Association intends to obtain assistance from the Rural Housing Service, Rural Business - Cooperative Service, Rural Utilities Service, or their successor Agencies with the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE in consideration of the premises the Association hereby resolves:

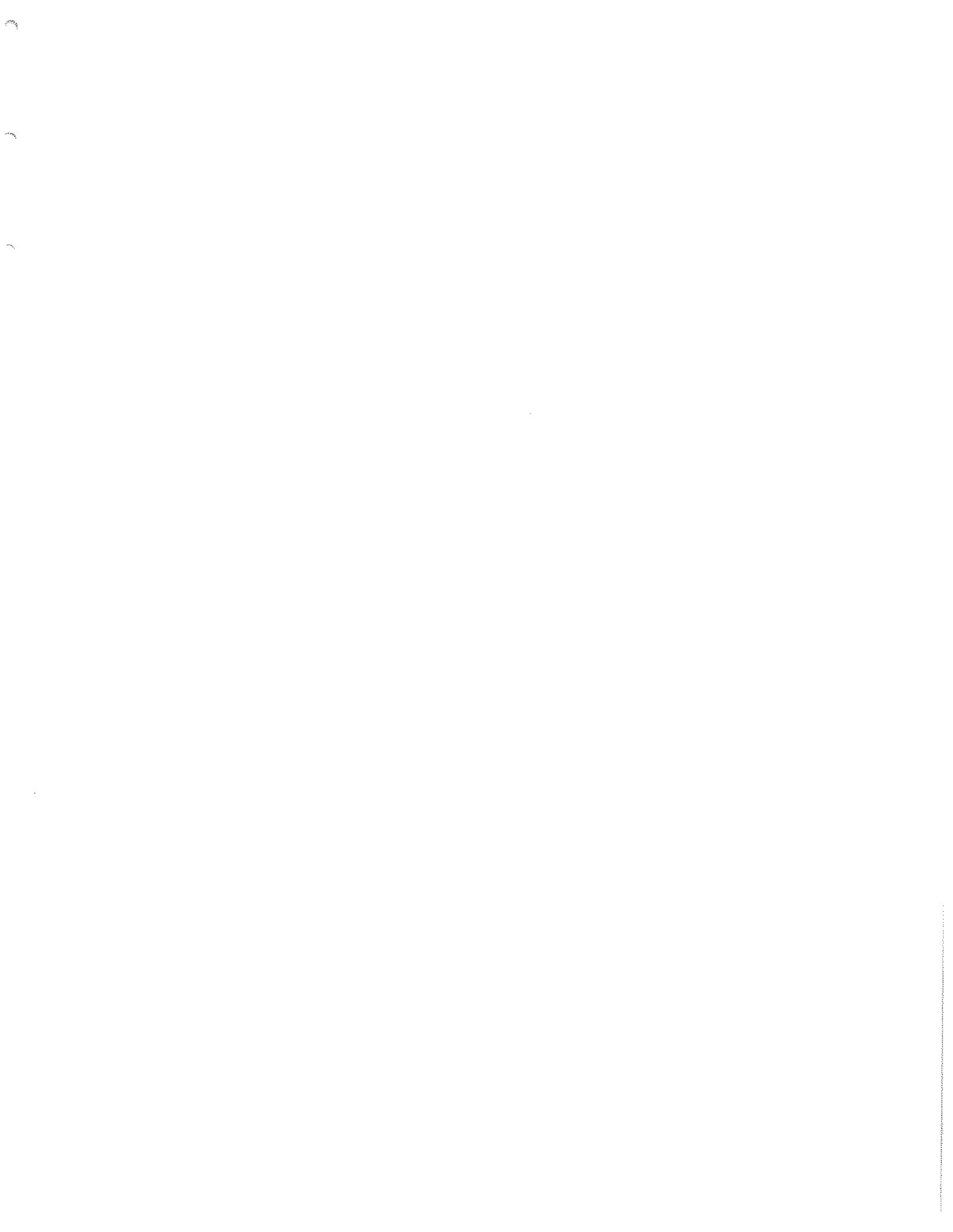
1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by the Government. No free service or use of the facility will be permitted.

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Secretary of the Kanawha Falls PSD
hereby certify that the Board of Directors of such Association is composed of
_____ members, of whom _____, constituting a quorum, were present at a meeting thereof duly called and
held on the _____ day of _____, 19 ____; and that the foregoing resolution was adopted at such meeting
by the vote shown above. I further certify that as of _____,
the date of closing of the loan from the Government, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this _____ day of _____, 19 ____.

Title Secretary



EXCERPT OF MINUTES
KANAWHA FALLS PUBLIC SERVICE DISTRICT
FEBRUARY 14, 2002

The undersigned hereby certifies that at the regular meeting of the Kanawha Falls Public Service District held on February 14, 2002, the Board confirmed and approved the United States Department of Agriculture – Rural Development Letter of Conditions which was adopted by the previous Board on March 23, 1998, and which previous Board approved the signing of the following items by the members of that Board, to-wit:

Form RD 442-7 – “Operating Budget”
Form RD 1940-1 – “Request for Obligation of Funds”
Form RD 1942-47 – “Loan Resolution (Public Bodies)”
Form RD 400-1 – “Equal Opportunity Agreement”
Form RD 400-4 – “Assurance Agreement”
Form AD 1047 – “Certification Regarding Debarment – Primary”
Form AD 1049 – “Certification Regarding Drug-Free Workplace”
Form RD 1910-11 – “Applicant Certification, Federal Collection Policies”
FmHA Instruction 1940-Q, Exhibit A-1, “Certification for Contracts,
Grants and Loans”
Standard Form LLL – “Disclosure of Lobbying Activities” (If Applicable)

The undersigned further certifies that the foregoing action of the Kanawha Falls Public Service District Board has not been modified since February 14, 2002 and is currently in effect.



NANCY FERRELL
SECRETARY
FEBRUARY 14, 2002



**KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

BOND RESOLUTION

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EXHIBIT A - PROJECT DESCRIPTION

KANAWHA FALLS PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF KANAWHA FALLS PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$430,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF KANAWHA FALLS PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

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

“Board” or “Governing Body” means the public service board of the Issuer and shall include the membership of the Board as may hereafter be duly constituted as the legal successors to the present membership or any other authority vested with and authorized to exercise the powers of the Issuer.

“Bondholder,” “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 Registrar” means the Issuer, which shall so serve by the Secretary of the Issuer.

“Bonds” means, collectively, the Series 2002 A Bonds, the Prior Bonds and any Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

“Chairperson” means the Chairperson of the Governing Body of the Issuer.

“Closing Date” means the date upon which there is an exchange of the Series 2002 A Bonds for all or a portion of the proceeds of the Series 2002 A Bonds.

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

“Consulting Engineers” means Ghosh Engineers, Inc., Charleston, West Virginia, or any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be retained 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” means those costs described in Section 1.03E hereof to be a part of the cost of acquisition and construction of the Project.

“Depository Bank” means the bank or banks designated as such in the Supplemental Resolution and the successors and assigns thereof.

“Depreciation Reserve” means the Depreciation Reserve established by Section 5.01 hereof.

“FDIC” means the Federal Deposit Insurance Corporation and any successor to the functions thereof.

“Fiscal Year” means each 12-month period beginning on January 1 of each year and ending on December 31 of such year.

“Governing Body” or “Board” means the public service board of the Issuer, as is now or may hereafter be constituted.

“Government” means the United States of America, United States Department of Agriculture, Rural Utilities Service, which is expected to be the original purchaser of the Series 2002 A Bonds.

“Government 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.

“Gross Revenues” means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

“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 the System in the normal operation of its business and affairs.

“Issuer” means Kanawha Falls Public Service District, a public service district, public corporation and political subdivision of the State in Fayette County, West Virginia, and includes the Governing Body.

“Letter of Conditions” means, collectively, the Letter of Conditions from the Government dated March 23, 1998, and any supplements or amendments thereto.

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

“Operating Expenses” means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed 1/6th of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital.

“Outstanding,” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond canceled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if

applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Section 10.01 hereof; and (iv) for purposes of consents, notices or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

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

“Prior Bonds” means the Issuer’s Waterworks Improvement and Refunding Revenue Bonds, Series 1980, dated September 14, 1981, issued in the original aggregate principal amount of \$2,660,000.

“Prior Resolution” means the resolution of the Issuer adopted November 13, 1980, authorizing the Prior Bonds.

“Project” means the acquisition and construction of certain extensions, additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

“PSC” means the Public Service Commission of West Virginia and any successor to the functions thereof.

“PSC Order” means the final order or orders of the PSC, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project and the rates of the System.

“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 United 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 any said time account or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time account;

(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 any said repurchase agreement either must mature as nearly as practicable coincident with the maturity of said repurchase agreement or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreement, 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 Code of West Virginia, 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.

"Rescheduling Agreement" means the Rescheduling Agreement dated September 17, 1987, by and between the Issuer and the Holder of the Prior Bonds.

“Reserve Accounts” means, collectively, the respective reserve accounts of the Series 2002 A Bonds and the Prior Bonds.

“Reserve Requirements” means, collectively, the respective reserve requirements of the Series 2002 A Bonds and the Prior Bonds.

“Resolution” means this Resolution, as amended or supplemented from time to time.

“Revenue Fund” means the Revenue Fund established by the Prior Resolutions and continued by Section 5.01 hereof.

“Secretary” means the Secretary of the Governing Body of the Issuer.

“Series 2002 A Bonds” means the Kanawha Falls Public Service District Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), authorized to be issued hereby.

“Series 2002 A Bonds Construction Trust Fund” means the Series 2002 A Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2002 A Bonds Reserve Account” means the Series 2002 A Bonds Reserve Account established by Section 5.02 hereof.

“Series 2002 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 2002 A Bonds in the then current or any succeeding year.

“Series 2002 A Bonds Sinking Fund” means the Series 2002 A Bonds Sinking Fund established by Section 5.03A (2) hereof.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution of the Issuer supplementing or amending this Resolution and, when preceded by the article “the,” refers specifically to the Supplemental Resolution authorizing the sale of the Series 2002 A Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2002 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 Series 2002 A Bonds and the Prior Bonds, including the Reserve Accounts and the Depreciation Reserve.

“System” means the public service properties used or to be used for or in connection with the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses, owned by the Issuer, and any extensions, additions, betterments and improvements thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

“Tap Fees” means the fees, if any, paid by prospective customers of the System in order to connect thereto.

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 shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Series 2002 A Bonds or any certificate or other document by the Chairperson or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairperson or Acting Secretary.

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 is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public service district, public corporation and political subdivision of the State in Fayette County of said State. The Issuer presently owns and operates a public waterworks system. However, the Issuer deems it necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and

constructed the Project, in accordance with the plans and specifications prepared by the Consulting Engineer, which plans and specifications have been approved by the Government and the Issuer.

B. The Issuer intends to permanently finance the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the Government.

C. The estimated maximum cost of acquisition and construction of the Project is \$1,180,000. The Project will be financed with the proceeds of the sale of the Series 2002 A Bonds anticipated to be in the amount of \$430,000, and a grant from the Appalachian Regional Commission in the amount of \$750,000.

D. 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 Operating Expenses of the System, the principal of and interest on the Prior Bonds and the Series 2002 A Bonds and to make payments into all funds and accounts provided for in this Resolution and the Prior Resolution.

E. It is deemed necessary for the Issuer to issue the Series 2002 A Bonds in the aggregate principal amount of not more than \$430,000, to permanently finance a portion of the costs of acquisition and construction of the Project. Such costs shall be deemed to include the cost of acquisition or construction of any public service properties, the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Series 2002 A Bonds, prior to and during acquisition or construction and for six months after completion of acquisition or construction of the Project; engineering and legal expenses; expenses for estimates of costs and 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, the acquisition or construction of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

F. The Series 2002 A Bonds shall be issued on a parity with the Prior Bonds as to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the Prior Bonds and the Prior Resolution. Prior to the issuance of the Series 2002 A Bonds, the Issuer will obtain (1) the certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met and (2) the written consent of the Holders of the Prior Bonds to the issuance of the Series 2002 A Bonds on a parity with the lien of 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.

G. The period of usefulness of the System after completion of the Project is not less than 40 years.

H. It is in the best interests of the Issuer that the Series 2002 A Bonds be sold to the Government pursuant to the terms and provisions of the Letter of Conditions.

I. The Issuer has complied with all requirements of West Virginia law and the Letter of Conditions relating to authorization of the acquisition, construction and operation of the Project and issuance of the Series 2002 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of the PSC Order, the time for rehearing and appeal of which has expired or will have been waived prior to the issuance of the Series 2002 A Bonds.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Series 2002 A Bonds by those who shall be the Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF PROJECT

Section 2.01. Authorization of Acquisition and Construction of Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of not to exceed \$1,180,000, in accordance with the plans and specifications prepared by the Consulting Engineers, approved by the Government and the Issuer and heretofore filed in the office of the Governing Body. The proceeds of the Series 2002 A Bonds 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, which are in an amount and otherwise compatible with the terms of the Letter of Conditions.

The cost of the acquisition and construction of the Project is estimated to be \$1,180,000, of which approximately \$430,000 will be obtained from proceeds of the Series 2002 A Bonds, and approximately \$750,000 will be obtained from a grant by the Appalachian Regional Commission.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. For the purposes of paying a portion of the costs of the Project and paying the costs of issuance of the Series 2002 A Bonds and related costs, there shall be and hereby are authorized to be issued negotiable Series 2002 A Bonds of the Issuer. The Series 2002 A Bonds shall be issued as a single bond, designated "Kanawha Falls Public Service District Water Revenue Bonds, Series 2002 A (United States Department of Agriculture)", in the aggregate principal amount of not more than \$430,000, and shall have such terms as are set forth hereinafter or in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2002 A Bonds shall be issued as fully registered Bonds with a record of advances attached, numbered AR-1, and shall be dated the date of delivery thereof.

The Series 2002 A Bonds shall bear interest from the date of delivery on the amount outstanding as evidenced on the record of advances, payable monthly, commencing 30 days following the date of delivery of the Series 2002 A Bonds and continuing on the corresponding day of each month thereafter for the first 24 months after the date thereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of \$2,077, except that the final installment shall be paid at the end of 40 years from the date of the Series 2002 A Bonds in the sum of the unpaid principal and interest due on the date thereof, at a rate, not exceeding 4.875% per annum, as shall be determined by the Supplemental Resolution and shall be sold for the par value thereof.

The Series 2002 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, shall be payable as provided in the Series 2002 A Bond form hereinafter set forth, and shall have such other terms not inconsistent with this Resolution, as shall be set forth in the Supplemental Resolution and such Series 2002 A Bond form.

Section 3.03. Execution of Bonds. The Series 2002 A Bonds shall be executed in the name of the Issuer by the manual or facsimile signature of the Chairperson, and the seal of the Issuer shall be impressed thereon and attested by the manual or facsimile signature of the Secretary. 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 have been actually sold and 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 in 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 3.04. Negotiability, Transfer and Registration. The Series 2002 A Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, but the Bonds, and the right to principal of and stated interest on the Bonds, may only be transferred by transfer of the registration thereof upon the books of the Bond Registrar, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2002 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

No registration of transfer of the Series 2002 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Bonds.

The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, books for the registration and transfer of the Series 2002 A Bonds and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2002 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Government, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, 1520 Market Street, St.

Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2002 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of the same series and of like tenor as 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 and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. All Bonds so surrendered shall be canceled 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 3.06. Bonds not to be Indebtedness of the Issuer. The Series 2002 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. No Holder or Holders of any of the Series 2002 A Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Series 2002 A Bonds or the interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2002 A Bonds shall be secured by a first lien on the Net Revenues on a parity with the lien of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2002 A Bonds and the Prior Bonds and to make the payments into all funds and accounts hereinafter established or established in the Prior Resolution, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2002 A Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bonds. The text of the Series 2002 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 hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(Form of Bond)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1

\$430,000

FOR VALUE RECEIVED, KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Fayette County of said State (the "Issuer"), promises to pay to the order of the United States of America (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of FOUR HUNDRED THIRTY THOUSAND DOLLARS (\$430,000), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 4.75% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of \$2,043, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to the Issuer as requested by the Issuer and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public water facilities of the Issuer, the Project and any further improvements and 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 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on February 20, 2002, and a Supplemental Resolution duly adopted by the Issuer on February 20, 2002 (collectively, 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 AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S WATERWORKS IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 1980, DATED SEPTEMBER 14, 1981, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,660,000.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the 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 Series 2002 A Bonds Reserve Account created under the Resolution and unexpended proceeds of this Bond. 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 Series 2002 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates or 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 110% of the maximum amount required in any year for payment of principal of and interest on this Bond and all other obligations secured by or payable from such revenues on a parity with this Bond, including the Prior Bonds. The Issuer has entered into certain further covenants with the registered owner of this Bond for the terms of which reference is made to the Resolution. Remedies provided the registered owner 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 in the Resolution, this Bond is transferable, as provided in the Resolution, only upon the books of the Secretary of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney or legal representative duly authorized in writing.

Subject to the registration requirements in the Resolution, 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 Resolution, shall be applied solely to payment of the costs of acquisition and construction of the Project and the costs of issuance hereof as 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.

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the 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 and interest on this Bond.

All provisions of the Resolution, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, KANAWHA FALLS PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated February 22, 2002.

Chairperson

[SEAL]

ATTEST:

Secretary

(Form of)

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$	2/22/02	(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)
ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____
_____ the
within Bond and does hereby irrevocably constitute and appoint _____,
Attorney to transfer said Bond on the books kept for registration thereof with full power of
substitution in the premises.

Dated: _____, ____.

In the presence of:

Section 3.09. Sale of Bonds. The Series 2002 A Bonds shall be sold to the Government pursuant to the terms and conditions of the Letter of Conditions. The provisions of the Letter of Conditions are specifically incorporated in this Resolution.

ARTICLE IV

[RESERVED]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby 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 and from each other:

- (1) Revenue Fund (established by the Prior Resolution);
- (2) Depreciation Reserve (established by the Prior Resolution); and
- (3) Series 2002 A Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolution) and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and from each other:

- (1) Series 1980 Bonds Reserve Account (established as the Reserve Fund by the Prior Resolution at the Depository Bank and hereby transferred to the Commission); and
- (2) Series 2002 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. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority.

- (1) The Issuer shall first, each month, pay from the Revenue Fund all current Operating Expenses of the System.
- (2) The Issuer shall next, each month, from the moneys in the Revenue Fund, remit to the National Finance Office (i) the interest payments on the Prior Bonds in the amounts and on the dates required by the Prior Resolution (including the rescheduled amounts pursuant to the Rescheduling Agreement); and (ii) commencing on the day which is 30 days

following the date of delivery of the Series 2002 A Bonds and continuing on the corresponding day of each month, for deposit in the Series 2002 A Bonds Sinking Fund hereby established at the National Finance Office, the amount of interest set forth in the Series 2002 A Bonds.

(3) The Issuer shall next, each month, from the moneys in the Revenue Fund, remit to the National Finance Office (i) the principal payments of the Prior Bonds in the amounts and on the dates required by the Prior Resolution (including the rescheduled amounts pursuant to the Rescheduling Agreement); and (ii) commencing on the day which is 24 months following the date of delivery of the Series 2002 A Bonds and continuing on the corresponding day of each month, for deposit in the Series 2002 A Bonds Sinking Fund, the amount of principal set forth in the Series 2002 A Bonds.

The deposits into the Series 2002 A Bonds Sinking Fund provided in this paragraph and in Section 5.03A(2) above, constitute actual payments of principal of and interest on the Series 2002 A Bonds to the Government.

(4) The Issuer shall next, each month, from the moneys in the Revenue Fund, remit to the Commission (i) for deposit in the Series 1980 Bonds Reserve Account, the reserve account payments of the Prior Bonds in the amounts and on the dates required by the Prior Resolution; and (ii) commencing on the day which is 24 months following the date of delivery of the Series 2002 A Bonds and continuing on the corresponding day of each month, for deposit in the Series 2002 A Bonds Reserve Account, an amount equal to $1/120^{\text{th}}$ of the Series 2002 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2002 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 2002 A Bonds Reserve Requirement.

(5) The Issuer shall next, each month, from the moneys in the Revenue Fund, remit to the Depository Bank for deposit in the Depreciation Reserve, an amount equal to $2\frac{1}{2}\%$ of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. Moneys in the Depreciation Reserve shall be used first, to make up any deficiencies for monthly payments of principal of and interest on the Series 2002 A Bonds and the Prior Bonds as the same become due, and next to restore to the Reserve Accounts, any sum or sums transferred therefrom, all on a pro rata basis. Thereafter, and provided that payments into the Reserve Accounts are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for replacements, repairs, improvements or extensions to the System.

(6) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, moneys remaining therein and not permitted to be retained therein, if any, may be used to prepay installments of the Bonds, or for any lawful purpose.

Whenever the moneys in the Series 2002 A Bonds Reserve Account shall be sufficient to prepay the Series 2002 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2002 A Bonds at the earliest practical date and in accordance with applicable provisions hereof.

Any withdrawals from the Series 2002 A Bonds Reserve Account which result in a reduction in the balance of such account to below the Series 2002 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 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay any interest on such Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve account in an amount equal to the requirement therefor.

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 Series 2002 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Reserve Accounts, and all amounts required for such accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Government, the Issuer shall make the necessary arrangements whereby required payments into the Reserve Accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates hereunder.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Reserve Accounts shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bonds Outstanding under the conditions and restrictions set forth herein.

B. 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.

C. 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 respective parties shall require, such additional sums as shall be necessary to pay the charges and the fees then due. If required by the Government, the Issuer shall make the necessary arrangements whereby payments to the Commission under this paragraph shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

D. The moneys in excess of the maximum amounts insured by FDIC in all funds and accounts 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.

E. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as herein above 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 Section 5.03A hereof, 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.

F. All remittances made by the Issuer to the Commission and the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

G. The Gross Revenues of the System shall only be used for purposes of the System.

H. All Tap Fees shall be deposited by the Issuer, as received, in the Series 2002 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; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. All moneys received from time to time from the sale of the Series 2002 A Bonds shall be deposited in the Series 2002 A Bonds Construction Trust Fund and shall be used solely to pay costs of the Project and until so expended, are hereby pledged as additional security for the Series 2002 A Bonds.

Section 6.02. Disbursements from Bond Construction Trust Fund. The Series 2002 A Bonds Construction Trust Fund shall be kept separate and apart from all other funds of the Issuer, and shall be drawn out, used and applied by the Issuer solely for the payment of the costs of the Project and purposes incidental thereto, including payment of any borrowings by the Issuer made for the purpose of temporarily financing a portion of the costs of the Project and payment of interest on the Series 2002 A Bonds prior to and during construction and for a period up to six months after completion of construction and for no other purposes whatsoever. If approved by the Government, the moneys in said fund shall be secured at all times by Government Obligations having a fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. If for any reason the amounts on deposit in the Series 2002 A Bonds Construction Trust Fund are not necessary for, or are not applied to, such purposes, then such unapplied amounts shall be deposited by the Issuer as determined by the rules and regulations of the Government. All such proceeds shall constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys, until so applied, in favor of the Holders of the Series 2002 A Bonds.

Expenditures or disbursements from the Series 2002 A Bonds Construction Trust Fund shall be made only after such expenditures or disbursements have been approved in writing by the Governing Body, the Consulting Engineers and the Government.

The Issuer shall coordinate with the Government on the monthly payment of the costs of the Project and shall submit invoices and requisitions as directed by the Government.

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 Series 2002 A Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holders of the Series 2002 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 the Series 2002 A Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2002 A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory 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 the Series 2002 A Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2002 A Bonds shall be secured by a first lien on the Net Revenues on a parity with the lien on the Net Revenues in favor of the holders of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Series 2002 A Bonds 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, in the manner provided herein and therein, to the payment of the principal of and interest on the Prior Bonds and the Series 2002 A Bonds as the same become due, and for the other purposes provided in this Resolution and the Prior 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. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved in the PSC Order and such rates are hereby adopted.

So long as the Series 2002 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 will take all such

actions necessary to provide funds sufficient to produce the required sums set forth in this Resolution. In the event the schedule of rates and charges initially established for the System in connection with the Series 2002 A Bonds shall prove to be insufficient to produce the amounts required by this Resolution, 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 amounts required by this Resolution.

Section 7.05. Sale of the System. So long as the Prior Bonds are Outstanding, the System may not be sold, transferred, mortgaged, leased or otherwise disposed of, except in accordance with the terms of the Prior Resolution. So long as the Series 2002 A Bonds are Outstanding and except as otherwise required by law or with the written consent of the Government, the System may not be sold, transferred, 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 fully pay all the Bonds Outstanding in accordance with Section 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2002 A Bonds, immediately be remitted to the Government for payment of principal of and interest on the Series 2002 A Bonds.

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, 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 Depreciation Reserve. 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 a professional 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. The proceeds of any such sale shall be deposited in the Depreciation Reserve. The payment of such proceeds into the Depreciation Reserve shall not reduce the amounts required to be paid into such fund 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 or redeem prior to maturity 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 the Series 2002 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 Series 2002 A Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof and in the Prior Resolution (so 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, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2002 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 Series 2002 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2002 A Bonds and the interest thereon in this Resolution, or upon the System or any part thereof.

Section 7.07. Parity Bonds. So long as the Prior Bonds are Outstanding, no Parity Bonds shall be issued except in accordance with the terms of the Prior Resolution. In addition, 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 provided herein and with the prior written consent of the Government.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Prior Bonds and the Series 2002 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, acquisition or construction of extensions 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 for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements 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 than proposed to be issued.

The foregoing limitation may be waived or modified by the written consent of the Holders of the Series 2002 A Bonds, representing 75% of the then-outstanding principal indebtedness.

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 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 2002 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 site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Government and its 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 Government such documents and information as it 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 loans or any State and federal grants or other sources of financing for the Project.

The Issuer shall permit the Government and its agents and representatives to inspect all records 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.

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 in accordance with the rules and regulations of the PSC and the Act. 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 institute 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 Government, or any other original purchasers of the Series 2002 A 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 and the status of all said funds and accounts.

(C) The amount of any Bonds or other obligations outstanding and secured by a lien on the Net Revenues of the System.

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 thereto, and the Single Audit Act, or any successor thereto, 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 Government, or any other original purchasers of the Bonds. Such audit report submitted to the Government shall include a statement that the Issuer is in compliance with the terms and provisions of the Act 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 Letter of Conditions 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 Government and its agents and representatives to enter and inspect the Project site 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 Government and its 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 Government with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to issuance of the Series 2002 A Bonds, approvals of equitable rates or charges for the use of and service rendered by the System shall have been obtained 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 the 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 reductions 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 and (ii) to leave a balance each year equal to at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2002 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2002 A Bonds, including the Prior Bonds.

Section 7.10. Operating Budget. 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 Government 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 a professional 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 a professional 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 Government and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.11. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or 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 or 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, fees, 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 of the PSC, discontinue and shut off the services of the System to all delinquent users of the services of the System, and will not restore such services of the System 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. Insurance and Construction Bonds. The Issuer hereby covenants and agrees that, so long as the Series 2002 A Bonds remain Outstanding, it will, as an expense of operation and maintenance of the System, procure, carry and maintain insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(A) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured prior to acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground insurable portions of the System, including machinery and equipment housed therein, in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's

risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(B) Public Liability Insurance, with limits of not less than \$500,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than \$200,000 from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2002 A Bonds.

(C) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated for the benefit of the Issuer, with limits of not less than \$500,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than \$200,000 from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle.

(D) Workers' Compensation Coverage for All Employees of the System Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will 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 Fayette County prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

(E) Fidelity Bonds will be provided as to every member, officer and employee of the Issuer having custody of the Revenue Fund or of any other funds or property of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount required by the Government and to be increased thereafter as necessary to cover the maximum amount of funds under control of that position at any one time.

(F) Flood Insurance will be obtained by the Issuer if available; however, if the System is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

(G) Construction Bonds. 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. 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. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.15. Certificate of Consulting Engineers. Prior to or on the date of issuance of the Series 2002 A Bonds, the Issuer shall obtain the certificate of the Consulting Engineers, certifying that the Project has been designed and will be constructed in accordance with the approved plans, specifications and design as submitted to the Government, the Project will be adequate for the purposes for which it was designed, the funding plan as submitted to the Government is sufficient to pay the costs of the acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

Section 7.16. Completion of Project; Permits and Orders. The Issuer shall 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 federal and state requirements and standards.

The Issuer has obtained all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and other state agencies necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2002 A Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.17. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2002 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, and shall take effect immediately upon delivery of the Series 2002 A Bonds; provided however, that the statutory mortgage lien in favor of the Holders of the Series 2002 A Bonds shall be on a parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

Section 7.18. Connections. To the extent permitted by the laws of the State and rules and regulations of the PSC, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

Section 7.19. Contracts. Not later than simultaneously with the delivery of the Series 2002 A Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction 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 or the Depository Bank, as the case may be, at the written 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.

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 or the Depository Bank, 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 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 each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2002 A Bonds are Outstanding.

Notwithstanding the foregoing, any investments made pursuant to this Resolution shall comply with the guidelines of the Government.

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 Series 2002 A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Series 2002 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 Series 2002 A Bonds set forth in this Resolution, any Supplemental Resolution or the Series 2002 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 Government, the Depository Bank, the Bond Registrar, any Paying Agent or a Registered Owner 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; or

(D) If a default occurs under the Prior Resolution or the Prior Bonds.

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 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 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 Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the resolution with respect to the Bonds, or the rights of such Registered Owners; provided however, that all rights and remedies of the Holders of the Series 2002 A Bonds shall be on a parity with those of the Holders 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, after commencement of operation of the System, 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, the Registered Owner 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 any interest thereon and the deposits into the funds and accounts herein provided 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 the 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 any 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 Event of Default, any Registered Owner of Bonds issued pursuant to this Resolution 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 herein above 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 Bonds issued pursuant to this Resolution. 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, and the curing and making good of any default

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, 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 2002 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2002 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. Prior to the issuance of the Series 2002 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2002 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 Owners of the Series 2002 A Bonds shall be made without the consent in writing of the Owners of the Series 2002 A Bonds 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 Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2002 A Bonds required for consent to the above-permitted amendments or modifications.

Section 11.02. Resolution Constitutes Contract. The provisions of this Resolution shall constitute a contract between the Issuer and the Registered Owners of the Series 2002 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 shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution, any Supplemental Resolution or the Series 2002 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.

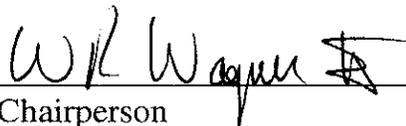
Section 11.05. Conflicting Provisions Repealed; Prior Resolution. Except for the Prior Resolution, all orders or resolutions and parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between the 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. 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 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 of West Virginia applicable thereto; and that the Chairperson, 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 its adoption.

Adopted this 20th day of February, 2002.



Chairperson



Member



Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of Kanawha Falls Public Service District on February 20, 2002.

Dated this 22nd day of February, 2002.

[SEAL]

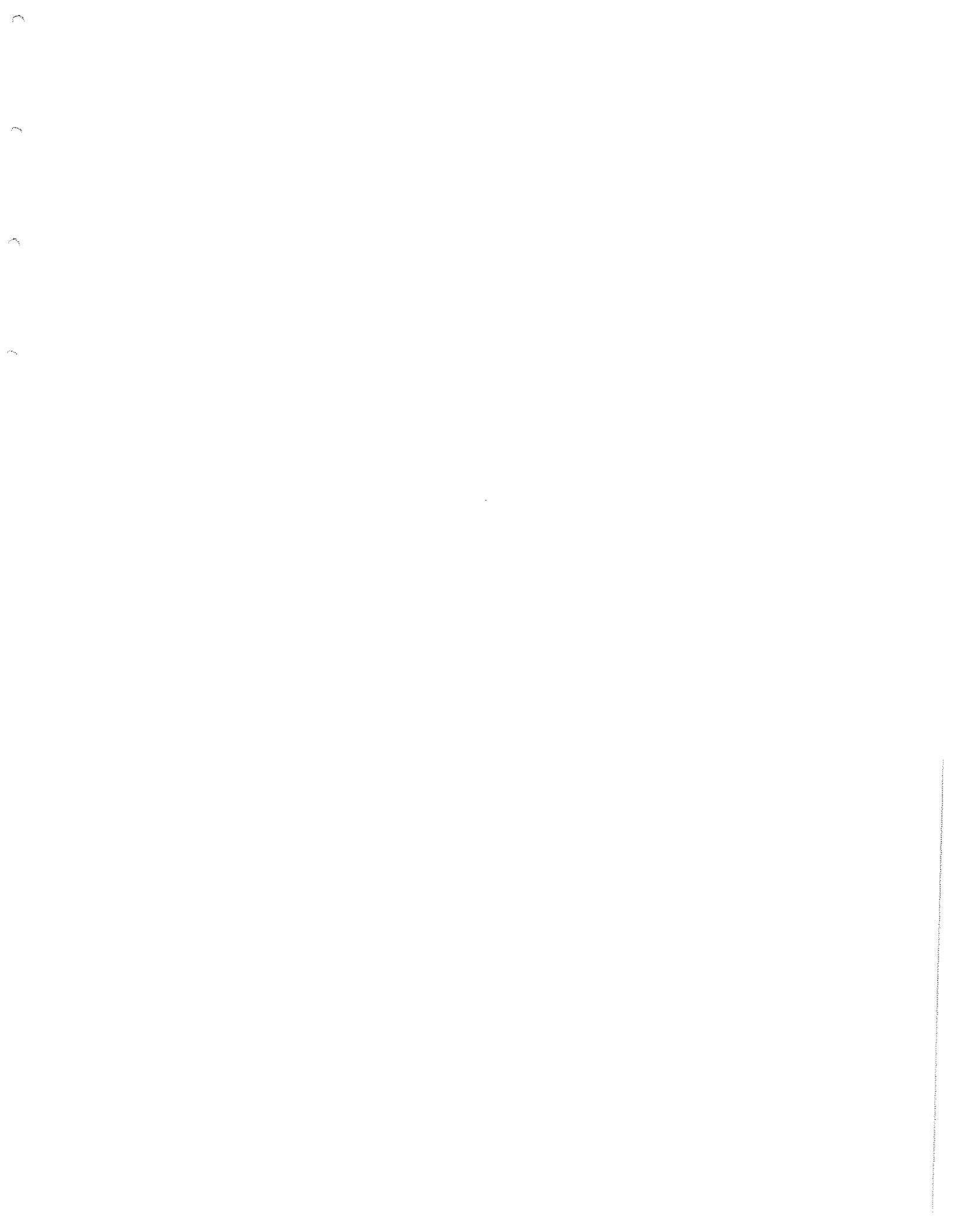

Secretary

2/4/02
006699/00302

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of approximately 3,000 linear feet of 6-inch, 150 linear feet of 4-inch, and 400 linear feet of 2-inch water lines; the construction of a 217,000 gallon water tank at Boomer, a 106,000 gallon water tank at Charlton Heights, a 330,600 gallon tank at Gauley Bridge, and a 106,000 gallon tank at Gauley Bridge High Service; the demolition of the existing water storage tanks at Glen Ferris, Charlton Heights and Gauley Bridge; the upgrading of the Boomer pressure reducing station and the Charlton Heights booster pump station; the bypass and abandonment of the existing Gauley Bridge High Service Tank Booster Pump Station; the addition of two new pressure reducing stations, together with all appurtenant facilities.



KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE KANAWHA FALLS PUBLIC SERVICE DISTRICT WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DESIGNATING A DEPOSITORY BANK AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Kanawha Falls Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on February 20, 2002 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF KANAWHA FALLS PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$430,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein;

WHEREAS, the Resolution provides for the issuance of the Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), of the Issuer, in an aggregate principal amount not to exceed \$430,000 (the "Bonds"), all in accordance with Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and in the

Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Bonds are proposed to be purchased by the Government; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF KANAWHA FALLS PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Kanawha Falls Public Service District Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), of the Issuer, in the original aggregate principal amount of \$430,000. The Bonds shall be issued in the form of one Bond, shall be dated the date of delivery, shall mature forty years from the date thereof, shall be numbered AR-1, and the principal amount advanced under the Bonds shall bear interest at the rate of 4.75% per annum. Monthly installments of interest only on the amounts advanced under the Bonds are payable 30 days following the date of delivery of the Bonds and on the corresponding day of each month thereafter for the first 24 months after the date of delivery of the Bonds, and thereafter, monthly installments of principal of and interest on the Bonds, in the aggregate amount of \$2,043, are payable on the corresponding day of each month, except that the final installment on the Bonds shall be paid at the end of 40 years from the date of the Bonds in the sum of the unpaid principal and interest due on the date thereof. The Bonds are subject to prepayment as set forth in the Resolution and the Bonds.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby approves and accepts the offer of the Government to purchase the Bonds. The execution and delivery of the Bonds by the Chairperson and Secretary, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. All principal and interest payments on the Bonds will be paid by the Issuer directly to the order of the United States of America at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103.

Section 5. The Issuer hereby appoints and designates The City National Bank, Gauley Bridge, West Virginia, to serve as the Depository Bank for the Series 2002 A Bonds Construction Trust Fund, the Revenue Fund and the Depreciation Reserve.

Section 6. The proceeds of the Bonds shall be deposited in the Series 2002 A Bonds Construction Trust Fund for payment of the costs of the Project and the costs of issuance of the Bonds and related costs.

Section 7. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered to the Government on or about February 22, 2002.

Section 8. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 9. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2002 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 10. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

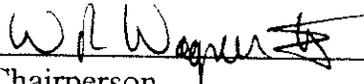
Section 11. The Issuer hereby approves all contracts relating to the financing, acquisition and construction of the Project.

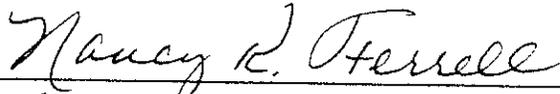
Section 12. Pursuant to Section 5.02 of the Resolution and in compliance with the request of the Holder of the Prior Bonds, the Issuer hereby approves and directs the transfer of the Series 1980 Bonds Reserve Account from the Depository Bank to the Commission and the Issuer shall continue to make the required payments until the Series 1980 Bonds Reserve Account is funded in an amount equal to the maximum amount of principal and interest which will mature and become due on the Prior Bonds in any year, being \$160,000, as set forth in the Prior Resolution.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 20th day of February, 2002.

KANAWHA FALLS PUBLIC SERVICE DISTRICT


Chairperson


Member


Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Kanawha Falls Public Service District on February 20, 2002.

Dated this 22nd day of February, 2002.

[SEAL]


Secretary

2/4/02
006699/00302



KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

MINUTES ON ADOPTION OF BOND
RESOLUTION AND SUPPLEMENTAL RESOLUTION

The undersigned duly appointed Secretary of the Public Service Board of Kanawha Falls Public Service District hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of said Public Service Board:

The Public Service Board of Kanawha Falls Public Service District met in special session, pursuant to notice duly posted, on the 22nd day of February, 2002, in Gauley Bridge, West Virginia, at the hour of 10:00 a.m.

PRESENT:	Roger Wagner, II	-	Chairperson and Member
	Nancy Ferrell	-	Secretary and Member
	Alfred Lynch	-	Treasurer and Member

ABSENT: None

Roger Wagner, II, Chairperson, presided, and Nancy Ferrell, acted as Secretary. The Chairperson announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Chairperson presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND
CONSTRUCTION OF CERTAIN IMPROVEMENTS AND
EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES

OF KANAWHA FALLS PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$430,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Upon motion duly made and seconded, it was unanimously ordered that said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Chairperson presented a proposed Supplemental Resolution in writing entitled:

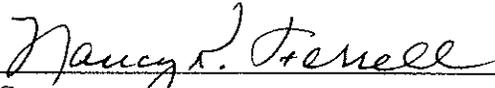
SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE KANAWHA FALLS PUBLIC SERVICE DISTRICT WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DESIGNATING A DEPOSITORY BANK AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Upon motion duly made and seconded, it was unanimously ordered that said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.



Chairperson

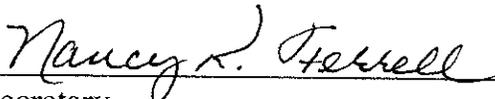


Secretary

CERTIFICATION

I hereby certify that the foregoing action of Kanawha Falls Public Service District remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 22nd day of February, 2002.


Secretary

1/28/02
006699/00302





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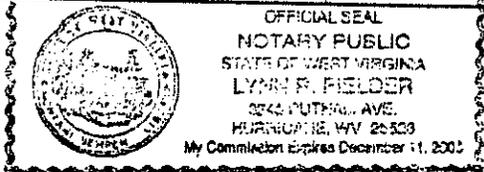
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SALES REP ID	0013
INVOICE NBR	813230001

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ISSUE DATE	AD TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR PURCHASE ORDER #		TOTAL RUN			
02/10	LEGF	GZ	KANAWHA FALLS 813230001	L557172	3X1063			
02/17	LEGR	GZ	KANAWHA FALLS 813230002		31.89 3X1063	5.82	185.62	185.62
			LEGAL DISCOUNT 25%		31.89	5.82	185.62	139.21
			TOTAL INVOICE AMOUNT				46.41-	324.83

State of West Virginia. **AFFIDAVIT OF PUBLICATION**

I, Sandra Legg of _____



THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER, published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of KANAWHA FALLS

was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 12TH day of FEBRUARY 2001. Published during the following dates: 02/10/01-02/17/01
Subscribed and sworn to before me this 20 day of February
Printers fee \$ 324.83

Lynn F. Fielder
Notary Public of Kanawha County, West Virginia

15

NOTICE OF PRE-FILING OF AN APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY WITH THE PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Please take notice that the Kanawha Falls Public Service District Gauley Bridge, West Virginia, whose mailing address is Box 448, Gauley Bridge, WV 25085, intends to file a formal Application with the Public Service Commission of West Virginia in accordance with Chapter 24-2-11 of the Code of West Virginia as amended, for a certificate of convenience and necessity to construct an upgrade to the District's potable water system.

The project will include, but not be limited to, the construction of approximately 3,000 LF of 6", 150 LF of 4" and 400 LF of 2" water lines; the construction of a new 217,000 gallon water tank at Boomer; the construction of a new 106,000 gallon water tank at Charlton Heights; the construction of a new 330,600 gallon tank at Gauley Bridge; the construction of a new 106,000 gallon tank at Gauley Bridge High Service; the demolition of the existing water storage tanks at Glen Ferris, Charlton Heights; and Gauley Bridge; the renovation and upgrade to the existing Boomer Pressure Reducing Station and the Charlton Heights Booster Pump Station; the by pass and abandonment of the existing Glen Ferris Booster Station; the upgrade of the existing Gauley Bridge High Service Tank Booster Pump Station; the addition of two (2) new pressure reducing stations; and all necessary valves, controls and appurtenances relating thereto.

The estimated total cost of the proposed project is anticipated not to exceed One Million One Hundred Eighty Thousand Dollars (\$1,180,000.00). The source of funds for this proposed project are as follows:

1. A loan from the United States Rural Utility Service in the amount of Four Hundred Thirty Thousand Dollars (\$430,000.00) at an annual interest rate not to exceed 4.875% for a term not to exceed forty (40) years.
2. A grant from the Appalachian Regional Commission in an amount not to exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00).

The Kanawha Falls Public Service District may be acquiring certain rights to way from the public, as well as from the State of West Virginia, and possibly other governmental entities as part of this project. The Kanawha Falls Public Service District anticipates that the rates for all of its water customers will not exceed the following:

APPLICABILITY
Applicable in entire territory served.

AVAILABILITY OF SERVICE
Available for general domestic, commercial, industrial and resale service.

RATE

First	1,000 gallons user per month	\$10.80 per 1,000 gallons
Next	2,000 gallons used per month	\$5.40 per 1,000 gallons
All Over	3,000 gallons used per month	\$3.97 per 1,000 gallons

MINIMUM RATE
No bill shall be rendered for less than the following amounts, according to the size of meter:

5/8 inch or 3/4 inch meter	\$10.80 per month
1 inch meter	\$27.00 per month
1 1/2 inch meter	\$54.00 per month
2 inch meter	\$86.40 per month
4 inch meter	\$270.00 per month
6 inch meter	\$540.00 per month
8 inch meter	\$864.00 per month

UNMETERED RATE
When water service is unmetered or otherwise unmeasurable by the PSD the unmetered rate shall apply. (Based on 4,500 gallons)

TAP FEE \$300.00 per occurrence
The charge for making a tap for a service connection is \$300.00

RECONNECTION FEE \$25.00 per occurrence

DELAYED PAYMENT PENALTY
The above tariff is net. On all current usage billings not paid in full within twenty (20) days of the billing date, ten percent (10%) penalty will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

RETURNED CHECK FOR INSUFFICIENT FUNDS \$15.00
If a check received is returned by the bank for any reason, the bank's charge to the Kanawha Fall Public Service District, shall be the District's charge to the customer for such a bad check, but such charge to customer shall not exceed \$15.00.

RESALE RATE \$1.97 per 1,000 gallons

INDUSTRIAL RATE - Eikem Metal Company \$2.44 per M gallons per month

LEAK ADJUSTMENT INCREMENT \$1.14 per 1,000 gallons
\$1.14 per M gallons. To be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate is used to calculate consumption above the customer's historical average usage.

The proposed engineering plans will be on file at the Business Office of the Kanawha Falls Public Service District at Gauley Bridge, West Virginia, and will also be filed with the Application for a Certificate of Convenience and Necessity as outlined above.

Anyone wishing to object to this proposed project may contact the Executive Secretary of the Public Service Commission of West Virginia, at 201 Brooks Street, Charleston, West Virginia. Further, anyone desiring a hearing must demand a hearing in a letter of protest to the Public Service Commission at the aforesaid address. If no significant letters of protest are received, the Public Service Commission may approve the Application for a Certificate of Convenience and Necessity for this water project without a hearing.

Formal application for a Certificate of Convenience and Necessity will be filed with the Public Service Commission not earlier than thirty (30) days from the second publication of this Notice. This Notice is prepared pursuant to West Virginia Code 16-13A-25.

Dated: February 6, 2001
KANAWHA FALLS PUBLIC SERVICE DISTRICT
Roger Wagner, Chairman

From: H. WYATT HANNA, III

304 744 3157

02/11/2002 14:23 #196 P.004

**AFFIDAVIT OF PUBLICATION
THE MONTGOMERY HERALD
MONTGOMERY, WEST VIRGINIA**

COPY OF PUBLICATION

STATE OF WEST VIRGINIA
COUNTY OF FAYETTE, to-wit:

I, Sonya Grooms being first duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Montgomery Herald a Democratic 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 Montgomery, Fayette 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 county; 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 of consideration; that such newspaper is a newspaper in 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

Notice of Pre-Filing

was duly published in said newspaper once a week for 2 successive weeks (Class II), commencing with the issue of the 14th day of February, and ending with the issue of the 21st day of February

That said annexed notice was published on the following

dates: 2/14/01, 2/21/01

and that the cost of publishing said annexed notice as aforesaid was \$181.04.

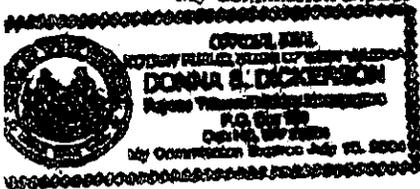
Signed *Sonya Grooms*
Sonya Grooms
Legal Clerk
Beckley Newspaper

Taken, subscribed and sworn to before me in my said county this 22nd day of February 2001.

My Commission expires July 13, 2004

Donna S. Dickerson

Notary Public



**CERTIFICATE OF CONVENIENCE AND NECESSITY
WITH THE PUBLIC SERVICE COMMISSION OF WEST
VIRGINIA**

Please take notice that Kanawha Falls Public Service District of Gauley Bridge, West Virginia, whose mailing address is Box 428, Gauley Bridge, WV 26086, intends to file a formal Application with the Public Service Commission of West Virginia in accordance with Chapter 24-2-11 of the Code of West Virginia as amended, for a certificate of convenience and necessity to construct an upgrade to the District's potable water system.

The project will include, but not be limited to, the construction of approximately 3,000 LF of 8", 150 LF of 4" and 400 LF of 2" water lines; the construction of a new 217,000 gallon water tank at Boomer; the construction of a new 108,000 gallon water tank at Charlton Heights; the construction of a new 330,000 gallon tank at Gauley Bridge; the construction of a new 108,000 gallon tank at Gauley Bridge High Service; the demolition of the existing water storage tank at Glen Farris, Charlton Heights, and Gauley Bridge; the renovation and upgrade to the existing Boomer Pressure Reducing Station and the Charlton Heights Booster Pump Station; the bypass and abandonment of the existing Glen Farris Booster Station; the upgrade of the existing Gauley Bridge High Service Tank Booster Pump Station; the addition of two (2) new pressure reducing stations; and all necessary valves, controls and appurtenances related thereto.

The estimate total cost to the proposed project is anticipated not to exceed One Million One Hundred Eighty Thousand Dollars (\$1,180,000.00). The source of funds for this proposed project are as follows:

1. A loan from the United States Rural Utility Service in the amount of Four Hundred Thirty Thousand Dollars (\$430,000.00), at an annual interest rate not to exceed 4.875% for a term not to exceed forty (40) years.
2. A grant from the Appalachian Regional Commission in an amount to exceed Seven Hundred Fifty Thousand Dollars (\$750,000.00).

The Kanawha Falls Public Service District may be acquiring certain rights of way from the public, as well as from the State of West Virginia, and possibly other governmental entities as part of this project. The Kanawha Falls Public Service District anticipates that the rates for all of its water customers will not exceed the following:

APPLICABILITY
Applicable in entire territory served
AVAILABILITY OF SERVICE
Available for general, domestic, commercial, industrial and resale service

RATES
First 1,000 gallons used per month \$10.00 per 1,000 gallons
Next 2,000 gallons used per month \$5.40 per 1,000 gallons
All over 3,000 gallons used per month \$3.87 per 1,000 gallons

MINIMUM RATE
No bill shall be rendered for less than the following amounts, according to the size of meter:
5/8 inch or 3/4 inch meter \$10.00 per month
1 inch meter \$27.00 per month
1 1/2 inch meter \$54.00 per month
2 inch meter \$85.50 per month
4 inch meter \$270.00 per month
6 inch meter \$540.00 per month
8 inch meter \$864.00 per month

UNMETERED RATE \$27.58 per month
When water service is unmetered or otherwise unmeasurable by the PSD the unmetered rates shall apply. (Based on 4,800 gallons)

TAP FEE
The charge for making a tap for a service connection is \$300.00.

RECONNECTION FEE \$25.00 per occurrence

DELAYED PAYMENT PENALTY
The above tariff is non. On all current usage billings not paid within twenty (20) days of the billing date, ten percent (10%) penalty will be added to the net amount shown. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

RETURNED CHECK FOR INSUFFICIENT FUNDS \$18.00

If a check received is returned by the bank for any reason, the bank's charge to the Kanawha Falls Public Service District shall be the District's charge to the customer for such a bad check, but such charge to customer shall not exceed \$18.00.

RETAIL RATE \$7.97 per 1,000 gallons
INDUSTRIAL RATE \$2.44 per M gallons per month

LEAK ADJUSTMENT INCREMENT \$1.14 per 1,000 gallons

\$1.14 per M gallons to be used when the district's usual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate is used to calculate consumption above the customer's historical average usage.

The proposed engineering plans will be on file at the Business Office of the Kanawha Falls Public Service District at Gauley Bridge, West Virginia, and will also be filed with the application for Certificate of

CONVENIENCE AND NECESSITY AS SET FORTH IN THE NOTICE OF PUBLIC HEARING.
 Anyone wishing to object to this proposed project may contact the Executive Secretary, of the Public Service Commission of West Virginia, at 201 Brooks Street, Charleston, West Virginia. Further anyone wishing a hearing must demand a hearing in a letter of protest to the Public Service Commission at the aforesaid address. If no significant letters of protest are received, the Public Service Commission may approve the Application for a Certificate of Convenience and Necessity for this water project without a hearing.

Formal application for a Certificate of Convenience and Necessity will be filed with the Public Service Commission not earlier than thirty (30) days from the second publication of this Notice. This Notice is prepared pursuant to West Virginia Code 18-12A-26.

Dated: February 8, 2001

KANAWHA FALLS
 PUBLIC SERVICE
 DISTRICT
 Roger Wagner, Chairman



CHARLESTON NEWSPAPERS

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SALES REP ID	0014
INVOICE NBR	909020001

KANAWHA FALLS PSD
PO BOX 448
SAULEY BRIDGE WV 25085

DELIVERED TO

KANAWHA FALLS PUBLIC SERVICE DISTRICT
NOTICE OF SPECIAL MEETING
 The Public Service Board of Kanawha Falls Public Service District (the "District") will hold a special meeting on Wednesday, February 20, 2002 at 10:00 a.m. (prevailing time of the District) at the District Office at 202 Main Street, Sauley Bridge, West Virginia, for the following purposes:

- To adopt Proposed Rules of Procedure for the Board.
- To consider and adopt a proposed Bond Resolution authorizing the Water Revenue Bonds, Series 2002A (United States Department of Agriculture), in the aggregate principal amount of \$20,000 (the "Bonds") to pay the costs of acquisition and construction of extensions and improvements to the existing public water facilities system of the District (the "Project") and the cost of issuance and related costs.
- To consider and adopt a proposed Supplemental Resolution approving the terms and other provisions of the Bonds.
- To consider and adopt a proposed Resolution approving the financing of the Project for payment with proceeds of the Bonds.
- To consider and approve all other documents and make the connection with the financing and construction of the Project.

This meeting is open to the press and public and any person interested may attend such meeting.

Nancy Farrah
 Secretary (42714)

Please return this portion with your payment.
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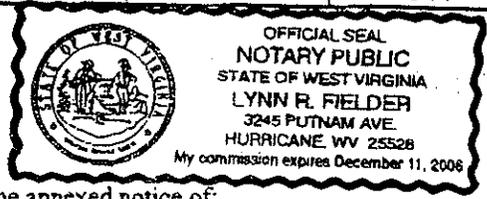
INVOICE DATE	02/08/02
ACCOUNT NBR	008880001
SALES REP ID	0014
INVOICE NBR	909020001

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 Each successive insertion is discounted by 25% of the first insertion rate.
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ISSUE DATE	AD TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR PURCHASE ORDER #		TOTAL RUN			
02/07	LEGF	GZ	MEETING 909020001	L452716	1X0600 6.00	5.82	34.92	34.92
TOTAL INVOICE AMOUNT								34.92

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

I, Sandra Hays of



THE CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER, published in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of:

MEETING
 was duly published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County, West Virginia, on the 8TH day of FEBRUARY 2002. Published during the following dates: 02/07/02-02/07/02

Subscribed and sworn to before me this 11 day of February
 Printers fee \$ 34.92

Lynn R. Fielder
 Notary Public of Kanawha County, West Virginia

AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA 25801

February 06, 2002

STATE OF WEST VIRGINIA
COUNTY OF FAYETTE, to wit:

I, Sonya Grooms, being duly sworn upon my oath, do depose and say that I am Legal Clerk for Beckley Newspapers, Inc., a corporation, publisher of the newspaper entitled The Montgomery Herald, a Democratic 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 Montgomery, Fayette 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 county; 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 of 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 NOTICE OF SPECIAL MEETING

(Description of notice)

was duly published in said newspaper once a week for one successive weeks (Class 1), commencing with the issue of the 6th day of February, 2002

and ending with the issue of the 6th day of February, 2002, (and was posted at the Fayette County Courthouse

on the 6th day of February, 2002); that said annexed

notice was published on the following dates: _____

02/06/02 and that the

cost of publishing said annexed notice as aforesaid was \$ 18.96

Signed Sonya Grooms
Sonya Grooms
Legal Clerk
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this:
6th day of February, 2002

My commission expires March 27, 2003
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DIANA L. GONE
BECKLEY, Notary Public of Raleigh County,
West Virginia



COPY OF PUBLICATION

KANAWHA FALLS PUBLIC SERVICE DISTRICT NOTICE OF SPECIAL MEETING

The Public Service Board of Kanawha Falls Public Service District (the "District") will hold a special meeting on Wednesday, February 20, 2002, at 10:00 a.m., prevailing time, at the District's office at 362 Main Street, Gaulay Bridge, West Virginia, for the following purposes:

1. To adopt proposed Rule of Procedure for the Board.
2. To consider and adopt a proposed Bond Resolution authorizing its Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), in the aggregate principal amount of \$430,000 (the "Bonds"), to pay the costs of acquisition and construction of extensions and improvements to the existing public water facilities system of the District (the "Project") and the costs of issuance and related costs.
3. To consider and adopt a proposed Supplemental Resolution approving the terms and other provisions of the Bonds.
4. To consider and adopt a proposed Resolution approving the invoice in connection with the Project for payment with proceeds of the Bonds.
5. To consider and approve all other documents and matters in connection with the financing and construction of the Project.

This meeting is open to the press and the public and any person interested may attend such meeting.

Nancy Ferrell
Secretary
LG 56: 2-6-WED-1-MH



AR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1

\$430,000

FOR VALUE RECEIVED, KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Fayette County of said State (the "Issuer"), promises to pay to the order of the United States of America (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of FOUR HUNDRED THIRTY THOUSAND DOLLARS (\$430,000), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 4.75% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of \$2,043, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to the Issuer as requested by the Issuer and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public water facilities of the Issuer, the Project and any further improvements and 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 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on February 20, 2002, and a Supplemental Resolution duly adopted by the Issuer on February 20, 2002 (collectively, 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 AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S WATERWORKS IMPROVEMENT AND REFUNDING REVENUE BONDS, SERIES 1980, DATED SEPTEMBER 14, 1981, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,660,000.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the 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 Series 2002 A Bonds Reserve Account created under the Resolution and unexpended proceeds of this Bond. 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 Series 2002 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates or 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 110% of the maximum amount required in any year for payment of principal of and interest on this Bond and all other obligations secured by or payable from such revenues on a parity with this Bond, including the Prior Bonds. The Issuer has entered into certain further covenants with the registered owner of this Bond for the terms of which reference is made to the Resolution. Remedies provided the registered owner 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 in the Resolution, this Bond is transferable, as provided in the Resolution, only upon the books of the Secretary of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney or legal representative duly authorized in writing.

Subject to the registration requirements in the Resolution, 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 Resolution, shall be applied solely to payment of the costs of acquisition and construction of the Project and the costs of issuance hereof as 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.

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the 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 and interest on this Bond.

All provisions of the Resolution, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

AR-1

IN WITNESS WHEREOF, KANAWHA FALLS PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated February 22, 2002.

W R W
Chairperson _____
SPECIMEN

[SEAL]

ATTEST:

Nancy L. Orrell
Secretary _____
SPECIMEN

AR-1

ASSIGNMENT

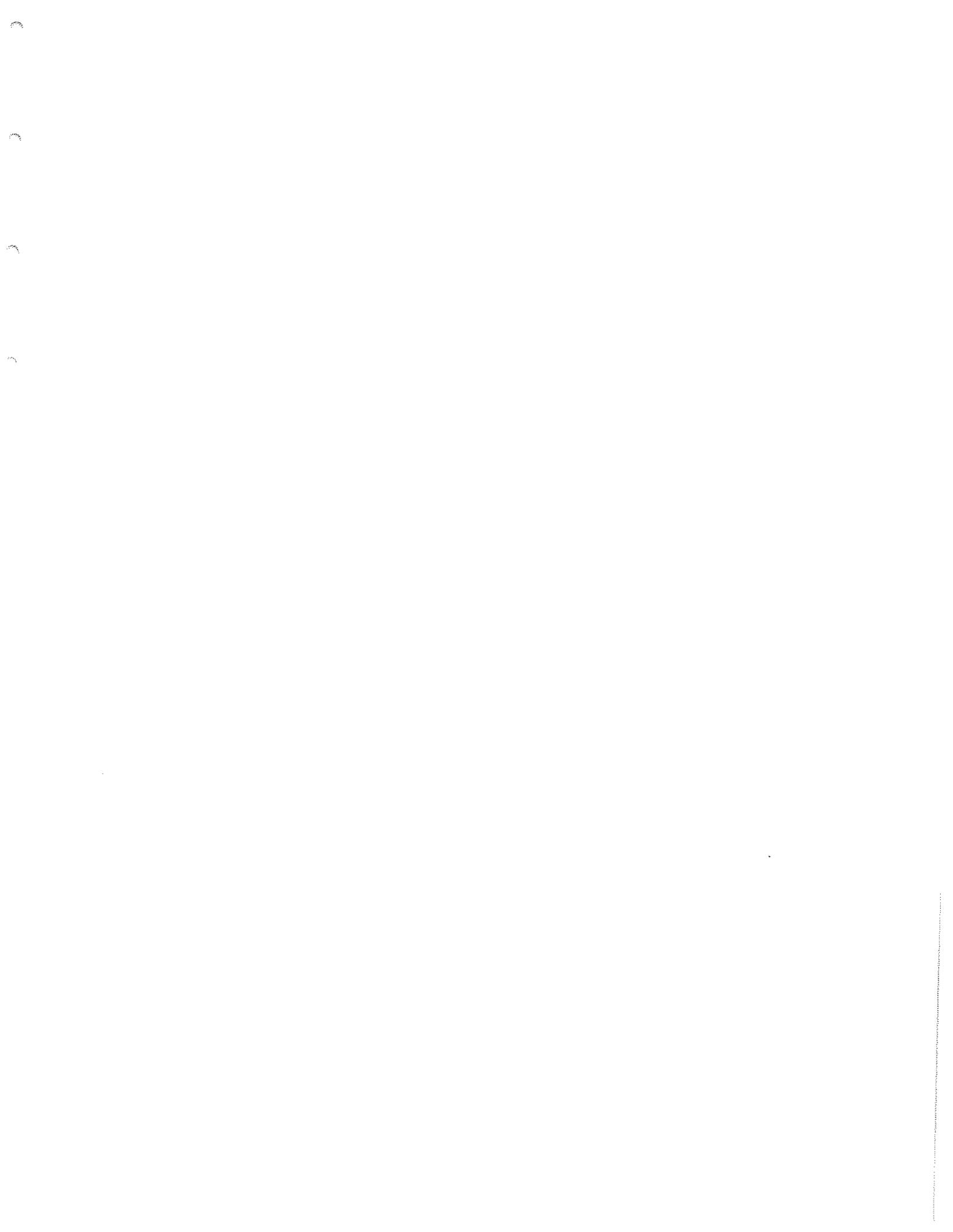
SPECIMEN

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

_____ the
within Bond and does hereby irrevocably constitute and appoint _____,
Attorney to transfer said Bond on the books kept for registration thereof with full power of
substitution in the premises.

Dated: _____, ____.

In the presence of:



BOND REGISTER

UNITED STATES OF AMERICA
 STATE OF WEST VIRGINIA
 KANAWHA FALLS PUBLIC SERVICE DISTRICT
 WATER REVENUE BONDS, SERIES 2002 A
 (UNITED STATES DEPARTMENT OF AGRICULTURE)

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. AR-1	\$430,000	February 22, 2002

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

United States of America
 National Finance Office
 1520 Market Street
 St. Louis, Missouri 63103

Signature of Registrar:

Nancy R. Ferrell

1/28/02
 006699/00302

M0344501.1

KANAWHA FALLS PUBLIC SERVICE DISTRICT

Waterworks Improvement and Refunding
Revenue Bond, Series 1980

and

Bond Anticipation Notes

BOND AND NOTE RESOLUTION

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KANAWHA FALLS PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ISSUANCE OF \$2,660,000 WATERWORKS IMPROVEMENT AND REFUNDING REVENUE BOND, SERIES 1980, AND BOND ANTICIPATION NOTES, SERIES 1980, OF KANAWHA FALLS PUBLIC SERVICE DISTRICT TO FINANCE THE COSTS OF CONSTRUCTION AND ACQUISITION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS FOR THE WATER SYSTEM PORTION OF THE EXISTING COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE DISTRICT AND TO REFUND AND REDEEM THE 1958 BONDS; AUTHORIZING THE SEPARATION OF SAID COMBINED SYSTEM INTO INDEPENDENT WATERWORKS AND SEWERAGE SYSTEMS; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING FOR RATES FOR THE SERVICES OF THE WATERWORKS AND FOR THE RIGHTS AND REMEDIES OF THE HOLDERS OF THE BOND AND THE NOTES; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF
KANAWHA FALLS PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS
AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Article 13A, Chapter 16 of the West Virginia Code (the "Act") and other applicable provisions of law. Kanawha Falls Public Service District (the "Issuer") is a public service district created pursuant to the Act by The County Commission of Fayette County.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) The Issuer in Fayette County, West Virginia, now has a combined public waterworks and sewerage system (the "Combined System") servicing customers within its service area, the cost of which Combined System was financed by the Public Service Revenue Bonds of the Issuer dated as of the 1st day of January, 1958, and issued in the aggregate principal amount of \$465,000. The inhabitants of the Issuer served by the Combined System urgently require that the Combined System be separated into independent waterworks and sewerage systems and that the resultant independent waterworks system be improved as herein provided.

(B) It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer that the existing Combined System be

be constructed and acquired additions, extensions and improvements to the waterworks system of the Issuer, hereinafter defined as the Project, such waterworks system together with the Project and any additions, extensions and improvements thereto hereafter at any time made being herein called the "System."

(C) It is necessary for the Issuer to issue its Waterworks Improvement and Refunding Revenue Bond (the "Bond") in the principal amount of \$2,660,000 and its bond anticipation notes (the "BAN") in the aggregate principal amount of not exceeding \$2,660,000, to finance a portion of the costs of such construction and acquisition and to refund the 1958 Bonds (described below) now outstanding as hereinafter provided.

(D) The estimated total sum required for the construction and acquisition of the Project and the refunding of the 1958 Bonds is \$3,348,729 of which sum \$2,660,000 will be obtained from the proceeds of sale of the Bond or the Notes as hereinafter provided, and \$688,729 will be provided by a grant from Appalachian Regional Commission. The cost to refund and redeem the 1958 Bonds on January 1, 1981, is approximately \$345,060, consisting of \$324,000 for principal thereof, \$12,960 for the redemption premium thereon, \$8,100 for interest accrued to the date of redemption and \$100 for publication costs.

(E) The cost of such construction and acquisition of the Project shall be deemed to include, without being limited to, the construction and acquisition of the additions, extensions and improvements constituting parts of the Project, the acquisition of any necessary property, real or personal, tangible or intangible, or any interest therein, and any other purposes necessary, incidental, desirable or appurtenant to the construction and acquisition of the Project; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; expenses for financial services and fiscal or other agents in connection with the issuance of the Bond and the BAN, and such other expenses as may be necessary or incidental to the construction and acquisition of the Project, the refunding of the 1958 Bonds and the financing authorized by this Resolution.

(F) The period of usefulness of the System after completion of the Project is not less than forty years.

(G) The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bond and the BAN, including, among other things, the consent and approval, pursuant to the Act, of the issuance of the Bond and the BAN by the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which shall have expired.

(H) There are outstanding obligations of the Issuer which will be refunded and redeemed as herein provided, being the Public Service Revenue Bonds, dated January 1, 1958 (the "1958 Bonds"), authorized by Resolution dated November 25, 1957 (the "1958 Resolution"), issued in the original principal amount of \$465,000, of which \$324,000 in principal amount remains outstanding, payable serially on the first day of January and July of each year, all bearing interest at 5% per annum, subject to redemption prior to

maturity at a premium of 4% on any interest payment date on or after July 1, 1973, and hereby ordered to be redeemed and paid in full on the first interest payment date (January 1 or July 1) occurring not less than 30 days after delivery of the Bond, such redemption expected to occur January 1, 1981.

Section 1.03. Refunding and Redemption of 1958 Bonds; Escrow Fund. The 1958 Resolution contains certain restrictive provisions pertaining to debt service coverage rates and the issuance of parity bonds. In addition, the 1958 Resolution prohibits the issuance of a separate waterworks revenue bond. Such provisions are hereby found to be excessively burdensome to the Issuer and the customers of the Combined System, particularly in light of the currently provided Bond issue, and, accordingly, it is hereby determined and ordered that the 1958 Bonds be refunded from the proceeds of the Bond issue by redemption thereof on the earliest redemption date hereafter permitted by the 1958 Resolution and occurring after delivery of the Bond and after time has been afforded properly to arrange such redemption, which date is expected to be January 1, 1981.

The Secretary is hereby authorized and directed to give notice of the redemption of all the 1958 Bonds in accordance with the 1958 Resolution by publication of such notice on or before December 1, 1980, in a newspaper of general circulation published in the City of Charleston, West Virginia, which newspaper shall be The Charleston Daily Mail. Such notice shall state in effect that sufficient moneys have been deposited in the 1958 Sinking Fund (hereinafter described) to pay and redeem the 1958 Bonds on January 1, 1981, and that after such date, the 1958 Bonds shall cease to bear interest. Such notice with prepayment of the cost thereof shall be delivered to said newspaper prior to delivery of the Bond.

Simultaneously with delivery of the BAN, the sum of \$340,914.66 from the proceeds of sale thereof shall be deposited in escrow with the West Virginia Municipal Bond Commission (the "Municipal Bond Commission") in the Public Service Revenue Bonds Interest and Sinking Fund established in the 1958 Resolution (the "1958 Sinking Fund"), which sum, together with the sum of \$4,145.34 previously deposited into the 1958 Sinking Fund, is sufficient to redeem on January 1, 1981, all the 1958 Bonds and to pay the interest and redemption premium thereon, and irrevocable instructions shall be delivered to the Municipal Bond Commission, together with a copy of such notice of redemption, to the effect that moneys in the 1958 Sinking Fund shall be used solely and only to pay and redeem on January 1, 1981, all the 1958 Bonds and the interest thereon and a redemption premium on each 1958 Bond equal to 4% of the par value thereof. In the event that such sum of \$345,060, together with moneys to be on deposit in the 1958 Sinking Fund at the date of delivery of the Bond would not be sufficient for such purposes, then prior to delivery of the Bond the Issuer shall deposit in the 1958 Sinking Fund sufficient moneys, as a Project cost, or from other available moneys of the Issuer, to make up any deficiency which would otherwise exist in the 1958 Sinking Fund for full payment of the 1958 Bonds and the interest and redemption premium thereon and all charges of paying agents applicable thereto.

There is hereby established the Escrow Fund with the Municipal Bond Commission pursuant to the Escrow Agreement.

Upon compliance with all the foregoing, the 1958 Resolution shall be defeated, repealed and of no further effect except to require that the 1958 Bonds be paid from the 1958 Sinking Fund.

Section 1.04. Resolution to Constitute Contract. In consideration of the acceptance of the Bond and the BAN authorized to be issued hereunder by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and the holders of the Bond and the BAN.

Section 1.05. Definitions. The following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Article 13A, Chapter 16 of the West Virginia Code.

"BAN" means the Bond Anticipation Notes hereinafter provided for and any refunding bond anticipation note or notes hereafter issued.

"Bank" means The Montgomery National Bank, Montgomery, West Virginia.

"Bond" or "Bonds" means the Waterworks Improvement and Refunding Revenue Bond, Series 1980, authorized hereby to be issued and also means and includes the BAN unless the context clearly would exclude the BAN.

"1958 Bonds" means the bonds of the Issuer dated January 1, 1958, described in Section 1.02(H) above.

"Bond Legislation" means this Resolution and all resolutions supplemental hereto.

"Chairman" means the Chairman of the Governing Body.

"Consulting Engineer" means Appalachian Engineers, Inc., Charleston, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Escrow Agreement" means the agreement between the Issuer and The West Virginia Municipal Bond Commission relating to redemption of the 1958 Bonds, in the form of agreement to be attached hereto.

"Facilities" or "waterworks facilities" means all the tangible properties of the System and also any tangible properties which may hereafter be added to the System by additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"Fiscal Year" means each year beginning on January 1 and ending on the succeeding December 31.

"Governing Body" means the Public Service Board of the Issuer.

"Herein" means in this Bond Legislation.

"Holder of the Bond" or "Bondholder" or any similar term means any person who shall be the bearer or owner of the Bond and, unless the context clearly would exclude the BAN, also means the holders of the BAN.

"Issuer" means Kanawha Falls Public Service District and includes the Governing Body.

"Net Revenues" means the balance of the gross revenues, as defined below, remaining after deduction only of operating expenses, as defined below.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting practices, and retention of a sum not to exceed one-sixth of the budgeted operating expenses stated above for the current year as working capital, and language herein requiring payment of operating expenses means also retention of not to exceed such sum as working capital.

"Project" means the additions, extensions and improvements for the System financed as herein provided for, consisting of a new water treatment plant, storage tanks, water lines, booster stations, fire hydrants and all necessary and appurtenant facilities.

"Purchaser" means United States Department of Agriculture, Farmers Home Administration and any successor thereof.

"Redemption Date" means the date fixed for redemption of the 1958 Bonds subject to redemption in any notice of redemption published in accordance herewith.

"Redemption Price" means the price at which the 1958 Bonds may be called for redemption and includes the principal amount of the 1958 Bonds to be redeemed, plus the premium, if any, required to be paid to effect such redemption, plus interest accrued on such Bonds to the date fixed for redemption.

"1958 Resolution" shall have the meaning stated in Section 1.02(H) hereof.

"Revenues" or "gross revenues" means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"Secretary" means the Secretary of the Governing Body.

"System" means and includes the complete waterworks system of the Issuer as distinct from the sewerage system of the Issuer and as expanded by the Project and all waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks system; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for the waterworks system after completion of the Project.

"Trust Agreement" means the Trust Agreement to be dated on the delivery date of the BAN between the Issuer and the Trustee, the form of which is attached hereto as Appendix A.

"Trustee" means The Montgomery National Bank, Montgomery, West Virginia, and any successor trustee under the Trust Agreement.

"Underwriters" means the purchasers of the BAN directly from the Issuer.

Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

Section 1.06. Concerning Refunding of 1958 Bonds. The Purchaser of the BAN will take delivery of the BAN and will pay thereon to the Issuer the sum of \$340,914.66 which, together with other moneys available therefor, is sufficient to provide for payment and redemption of all the 1958 Bonds outstanding in accordance with the 1958 Resolution.

In the event that BAN are issued as hereinafter provided, the aggregate principal amount thereof shall not exceed the principal amount of the Bond less the advance thereon paid by the Purchaser to the Issuer as above provided.

Reference herein with relation to the BAN, and particularly in Article 1A hereof, to the agreement of the Purchaser to purchase the Bond, shall mean the agreement of the Purchaser to pay to the Issuer the remaining principal amount of the Bond.

In addition to the proceeds of the BAN in the sum of \$340,914.66 to provide for payment and redemption of the 1958 Bonds, the moneys in the Reserve Fund provided in the 1958 Resolution, relating to the 1958 Bonds, in the sum of \$4,145.34, shall also be used for such redemption.

Section 1.07. Moneys Remaining with Bank. After payment or use of moneys in the Reserve Fund under the 1958 Resolution as provided in Section 1.06 above, any moneys remaining in any funds or accounts, after payment of all charges and fees of the Bank, shall be transferred by the Bank to the Waterworks Project Construction Account.

ARTICLE I A

BOND ANTICIPATION NOTES

Section 1.01 A. Authorization and General. In order to pay certain costs of the construction of the Project pending the delivery of the Bond to the Purchaser, bond anticipation notes ("BAN") of the Issuer shall be issued and sold in the amount of \$2,660,000.

Each BAN shall be designated "Waterworks System Bond Anticipation Note - Series 1980," shall be dated on the date of delivery thereof, shall be numbered 1 upward, shall be in such denominations as the Governing Body shall determine by Bond Legislation supplemental hereto, shall be negotiable, in bearer form, shall bear interest from the date of delivery payable and at the rate or rates, shall mature, shall have such paying agents and shall have such other provisions as are not set forth herein as provided in such supplemental Bond Legislation. The BAN shall contain the provisions shown in the form of BAN set forth in Section 1.12 A below.

The BAN shall be executed for the Issuer by the Chairman, and the seal of the Issuer shall be impressed thereon and attested by the signature of the Treasurer.

The BAN shall be sold pursuant to a Purchase Agreement to be entered into between the Issuer and Underwriters pursuant to such supplemental Bond Legislation.

Section 1.02 A. Deposit of BAN Proceeds. The amount received upon the sale of the BAN, less interest to become due until the maturity thereof, and less moneys to be deposited in the Escrow Fund established by the Escrow Agreement shall be deposited on receipt by or for the Issuer with the Trustee in the Waterworks Project Construction Account established by Section 3.01 hereof and by the Trust Agreement.

The balance received from the proceeds from the sale of the BAN shall be for (i) payment of the interest on the BAN as such interest becomes due, which amount shall be directly deposited on receipt by or for the Issuer with the Trustee in a special segregated account designated "Kanawha Falls Public Service District Waterworks BAN Repayment Account," as more particularly described and upon the further terms and conditions of Section 1.06 A hereof and in the Trust Agreement, and (ii) redemption of the 1958 Bonds, which amount shall be deposited in the Escrow Fund established by the Escrow Agreement.

Section 1.03 A. Security for the BAN. The BAN shall be secured by the pledge by the Issuer of and by a first lien on (i) the agreement of the Purchaser to make the loan to the Issuer in the amount of \$2,660,000 (the "Loan") by purchasing the Bond, (ii) the proceeds of the sale of the Bond equal to the aggregate principal amount of the BAN then outstanding when such proceeds are received from the Purchaser, (iii) all moneys and securities in the Waterworks BAN Repayment Account, (iv) the proceeds from the sale of the BAN until expended as herein authorized, (v) the proceeds of sale of

the BAN refunding notes, if any, and (vi) the Net Revenues of the System, until payment of the BAN, and said pledge by the District for the benefit of the holders of the BAN, to the extent of the aggregate principal amount of the BAN and the interest thereon, is hereby made and granted. The Issuer will execute such financing statements, security agreements and other documents that may be required to perfect such pledge and lien. The Trustee shall act as agent for the holders of the BAN in connection with the execution of all financing statements and other instruments necessary under applicable laws in order to fully perfect the interests of the holders of the BAN in the assets pledged hereby, and to receive all notices and respond to all inquiries in connection therewith. The BAN shall also be secured by a statutory mortgage lien on the System as provided in the Act.

Section 1.04 A. Payment of BAN. The Issuer will immediately deposit with the Trustee sufficient proceeds from the sale of the Bond and of any refunding BAN to pay the BAN, to be placed by the Trustee directly into the Waterworks BAN Repayment Account held by the Trustee. Upon maturity of the BAN, the Trustee will pay to the Paying Agents, in immediately available funds, all principal and interest owing on the BAN.

Section 1.05 A. BAN Are Limited Obligations. The BAN shall be limited obligations of the Issuer, the interest of which is payable solely from certain of the proceeds from the sale of the BAN, the principal of which is payable from the sources described in Section 1.03 A above, or, the principal of and interest on which are payable from the net revenues of the Issuer arising from ownership and operation of the System, in the event that the Purchaser shall not purchase the Bond in accordance with its agreement to do so.

Section 1.06 A. Trustee; Waterworks BAN Repayment Account. The Trustee shall segregate all funds and securities in the Waterworks BAN Repayment Account separate and apart from other deposits and funds of the Trustee and other deposits and funds of the Issuer, including the Waterworks Project Construction Account. Subject to the Trust Agreement, all moneys in the Waterworks BAN Repayment Account, until payment in full of all principal and interest owing on the BAN at maturity, shall be held by the Trustee for the holders of the BAN, and the Issuer shall have no rights with respect thereto. All moneys in the Waterworks BAN Repayment Account in excess of the amount insured by FDIC shall be continuously secured by, or invested by the Trustee in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America ("Federal Obligations") which Federal obligations shall mature at least 1 day prior to need for the funds for payment of interest on or principal of the BAN. At or prior to any interest payment date and the maturity of the BAN, the Trustee shall transfer to the Paying Agents in immediately available funds the amount of interest or principal and interest owing on the BAN and the charges of the Trustee and Paying Agents. Upon such transfer the Trustee shall pay to the Issuer any excess amounts remaining in the Waterworks BAN Repayment Account, and the Issuer shall deposit any such amounts in the Waterworks Project Construction Account.

The Issuer shall pay to the Trustee from time to time reasonable compensation for all services rendered by the Trustee under the Bond Legislation and the Trust Agreement, and all reasonable

expenses, charges, counsel fees and other disbursements incurred by the Trustee in connection with its performance of its functions thereunder.

Section 1.07 A. Paying Agents. Each Paying Agent for the BAN shall signify its acceptance of the duties and obligations imposed upon it pursuant hereto by executing and delivering to the Issuer a written acceptance thereof. The Issuer may appoint as successor Paying Agent any bank, trust company or national banking association.

Section 1.08 A. Covenants. The Issuer covenants and agrees that the holders of the BAN shall be entitled to the benefit of all covenants contained in this Bond Legislation as if the holders of the BAN were the Bondholder as such term is used herein.

In addition, the Issuer covenants to issue and sell the Bond to the Purchaser not later than one business day before the maturity of the BAN and to take all actions necessary to cause the Purchaser to purchase the Bond on or before such date, payment for the Bond to be in Federal funds immediately available on date of the Bond delivery.

Section 1.09 A. Refunding BAN. The Issuer covenants that in the event the Bond is not issued and sold not later than one day prior to the due date of the BAN, it will use its best efforts to sell one or more series of its Bond Anticipation Refunding Notes hereunder in such aggregate amount as shall be necessary to pay the principal of the BAN, accrued interest thereon to maturity and the expense of issuing the Bond Anticipation Refunding Notes. The proceeds of the Bond Anticipation Refunding Notes, after making provision for the payment of the expenses of issuance thereof, shall be deposited in the Waterworks BAN Repayment Account and used solely for the payment of the principal of and accrued interest on the BAN.

All Bond Anticipation Refunding Notes shall be in substantially the same form as the BAN, but shall be of such denominations, bear such dates, bear interest at such rates, have such maturity dates and contain an appropriate series designation, all as shall be provided in the Bond Legislation authorizing such Bond Anticipation Refunding Notes.

Section 1.10 A. Events of Default and Enforcement. The events described in the Trust Agreement as Events of Default shall be Events of Default hereunder.

The rights of the holders of the BAN on the happening of an Event of Default are described in the Trust Agreement.

In the event of conflict between the provisions hereof and the provisions of the Trust Agreement, the provisions of the Trust Agreement shall prevail.

~~In the event that the BAN are not paid when due, the interest rate on the BAN after maturity until payment thereof in full shall be ___% per annum, and the Issuer will pay the holders of the BAN not paid when due the principal amount of the BAN together with interest at the rate shown on the BAN from the date of~~

~~the BAN until the due date thereof, and plus interest on the principal of the BAN at the rate of _____% per annum from the due date of the BAN until payment thereof in full.~~

Section 1.11 A. Defeasance of BAN. Upon deposit by the Issuer with the Trustee of moneys sufficient to pay the BAN at maturity or of Federal Obligations, the principal of and interest on which will be sufficient to pay the BAN at maturity, the BAN shall be considered to have been paid in full pursuant hereto except as provided below, and the lien and pledge hereby granted shall be deemed to be and shall be cancelled and discharged; and the holders of the BAN shall, upon such deposit, be entitled to payment of the BAN and the interest thereon at maturity solely from the moneys then on deposit with the Trustee. All moneys and all securities deposited in accordance with the provisions of this Section shall at all times be under the exclusive control of the Trustee, shall be held by it for the sole benefit of the holders of the BAN, and shall be applied solely to the payment of the BAN except as expressly provided in this Section; and the Issuer shall have no rights or powers with respect to nor any interest in such moneys or securities or any part thereof.

Section 1.12 A. Supplemental Bond Legislation. Following adoption hereof, and upon receipt of the Purchase Agreement referred to in Section 1.01 A, the Issuer, if it be so advised, will adopt Supplemental Bond Legislation, which Supplemental Bond Legislation will provide, among other things, the interest rate or rates on the BAN, the interest payment dates, the maturity date and the sale price of the BAN and such other matters as shall be required or desired in connection with issuance of the BAN.

Section 1.13 A. Form of BAN. The BAN shall be in the following form, subject to such changes, insertions and deletions as the Chairman shall agree to by execution of the BAN:

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATERWORKS SYSTEM BOND ANTICIPATION NOTE
SERIES 1980

No.

\$ _____

KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public service district in Fayette County of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay to bearer upon presentation and surrender hereof the sum of _____ THOUSAND DOLLARS (\$ _____), without option of prior redemption, on September 15, 1981, with interest at the rate of _____ per cent (_____ %) per year payable at maturity. Both principal and interest are payable in lawful money of the United States of America at the principal office of The Montgomery National Bank, Montgomery, West Virginia, or at the option of the holder, at The Chase Manhattan Bank, N.A., New York, New York.

This Note is one of a series of Notes in the aggregate principal amount of \$2,660,000 duly authorized by the Issuer and issued in anticipation of the issuance of the Waterworks Improvement and Refunding Revenue Bond, Series 1980 (the "Bond"), of the Issuer in the principal sum of \$2,660,000 for aiding in the construction of improvements and extensions for the waterworks system (the "System") of the Issuer and to provide funds to redeem all the Issuer's Public Service Revenue Bonds, dated January 1, 1958.

Farmers Home Administration of the United States Department of Agriculture has agreed to purchase the Bond at least one day prior to the due date of the Issue of Notes of which this Note is one.

The principal of this Note, and of the issue of Notes of which this Note is one, is payable solely, equally, ratably, and only from the proceeds of sale of the Bond and certain proceeds, if any, from the sale of refunding notes, and, if Farmers Home Administration should not purchase the Bond as agreed, from the net revenues of the System defined in the Resolution mentioned below. The proceeds of sale of the Bond and certain proceeds, if any, from the sale of the refunding notes have been pledged to the Noteholders to secure payment of the principal of the Notes.

Moneys from the proceeds of sale of the Notes to pay the interest on the Notes have been deposited with the Trustee herein-after mentioned.

The Notes of the issue of which this Note is one are limited and special obligations of the Issuer, and do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitations or provisions, and the Issuer shall not be obligated to pay this Note and the Notes of the

issue of which this Note is one or the interest thereon except from the said proceeds of the Bond and certain proceeds of the Notes and certain proceeds from the sale of refunding notes and any other sources which may be provided by the Resolution authorizing issuance of the Notes and the Bond.

The Notes of the issue of which this Note is one have been duly authorized by a Resolution and a Supplemental Resolution of the Issuer pursuant to West Virginia Code, Chapter 16, Article 13A (the "Act").

The Act provides that the Notes of the issue of which this Note is one are exempt as to principal and interest from taxation by the State of West Virginia and the other taxing bodies of said State.

The Notes of the issue of which this Note is one are further secured by the Trust Agreement referred to in said Resolution, between the Issuer and The Montgomery National Bank, Montgomery, West Virginia (the "Trustee"), to which Trust Agreement, Resolution and said Supplemental Resolution reference is made for further description of the security for payment hereof, the rights of the holders of the Notes and the rights and obligations of the Issuer and the Trustee.

Every requirement of law relating to the issuance hereof has been duly complied with.

IN WITNESS WHEREOF, KANAWHA FALLS PUBLIC SERVICE DISTRICT has caused this Note to be signed by the Chairman of its Public Service Board and has caused its seal to be hereto affixed and attested by the Secretary of said Public Service Board, all as of the date below written.

Dated: November 13, 1980.

KANAWHA FALLS PUBLIC SERVICE DISTRICT

[SEAL]

By _____
Chairman

ATTEST:

Secretary

ARTICLE II

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BOND

Section 2.01. Authorization of Bond. Subject and pursuant to the provisions of this Resolution, the Bond of the Issuer, to be known as "Waterworks Improvement and Refunding Revenue Bond, Series 1980," is hereby authorized to be issued in the aggregate principal amount of not exceeding Two Million Six Hundred Sixty Thousand Dollars (\$2,660,000) for the purposes of financing a portion of the cost of the construction and acquisition of the Project and refunding the 1958 Bonds as herein provided.

Section 2.02. Description of Bond. The Bond shall be issued in single form, No. 1, and shall be dated on the date of delivery. The Bond shall bear interest from date, payable monthly at the rate of five per centum (5%) per annum, and shall be sold for the par value thereof.

The Bond shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 2.03. Execution of Bond. The Bond shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary.

Section 2.04. Bond Mutilated, Destroyed, Stolen or Lost. In case the Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for 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 his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Bond so surrendered shall be cancelled and held for the account of the Issuer. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 2.05. Bond and BAN Secured by Pledge of Revenues. The payment of the debt service of the Bond and the BAN shall be secured forthwith by a first lien on the net revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for. The net revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bonds and the BAN, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds and the BAN as the same become due.

Section 2.06. Form of Bond. Subject to the provisions hereof, the text of the Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(Form of Bond)

WATERWORKS IMPROVEMENT AND REFUNDING
REVENUE BOND, SERIES 1980

KANAWHA FALLS PUBLIC SERVICE DISTRICT

\$2,660,000

No. 1

Date: _____

FOR VALUE RECEIVED, KANAWHA FALLS PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (the "Government"), at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Two Million Six Hundred Sixty Thousand Dollars (\$2,660,000), plus interest on the unpaid principal balance at the rate of five per cent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only on the first day of each month for the first twenty-four months after the date hereof and \$13,061, covering principal and interest, thereafter on the first day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the reverse hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or,

except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond has been issued for the purpose of providing funds for financing costs of construction and acquisition of additions, extensions and improvements to the waterworks system (the "System") of the Borrower and to provide for refunding of the outstanding Public Service Revenue Bonds of the Borrower, dated January 1, 1958, under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended and with a Resolution of the Borrower duly adopted.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of construction and acquisition of the System is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

KANAWHA FALLS PUBLIC SERVICE DISTRICT
(Name of Borrower)

[CORPORATE SEAL]

(Signature of Executive Official)

Chairman, Public Service Board
(Title of Executive Official)

Post Office Box 446
(P.O. Box No. or Street Address)

Gauley Bridge, West Virginia 25085
(City, State and Zip Code)

ATTEST:

(Signature of Attesting Official)

Secretary, Public Service Board
(Title of Attesting Official)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$		(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

TOTAL \$ _____

ASSIGNMENT

Pay to the Order of _____

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By _____

(Title)

ARTICLE III

BAN PROCEEDS; REVENUES AND APPLICATION THEREOF

Section 3.01. BAN Proceeds; Escrow Fund Deposit. The necessary amount of the proceeds of sale of the BAN, in addition to any moneys in the Reserve Fund provided in the 1958 Resolution, shall be deposited at once, in immediately available funds, in the Escrow Fund pursuant to the Escrow Agreement to pay and redeem the 1958 Bonds.

Section 3.02. BAN Proceeds; Waterworks Project Construction Account. The balance of the proceeds of sale of the BAN, less the respective sums representing interest on the BAN to the respective maturities thereof, shall be deposited on receipt by the Issuer with the Trustee under the Trust Agreement, in a special account hereby created and designated as "Kanawha Falls Public Service District Waterworks Project Construction Account" (herein called the "Waterworks Project Construction Account"). The moneys in the Waterworks Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by such bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Waterworks Project Construction Account shall be expended by the Issuer solely for the purposes provided herein and in the Trust Agreement.

Until completion of construction of the Project, the Issuer will transfer from the Waterworks Project Construction Account and pay to the Purchaser on or before the fifteenth day of each month, such sums as shall be from time to time required to make the monthly installment payments on the Bond if there are not sufficient Net Revenues to make such monthly payment. The Issuer will also transfer from the Waterworks Project Construction Account to the Trustee, upon request of the Trustee, such moneys as may be needed to pay charges of the Trustee and the Paying Agents.

If the Issuer shall determine at any time that all funds on deposit in the Waterworks Project Construction Account exceed the estimated disbursements on account of the Project for the ensuing 90 days, the Issuer may invest such excess funds in direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America, which shall mature not later than eighteen months after the date of such investment. All such investments and the income therefrom shall be carried to the credit of the Waterworks Project Construction Account.

When construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Waterworks Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 3.03. Covenants of the Issuer as to Revenues and Funds. So long as the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Bond Reserve Fund hereinafter established, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the

Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holders of the Bonds as follows:

(A) Water Revenue Fund. The entire gross revenues derived from the operation of the System, and all parts thereof, shall be deposited as collected by the Issuer in a special fund at The Montgomery National Bank, Montgomery, West Virginia (the "Depository"), which is a member of FDIC, which Fund, known as the "Water Revenue Fund" is hereby established initially with the Depository. The Water Revenue Fund shall constitute a trust fund for the purposes provided herein and shall be kept separate and distinct from all other funds of the Issuer and used only for the purposes and in the manner provided herein. The Issuer may, upon notice to the Purchaser and the Government, designate a different depository for the Water Revenue Fund.

(B) Disposition of Revenues. All revenues at any time on deposit in the Water Revenue Fund shall be disposed of only in the following order and priority:

(1) The Issuer shall first each month pay from the moneys in the Water Revenue Fund all current Operating Expenses.

(2) The Issuer shall next, by the fifteenth day of each month, transfer from the Water Revenue Fund and pay to the National Finance Office designated in the Bond the amount required to pay the interest on the Bond, and to amortize the principal of the Bond over the life of the Bond issue.

(3) The Issuer shall next, by the fifteenth day of each month, transfer from the Water Revenue Fund and deposit with the Depository in the Reserve Fund hereby established with the Depository, 1/12 of 1/10 of the maximum amount of principal and interest becoming due on the Bond in any year until the amount in the Reserve Fund equals the sum of \$160,000, such sum being herein called the "Minimum Reserve." After the Minimum Reserve has been accumulated in the Reserve Fund, the Issuer shall monthly deposit into the Reserve Fund such part of the moneys remaining in the Water Revenue Fund, after such provision for payment of monthly installments on the Bond and for payment of operating expenses of the System, as shall be required to maintain the Minimum Reserve in the Reserve Fund. Moneys in the Reserve Fund shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Bond as the same shall become due or for prepayment of installments on the Bond, or for mandatory prepayment of the Bond as hereinafter provided, and for no other purpose.

(4) The Issuer shall next, by the fifteenth day of each month, transfer from the Water Revenue Fund and deposit in the Depreciation Reserve, hereby initially established with the Depository, the moneys remaining in the Water Revenue Fund and not permitted to be retained therein, until there has been accumulated in the Depreciation Reserve the aggregate sum of \$100,000 and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of principal of and interest on the Bond and next to restore to the Reserve Fund any sum

or sums transferred therefrom. Thereafter, and provided that payments into the Reserve Fund are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for extraordinary repairs and for replacements of equipment and for improvements for the System, or any part thereof.

(5) After all the foregoing provisions for use of moneys in the Water Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to prepay installments of the Bond or for any lawful purpose.

Whenever the moneys in the Reserve Fund shall be sufficient to prepay the Bond in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Bond and the accrued interest thereon at the earliest practical date and in accordance with applicable provisions hereof.

The Depository (and any successor appointed by the Issuer) is hereby designated as the Fiscal Agent for the administration of the Reserve Fund and the Depreciation Reserve, and all amounts required therefor will be deposited therein by the Issuer upon transfers of funds from the Water Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such Fund.

All the funds provided for in this Section shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser and the Government shall have a lien thereon for further securing payment of the Bond and the interest thereon, but the Depository shall not be a trustee as to such funds. The moneys in excess of the sum insured by FDIC in any of such funds shall at all times be secured, to the full extent thereof in excess of such insured sum, in a manner lawful for securing deposits of State and municipal funds under the laws of the State of West Virginia.

If on any payment date the revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

The Fiscal Agent shall keep the moneys in the Reserve Fund and the Depreciation Reserve invested and reinvested to the fullest extent practicable in direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America and having maturities not exceeding two years. Earnings upon moneys in the Reserve Fund, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually in January into the Water Revenue Fund by the Fiscal Agent.

(C) Change of Fiscal Agent. The Issuer may designate another bank insured by FDIC as Fiscal Agent if the Depository should cease for any reason to serve or if the Governing Body determines by resolution that the Depository or its successor should no longer serve as Fiscal Agent. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser and to the Government.

(D) User Contracts. The Issuer shall, prior to delivery of the Bond, provide evidence that there are at least 1,245 bona fide new full-time users of the System.

ARTICLE IV

GENERAL COVENANTS

Section 4.01. General Statement. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund a sum sufficient to prepay the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Section 4.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide revenues in each fiscal year sufficient to produce net revenues equal to not less than 110% of the annual debt service on the Bond and to make the payments required herein into the Reserve Fund and all the necessary expenses of operating and maintaining the System during such fiscal year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate revenues for such purposes.

Section 4.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 4.04. Issuance of Additional Bonds. No additional bonds payable out of the revenues of the System shall be issued after the issuance of the Bond pursuant hereto except with the prior written consent of the Purchaser.

Section 4.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bond remains outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims

for damage to property of others which may arise from the operation of the System, such insurance to be in effect immediately.

(c) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(d) Workmen's Compensation Coverage for all Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39.

(e) Fidelity Bonds will be provided as to every member of the Board and as to every officer and employee thereof having custody of the Water Revenue Fund or of any revenues or other funds of the District in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of \$30,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Water Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(f) National Flood Insurance, to the extent available, must be in effect.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser and the Government may specify, with insurance carriers or bonding companies acceptable to the Purchaser and the Government.

Section 4.06. Statutory Mortgage. For the further protection of the holder of the Bond, 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.

Section 4.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(A) Failure to make payment of any monthly principal interest or amortization installment at the date specified for payment thereof;

(B) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bond or herein, or violation of or failure to observe any provision of any pertinent law.

Section 4.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default appoint a receiver for the affairs of the Issuer and the System. The Receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the Court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 4.09. Fiscal Year; Budget. While the Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a fiscal year basis commencing on January 1 of each year and ending on the following December 31, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each fiscal year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such fiscal year unless the Annual Budget shall be authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser and the Government by the beginning of each fiscal year.

If for any reason the Issuer shall not have adopted the Annual Budget before the first day of any fiscal year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than ten per centum; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 4.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 4.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Secretary on the date of adoption hereof, subject to changes permitted by the Purchaser.

Section 4.12. Books and Records. 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 the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser.

Section 4.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Bond is outstanding.

Section 4.14. No Competition. The Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

Section 4.15. Concerning Arbitrage. The proceeds of sale of the Bond and the BAN will not be invested in such a way as to violate the regulations of the Internal Revenue Service or of the Treasury Department of the United States of America in connection with the arbitrage provisions of Section 103(c) of the Internal Revenue Code of 1954, as amended.

ARTICLE V
RATES, ETC.

Section 5.01. Initial Schedule of Rates and Charges;
Rules. A. The schedule of rates and charges for the services and facilities of the System shall be as follows, subject to change consonant with the provisions hereof:

AVAILABILITY OF SERVICE

Available for general, domestic, commercial, and industrial consumers within the service area of the Issuer.

RATES FOR WATER USED PER MONTH

First	1,000 gallons	\$6.35 per 1,000 gallons
Next	2,000 gallons	\$3.93 per 1,000 gallons
Next	2,000 gallons	\$3.56 per 1,000 gallons
Next	5,000 gallons	\$3.24 per 1,000 gallons
All over	10,000 gallons	\$2.99 per 1,000 gallons

MINIMUM CHARGE

No monthly bill shall be rendered for less than the following amounts based on size of meter:

5/8" meter or smaller	\$ 10.28
1" meter	\$ 16.25
1-1/2" meter	\$ 36.60
2" meter	\$ 65.00
3" meter	\$146.30
4" meter	\$260.00
6" meter	\$585.00

TAP FEES FOR NEW SERVICE

The charge for connecting to the water line shall be \$150.00

DELAYED PAYMENT PENALTY

The above rates are net. On all accounts not paid in full within 20 days after date of billing, a penalty of ten per cent will be added to the net amount of the bill. This delayed payment penalty is not interest and is to be collected once for each bill where it is appropriate.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. When such fees, rates and charges have been delinquent for thirty days, the Issuer shall have power forthwith to foreclose the lien on the premises served in the same manner provided by the laws of the State of West Virginia for the foreclosure of mortgage on real property.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Delivery of Bond No. 1. The Chairman, Secretary and Treasurer of the Governing Body are hereby authorized and directed to cause Bond No. 1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 6.02. Severability of Invalid Provision. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bonds.

Section 6.03. Conflicting Provisions Repealed. All resolutions and orders or parts thereof in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed, provided, however, that this section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 6.04. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 6.05. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted November 13, 1980.

R. J. Johnson
Chairman of Public Service Board

Joe J. Rafferty
Member

Roy E. Young
Member

WATERWORKS IMPROVEMENT AND REFUNDING
REVENUE BOND, SERIES 1980

KANAWHA FALLS PUBLIC SERVICE DISTRICT

\$2,660,000

No. 1

Date: September 14, 1981

FOR VALUE RECEIVED, KANAWHA FALLS PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (the "Government"), at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of Two Million Six Hundred Sixty Thousand Dollars (\$2,660,000), plus interest on the unpaid principal balance at the rate of five per cent (5%) per annum. The said principal and interest shall be paid in the following installments on the following dates: Installments of interest only, commencing on the 30th day following delivery of the Bond and continuing on the corresponding day of each month for the first twenty-four months after the date hereof and \$13,061, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of this Bond, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the reverse hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

09/03/81

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower, and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond has been issued for the purpose of providing funds for financing costs of construction and acquisition of additions, extensions and improvements to the waterworks system (the "System") of the Borrower and to provide for refunding of the outstanding Public Service Revenue Bonds of the Borrower, dated January 1, 1958, under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended and with a Resolution of the Borrower duly adopted.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose

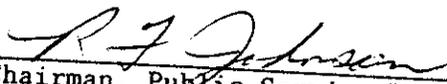
of providing funds for financing costs of construction and acquisition of the System is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmers Home Rural Development Act. This Bond shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

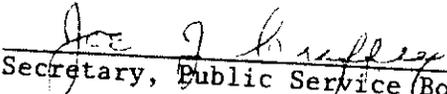
KANAWHA FALLS PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]


Chairman, Public Service Board

Post Office Box 446
Gauley Bridge,
West Virginia 25085

ATTEST:


Secretary, Public Service Board

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$2,660,000	9/14/81	(6) \$	
(2) \$		(7) \$	
(3) \$		(8) \$	
(4) \$		(9) \$	
(5) \$		(10) \$	

TOTAL \$ _____

ASSIGNMENT

Pay to the Order of _____

UNITED STATES OF AMERICA
FARMERS HOME ADMINISTRATION

By _____

(Title)

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

RESCHEDULING AGREEMENT

Effective Date of Rescheduling
September 17, 1987

State: West Virginia
County: Fayette
Case Number: 57-10-1329560
Fund Code: 91
Loan Number: 01
Amount to be Rescheduled:
\$176,562.91

Interest Rate:

5%

The undersigned (a public body entity, herein called the "Borrower") being indebted for a loan made by the United States of America, through the Farmers Home Administration, United States Department of Agriculture (herein called the "Government") as evidenced by a bond(s) or other debt instrument(s), (herein called the "bond") dated September 14, 1981, with an outstanding balance in the principal sum of \$2,655,771.93 plus accrued interest as of September 17, 1987 in the sum of \$1,091.41, and being in default under that bond, hereby agrees with the Government as follows:

1. The following amount of the debt is rescheduled -
\$176,562.91 principal.

2. Rescheduled payment schedule

The first installment of the rescheduled amount plus interest at the bond rate in the amount of \$1000.00 will be due and payable on October 14, 1987; thereafter, 407 regular installments, each in the amount of \$1000.00 will be due and payable on the 14th of each month until all past due installments have been paid. "... in addition to the regular scheduled installments as specified in the bond, ..." and thereafter, in amounts as specified in the bond until the principal and interest are fully paid except that the final installment, if not sooner paid, shall be due and payable as stated in the bond.

3. The Government, as consideration for this agreement will not enforce the remedies available to it by reason of any payment default occurring prior to the date of this agreement.

4. This Rescheduling Agreement establishes a revised payment schedule to bring the delinquent account current and nothing herein shall be construed as affecting any of the terms or conditions of the bond other than the payment schedule, or suggest the satisfaction of the outstanding bond.
5. Upon default by the borrower on any terms or conditions of this agreement, other agreements, or violation of other rights of the Government as a lender, the Government at its option may declare the entire indebtedness immediately due and payable and exercise any and all rights and remedies available to it.

By duly adopted resolution, the borrower has authorized the execution of this agreement by its Board and attested and its corporate seal affixed by its Secretary, on this 17th day of September, 1987.

ATTEST:

Kanawha Falls Public Service District
Name of Borrower

BY /s/ Roy E. Young

BY /s/ Joe J. Craffey

Secretary
(Title)

Chairman
(Title)

0
0
0
0
0



United States Department of Agriculture
Rural Development

75 High Street, Room 320
Morgantown, WV 26505-7500
(304) 284-4860
FAX (304) 284-4893
TDD (304) 284-5941
(For the Deaf or Hard of Hearing)

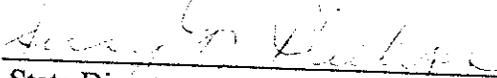
**KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

CONSENT TO ISSUANCE OF PARITY BONDS

The undersigned duly authorized representative of the United States of America, acting through the United States Department of Agriculture, Rural Development, Rural Utilities Service, the registered owner of the entire outstanding aggregate principal amount of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Revenue Bonds, Series 2002 A (United States Department of Agriculture) (the "Series 2002 A Bonds"), in the original aggregate principal amount of \$430,000, by Kanawha Falls Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2002 A Bonds (collectively, the "Resolution"), on a parity as to liens, pledge and source of and security for payment with the Issuer's Waterworks Improvement and Refunding Revenue Bonds, Series 1980, dated September 14, 1981 (the "Prior Bonds"); (ii) waives any requirements imposed by the Prior Bonds or the resolution authorizing the Prior Bonds (the "Prior Resolution"), regarding the issuance of parity bonds which are not met by the Series 2002 A Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolution by the Resolution.

WITNESS my signature on this 22nd day of February, 2002.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL DEVELOPMENT


State Director

3.1

KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

GENERAL CERTIFICATE ON:

1. TERMS AND AWARD OF BONDS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. SPECIMEN BOND
13. BOND PROCEEDS
14. USERS
15. GRANTS
16. CONFLICT OF INTEREST
17. WETLANDS COVENANT
18. COUNTERPARTS

We, the undersigned CHAIRPERSON and SECRETARY of Kanawha Falls Public Service District (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Kanawha Falls Public Service District Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), numbered AR-1, dated the date hereof, in the original aggregate principal amount of \$430,000, bearing interest at the rate of 4.75% per annum (the "Bonds") as follows:

1. **TERMS AND AWARD OF BONDS:** The entire issue of the Bonds has been duly awarded to the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), pursuant to a letter of conditions dated March 23, 1998, a Bond Resolution duly adopted by the Issuer on February 20, 2002, and a Supplemental Resolution duly adopted by the Issuer on February 20, 2002 (collectively, the "Resolution"). All capitalized words and terms used in this Certificate and not otherwise defined herein shall have the same meaning as set forth in the Resolution.

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use

of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds.

3. **GOVERNMENTAL APPROVALS AND BIDDING:** All applicable approvals, licenses, orders, permits, exemptions, consents, authorizations, registrations 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 and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect, and competitive bids for construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 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 acceptance and approval of the Letter of Conditions by the Issuer. The Issuer has met all conditions set forth in the Letter of Conditions and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

The Bonds shall be issued on a parity with the Prior Bonds as to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the Prior Bonds and the Prior Resolution. The Issuer has obtained (1) the certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met and (2) the written consent of the Holders of the Prior Bonds to the issuance of the Bonds on a parity with the lien of 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.

5. **SIGNATURES AND DELIVERY:** The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Chairperson did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by his or her manual signature; the undersigned Secretary did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; and the Chairperson did deliver the Bonds to a representative of the Government as the original purchaser of the Bonds.

6. **PUBLIC SERVICE COMMISSION ORDER:** The undersigned Attorney hereby certifies that he has filed all required information with the Public Service

Commission of West Virginia (the "PSC") and has taken all other actions required to maintain in full force and effect the PSC Order entered on June 26, 2001, in Case No. 01-0238-PWD-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of such order has expired prior to the date hereof without any appeal having been filed.

The Issuer has duly published the required notice with respect to, among other things, the amount of the Bonds to be issued, the interest rate and terms of the Bonds, the Project to be acquired or constructed and the cost of the Project, the anticipated user rates and charges and the date that a formal application for a certificate of public convenience and necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended.

7. **RATES:** The rates of the System, as approved by the PSC Order entered on June 26, 2001, in Case No. 01-0238-PWD-CN, will be effective upon completion of the Project.

8. **INCUMBENCY AND OFFICIAL NAME:** The proper corporate title of the Issuer is "Kanawha Falls Public Service District", and it is a public service district, a public corporation and political subdivision of the State of West Virginia in Fayette County of said State. The governing body of the Issuer is its Board, consisting of three members, whose names and dates of commencement and termination of their current terms are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Roger Wagner, II	August 26, 1998	September 1, 2004
Nancy Ferrell	August 15, 2001	September 1, 2007
Alfred Lynch	September 9, 1998	September 1, 2003

The duly elected or appointed officers of the Board for 2002 are as follows:

Roger Wagner, II	-	Chairperson
Alfred Lynch	-	Treasurer
Nancy Ferrell	-	Secretary

The duly appointed and acting attorney for the Issuer is James C. Blankenship, III, Esquire, of Fayetteville, West Virginia. The duly appointed and acting PSC counsel for the Issuer is H. Wyatt Hanna, III, Esquire, South Charleston, West Virginia.

9. **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 that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that 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.
10. **MEETINGS:** All actions, resolutions, orders and agreements taken, adopted 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 or the System were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of the Board, and a quorum of duly appointed qualified and acting members of the Board 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.
11. **INSURANCE:** The Issuer has maintained or will maintain, or, as appropriate, has required or will require all contractors to maintain Workers' Compensation, public liability and property damage insurance, builder's risk, flood and real property insurance where applicable, in accordance with the Letter of Conditions and the Resolution.
12. **SPECIMEN BOND:** Attached hereto as Exhibit A is a specimen of the Bond which, except as to execution, is identical in all respects with the one this day delivered to the Government and being substantially in the form prescribed in the Resolution.
13. **BOND PROCEEDS:** On the date hereof, the Issuer received the sum of \$63,763, from the Government, 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 from time to time as acquisition and construction of the Project progresses.
14. **USERS:** The Issuer will serve at least 1,128 bona fide users upon the completion of the Project, in full compliance with the Letter of Conditions.
15. **GRANTS:** As of the date hereof, the grant from the Appalachian Regional Commission in the amount of \$750,000 is committed for the Project and in full force and effect.
16. **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 the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds, the

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.

17. **WETLANDS COVENANT:** The Issuer hereby certifies that it will not use any proceeds of the Bonds for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetlands to produce an agricultural commodity.

18. **COUNTERPARTS:** This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of Kanawha Falls
Public Service District on this 22nd day of February, 2002.

[CORPORATE SEAL]

<u>Signature</u>	<u>Official Title</u>
<u>W.D. Waymire</u>	Chairperson
<u>Nancy R. Penell</u>	Secretary
<u>J. C. Smith</u>	Attorney

1/28/02
006699/00302

EXHIBIT A

Specimen Bond

(see Document 2.10, Tab16)



KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

The undersigned duly appointed Secretary of Kanawha Falls Public Service District (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Kanawha Falls Public Service District Water Revenue Bonds, Series 2002 A (United States Department of Agriculture) (the "Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted or approved by the Public Service Board (the "Board") of the Issuer and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Orders of The County Commission of Fayette County Creating and Enlarging the Issuer.
2. Orders of The County Commission of Fayette County Appointing the Members of the Board.
3. Oaths of Office of the Board Members.
4. Rules of Procedure.
5. Minutes of Current Year Organizational Meeting.
6. Public Service Commission Order.
7. USDA Letter of Conditions.
8. USDA Closing Letter.
9. USDA Loan Resolution.
10. Minutes of Board Meeting regarding Adoption of USDA Loan Resolution.

11. Bond Resolution.
12. Supplemental Resolution.
13. Minutes of Board Meeting regarding Adoption of Bond Resolution and Supplemental Resolution.
14. Affidavits of Publication regarding Notice of Borrowing and Notice of Meeting to Adopt Bond Resolution and Supplemental Resolution.
15. 1980 Bond Resolution and Rescheduling Agreement.
16. USDA Consent to Issuance of Parity Bonds.
17. Environmental Health Services Permit.
18. ARC Grant Agreement.

WITNESS my signature and the official seal of the Issuer on this 22nd
day of February, 2002.

[SEAL]

Nancy R. Farrell
Secretary

1/28/02
006699/00302

KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF CONSULTING ENGINEER

I, Pulak Ghosh, Registered Professional Engineer, West Virginia License No. 7806, of Ghosh Engineers, Inc., Consulting Engineers, Charleston, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain improvements and extensions (the "Project") to the existing public water facilities (the "System") of Kanawha Falls Public Service District (the "Issuer"), to be constructed primarily in Fayette County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Resolution adopted by the Issuer on February 20, 2002 (the "Resolution"), and the Letter of Conditions from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), to the Issuer, dated March 28, 1998 (the "Letter of Conditions").

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; and (ii) paying costs of issuance and related costs.

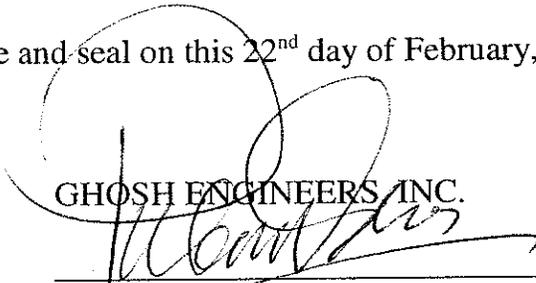
3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and any change orders approved by the Issuer, the Government and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 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 the Letter of Conditions and in reliance upon the opinion of James C. Blankenship, III, Esquire, of even date herewith, 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 Government 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) in reliance upon the certificate of Stanley Adkins, Certified Public Accountant, of even date herewith, as of the effective date thereof, the rates and charges for the System as approved by the Public Service Commission of West Virginia and adopted by the Issuer will be sufficient to comply with the requirements of the Resolution; and (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 the Government.

WITNESS my signature and seal on this 22nd day of February, 2002.

[SEAL]

GHOSH ENGINEERS, INC.


Pulak Ghosh, P.E.

West Virginia License No. 7806

1/28/02

006699/00302



February 22, 2002

**KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

United States of America,
United States Department of Agriculture
Rural Utilities Service
Beckley, West Virginia

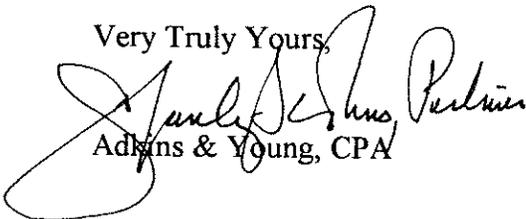
Kanawha Falls Public Service District
Gauley Bridge, West Virginia

Jackson & Kelly PLLC
Charleston, West Virginia

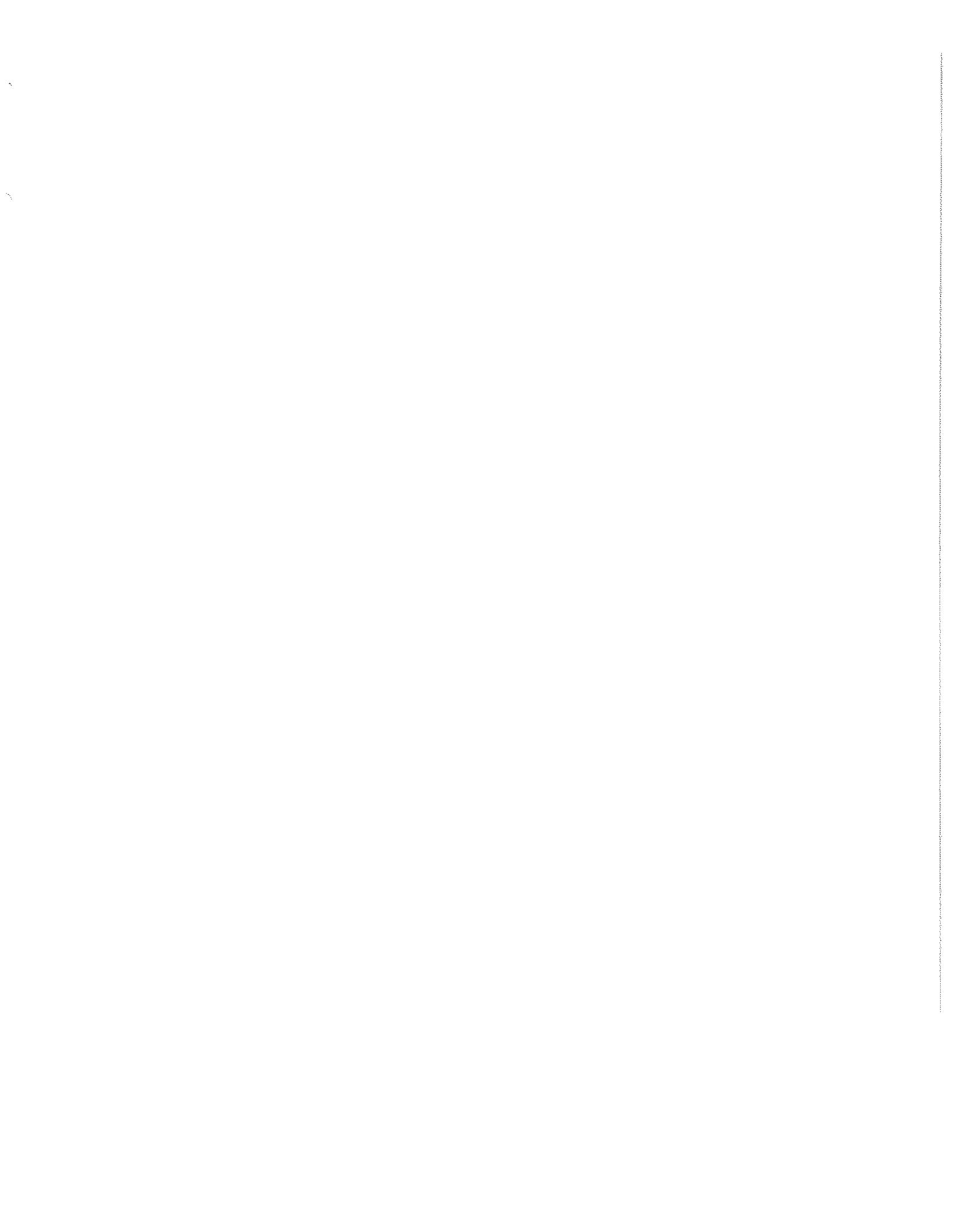
Ladies and Gentlemen:

We have reviewed the water rates of Kanawha Falls Public Service District (the "Issuer"), as approved by the order of the Public Service Commission of West Virginia entered June 26, 2001, in Case No. 01-0238-PWD-CN, and the projected operating expenses and anticipated customer usage provided by Ghosh Engineers, Inc., the consulting engineer of the Issuer. It is our opinion that such rates are sufficient (i) to provide for all operating expenses of the water facilities of the Issuer (the "System") and (ii) to leave a balance each year equal to at least 110% of the maximum amount required in any year for the payment of principal of and interest on the Issuer's Waterworks Improvement and Refunding Revenue Bonds, Series 1980 (including the rescheduled amounts pursuant to the Rescheduling Agreement dated September 17, 1987) (the "Prior Bonds"), and Water Revenue Bonds, Series 2002 A (United States Department of Agriculture) (the "Series 2002 A Bonds") and to make the required payments into the respective reserve accounts of the Prior Bonds and the Series 2002 A Bonds.

Very Truly Yours,



Adkins & Young, CPA



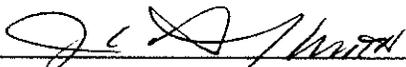
KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF NO LITIGATION

The undersigned hereby certifies that as of the date hereof, no controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale or delivery of the above-referenced Bonds ("the Bonds"), the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or any proceedings of Kanawha Falls Public Service District (the "Issuer"), taken with respect to the authorization, issuance, sale or delivery of the Bonds, the pledge or application of the Net Revenues or any other moneys 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, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection of the Gross Revenues or the pledge of the Net Revenues for payment of the Bonds.

All capitalized terms used herein shall have the same meaning set forth in the Bond Resolution, authorizing the Bonds, duly adopted by the Issuer on February 20, 2002.

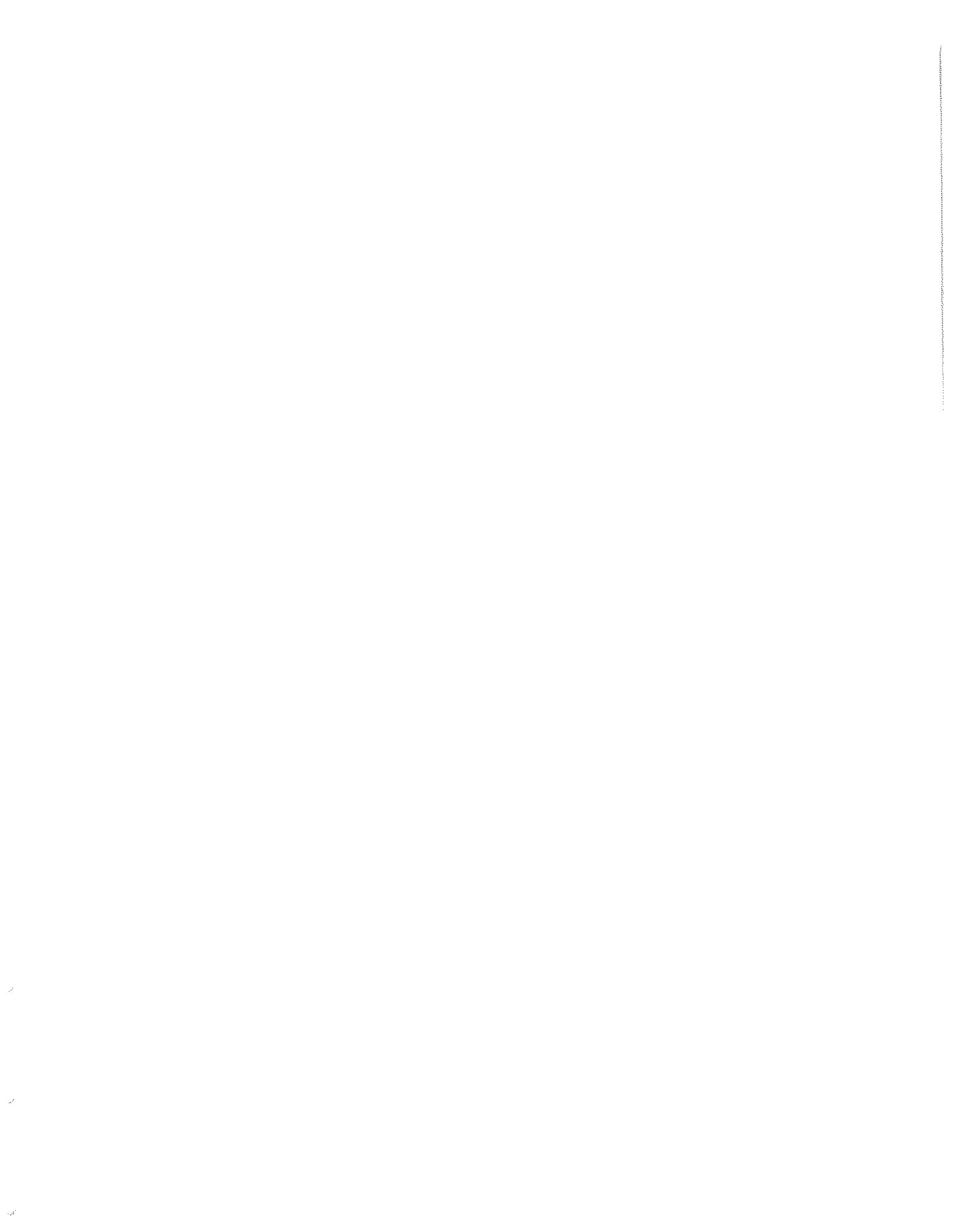
WITNESS my signature on this 22nd day of February, 2002.



James C. Blankenship, III, Esquire
Counsel to Kanawha Falls Public Service District

1/28/02
006699/00302

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KANAWHA FALLS PUBLIC SERVICE DISTRICT
 WATER REVENUE BONDS, SERIES 2002 A
 (UNITED STATES DEPARTMENT OF AGRICULTURE)

RECEIPT FOR BONDS

The undersigned authorized representative of the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), for and on behalf of the Government, hereby certifies as follows:

1. On the 22nd day of February, 2002, the undersigned received for and on behalf of the Government, the Water Revenue Bonds, Series 2002 A (United States Department of Agriculture) (the "Bonds"), of Kanawha Falls Public Service District (the "Issuer"), dated February 20, 2002, issued in the form of one bond in the principal amount of \$430,000, and numbered AR-1. The Bonds bear interest at the rate of 4.75% per annum, payable in monthly installments on the amounts advanced thereunder, commencing 30 days following the date of delivery of the Bonds and continuing on the corresponding day of each month for the first 24 months after the date of the Bonds, and thereafter, on the corresponding day of each month in installments of principal and interest on the Bonds in the aggregate amount of \$2,043, except that the final installment on the Bonds shall be paid at the end of 40 years from the date of the Bonds, in the sum of the unpaid principal and interest due on the date thereof. The Bonds represent the entire principal amount of the above-captioned bond issue.

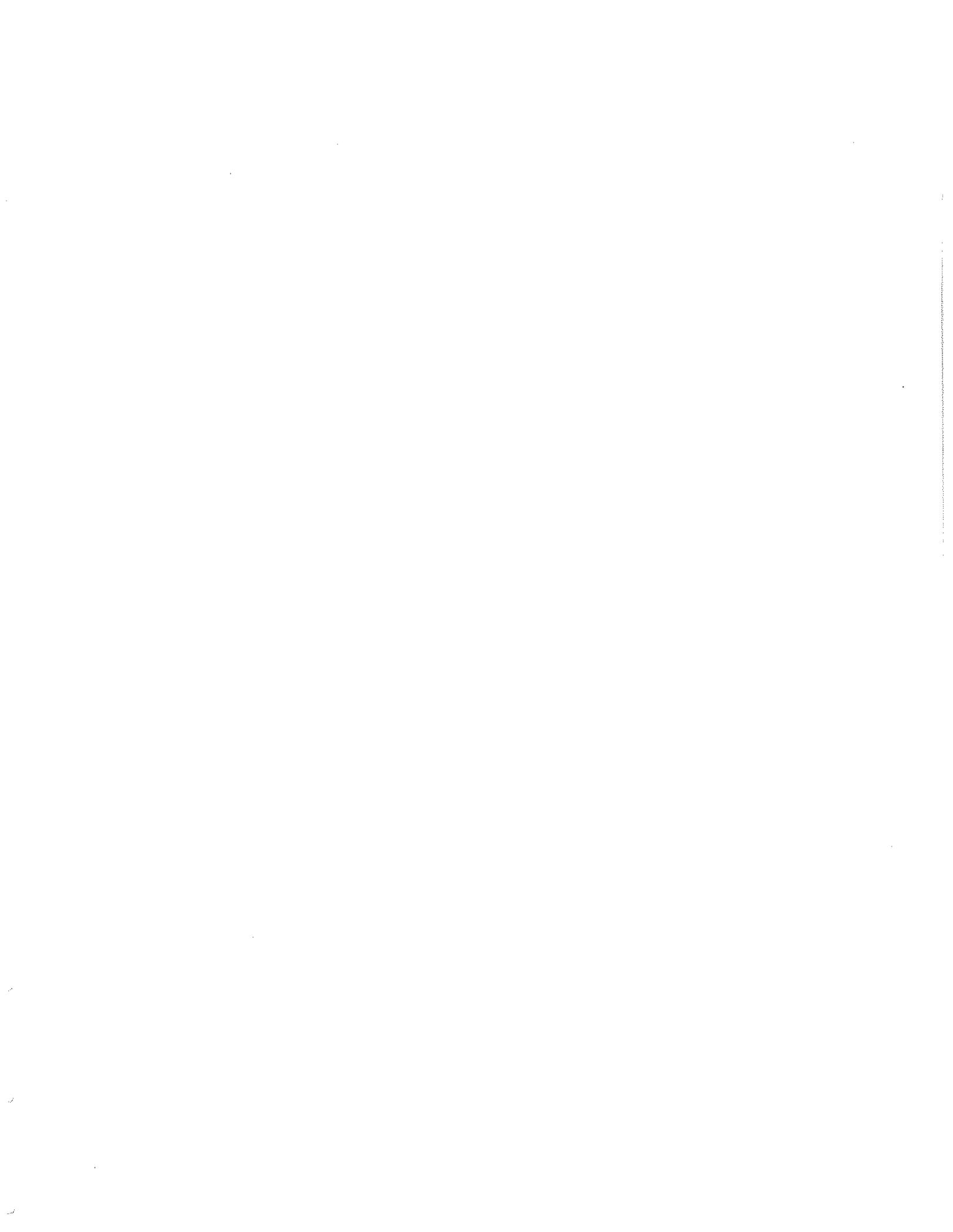
2. At the time of such receipt of the Bonds, they had been executed by the Chairperson of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 22nd day of February, 2002.

UNITED STATES OF AMERICA,
 UNITED STATES DEPARTMENT OF
 AGRICULTURE, RURAL UTILITIES SERVICE



 Authorized Representative



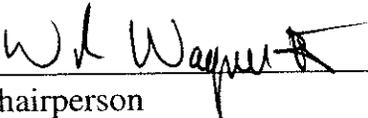
KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

RECEIPT FOR BOND PROCEEDS

The undersigned Chairperson of Kanawha Falls Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies that the Issuer has received on the date hereof from the United States of America, United States Department of Agriculture, Rural Utilities Service, the sum of \$63,763 as the first advance on the Kanawha Falls Public Service District Water Revenue Bonds, Series 2002 A (United States Department of Agriculture) (the "Bonds"), being more than a de minimus amount of the purchase price of the Bonds. The Issuer understands that the remaining proceeds will be advanced from time to time as construction progresses.

WITNESS my signature on this 22nd day of February, 2002.

KANAWHA FALLS PUBLIC SERVICE DISTRICT



Chairperson

2/11/02
006699/00302

KANAWHA FALLS PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

CITY NATIONAL BANK, Gauley Bridge, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Resolution and a Supplemental Resolution adopted by Kanawha Falls Public Service District (the "Issuer") on February 20, 2002 (collectively, the "Resolution"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), in the aggregate principal amount of \$430,000, dated February 22, 2002, and agrees to serve as Depository Bank, all as set forth in the Resolution.

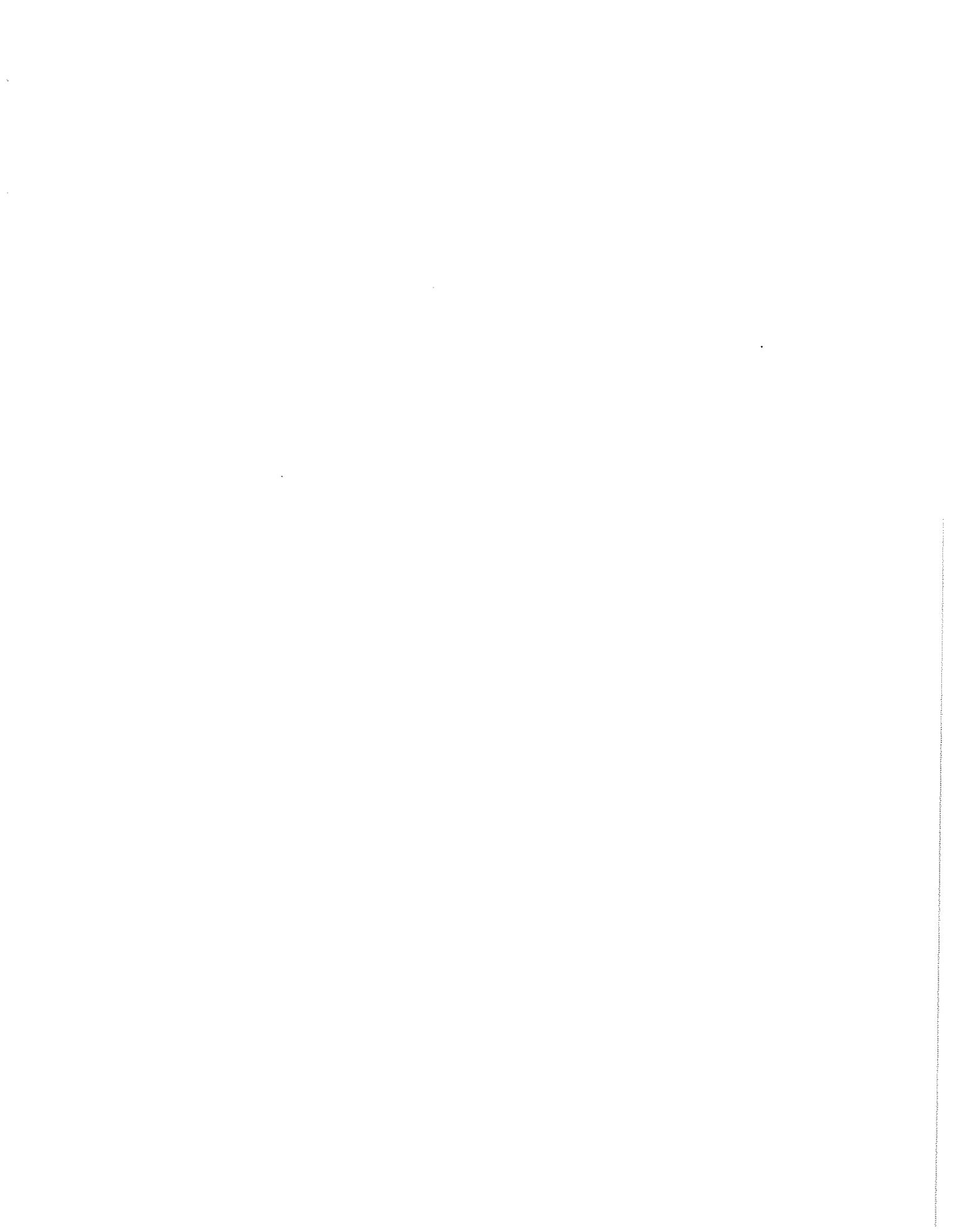
WITNESS my signature on this 22nd day of February, 2002.

CITY NATIONAL BANK



Authorized Officer

1/29/02
006699/00302



WEST VIRGINIA MUNICIPAL BOND COMMISSION

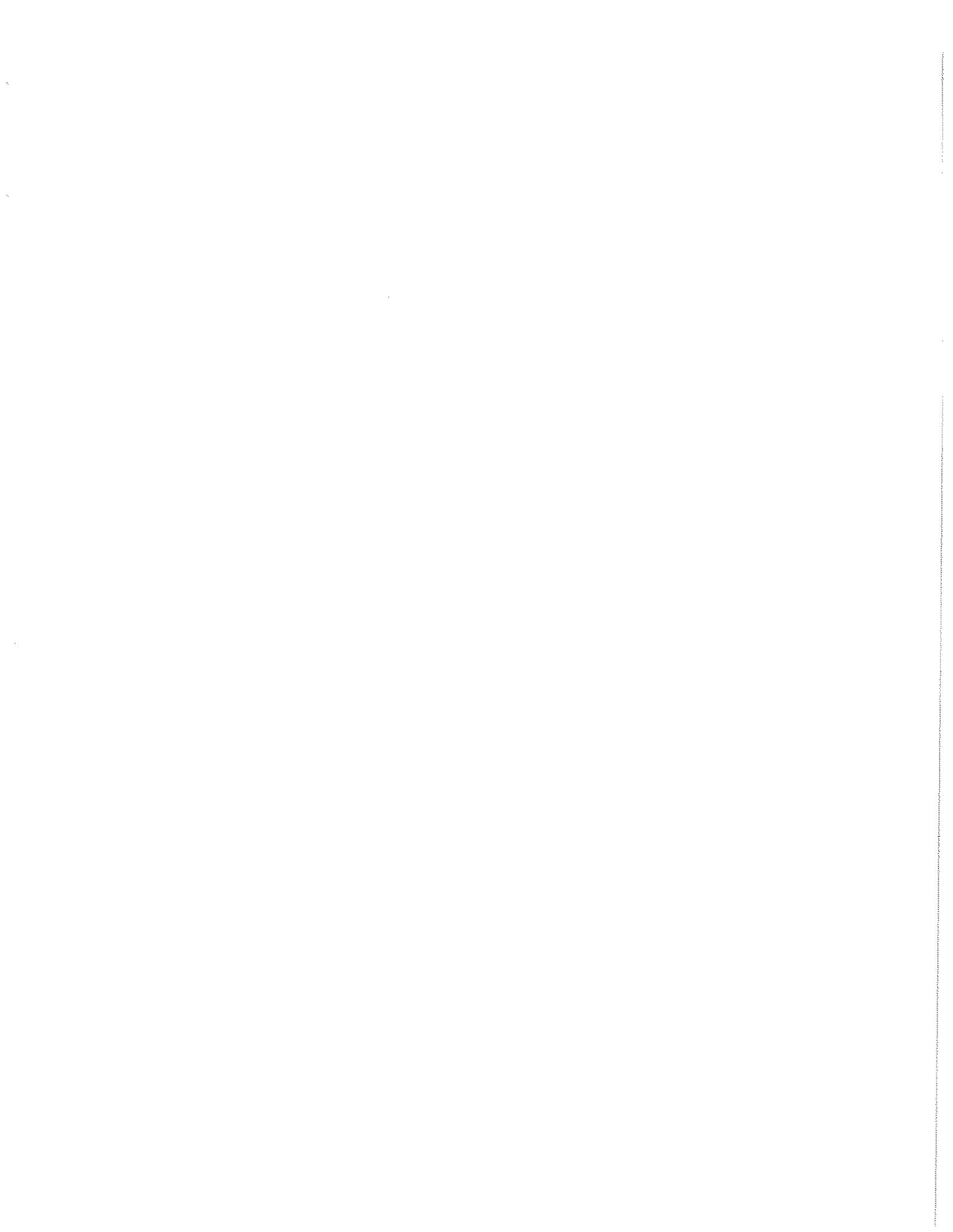
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Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM
Date of Report: February 22, 2002

ISSUE: <u>Kanawha Falls Public Service District Water Revenue Bonds, Series 2002 A</u> <u>(United States Department of Agriculture)</u>	
ADDRESS: <u>P. O. Box 448, Gauley Bridge, WV 25085</u>	COUNTY: <u>Fayette</u>
PURPOSE OF ISSUE: New Money <input checked="" type="checkbox"/> Refunding <input type="checkbox"/> Refunds issue(s) dated: _____	
ISSUE DATE: <u>February 22, 2002</u>	CLOSING DATE: <u>February 22, 2002</u>
ISSUE AMOUNT: <u>\$430,000</u>	RATE: <u>4.75 %</u>
1st DEBT SERVICE DUE: <u>March 22, 2002</u>	1st PRINCIPAL DUE: <u>February 22, 2004</u>
1st DEBT SERVICE AMOUNT: <u>Not Determined</u>	PAYING AGENT: <u>None (District pays USDA directly)</u>
BOND COUNSEL: <u>Jackson & Kelly PLLC</u> Contact Person: <u>Samme L. Gee, Esquire</u> Phone: <u>(304) 340-1318</u>	UNDERWRITERS COUNSEL: _____ Contact Person: _____ Phone: _____
CLOSING BANK: <u>The City National Bank</u> Contact Person: <u>Michelle Fox</u> Phone: <u>(304) 632-1333</u>	ESCROW TRUSTEE: _____ Contact Person: _____ Phone: _____
KNOWLEDGEABLE ISSUER CONTACT: Contact Person: <u>Linda Doobee</u> Position: <u>Office Manager</u> Phone: <u>(304) 632-1633</u>	OTHER: <u>USDA, Rural Utilities Service</u> Contact Person: <u>Rosemary Christian</u> Function: _____ Phone: <u>(304)252-8644</u>
DEPOSITS TO MBC AT CLOSE: _____ By _____ Wire <input checked="" type="checkbox"/> 1980 Reserve Account: <u>\$8,000 (transfer to MBC)</u> <u>X</u> Check _____ Other: _____ \$ _____	Accrued Interest: \$ _____ Capitalized Interest: \$ _____
REFUNDS & TRANSFERS BY MBC AT CLOSE: By _____ Wire _____ To Escrow Trustee: \$ _____ _____ Check _____ To Issuer: \$ _____ _____ IGT _____ To Cons.Invest.Fund \$ _____ _____ To Other: _____ \$ _____	
NOTES: <u>Series 1980 Bonds Reserve Account and Series 2002 A Bonds Reserve Account only set up with MBC.</u> <u>Debt service payments will be made directly by District to USDA.</u>	
FOR MUNICIPAL BOND COMMISSION USE ONLY: Documents Required: _____ Transfers Required: _____	

2/4/02
006699/00302



State of West Virginia

OFFICE OF ENVIRONMENTAL HEALTH SERVICES

815 QUARRIER STREET, SUITE 418

CHARLESTON, WEST VIRGINIA 25301-2616
TELEPHONE 304-558-2981

PERMIT

PROJECT: (Water)
Water Storage Tank and Water
Booster Station Improvements

PERMIT NO.: 14.470

LOCATION: Gauley Bridge

COUNTY: Fayette

DATE: 4-26-2000

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**Kanawha Falls Public Service District
P.O. Box 448
Gauley Bridge, West Virginia 25085**

is hereby granted approval to: install approximately 3,000 LF of 6", 150 LF of 4" and 400 LF of 2" water lines; Boomer Water Storage tank will be a 217,000 gallon tank; Charlton Heights Water Storage Tank will be a 106,000 gallon tank; Gauley Bridge Low Service Tank will be a 330,600 gallon tank; Gauley Bridge High Service Tank will be a 106,000 gallon tank; demolish the existing Glen Ferris Water Storage Tank; demolish the existing Charlton Heights Water Storage Tank; demolish the existing Gauley Bridge High Service Tank; renovate and upgrade the existing Boomer Pressure Reducing Station; renovate and upgrade the existing Charlton Heights Booster Pump Station; bypass and abandon the existing Glen Ferris Booster Station; upgrade the existing Gauley Bridge High Service Tank Booster Pump Station; add two (2) new pressure reducing stations; and all necessary valves, controls and appurtenances.

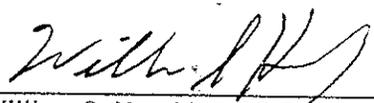
Facilities are to serve the Kanawha Falls Public Service District and the Gauley River Public Service District. Existing water storage tanks are being replaced and existing water booster stations are being renovated and upgraded.

NOTE: This permit is contingent upon: 1) All new water mains, water booster stations, and water storage tanks being disinfected, flushed and bacteriologically tested, prior to use; and 2) Maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum eighteen (18) inches vertical separation between crossing sewer and water lines, with the water line above the sewer line.

The Environmental Engineering Division of the Beckley District Office (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 Director
Environmental Engineering Division

WSH:cmh

pc: Ghosh Engineers, Inc.
James Ellars, PSC-Engineering Division
Katy Mailory, WVUDC
Fayette County Health Department
OEHHS-EED Beckley District Office



Gaston Caperton, Governor

WEST VIRGINIA DEVELOPMENT OFFICE

CAPITOL COMPLEX
CHARLESTON, WV 25305-0311

August 2, 1996

Mr. Lyle Blackwell
Chairman
Kanawha Falls Public Service District
Post Office Box 448
Gauley Bridge, West Virginia 25085

Dear Mr. Blackwell:

Congratulations on the approval of a \$750,000 Appalachian Regional Commission (ARC) grant, for a total project cost of \$1,203,800, to the Kanawha Falls Public Service District for the Water Tank Replacement project. A copy of the approval letter is enclosed.

Should there be a need for any changes in the scope of the project or project funding, a request should be made to the West Virginia Development Office.

Please be aware that ARC funds are considered to be the last source of funding committed to a project. Should there be a cost underrun, the funds not used are considered Appalachian Regional Commission funds and would be returned to the Commission.

If you should have any questions, please feel free to contact me at 558-2001.

Sincerely,

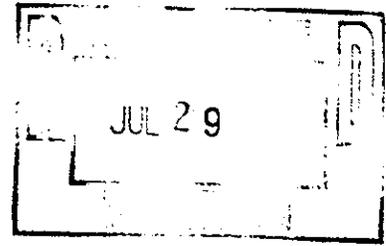


Ralph H. Goolsby
Manager

RHG:cc

Enclosure

cc: W.D. Smith, Region IV PDC



July 22, 1996

Honorable Gaston Caperton
Governor of West Virginia
State Capitol
Charleston, West Virginia 25305

Re: Kanawha Falls PSD Water Tank
Replacement, Fayette County
(WV-12195-95-I-214-0616)

Dear Governor Caperton:

Enclosed is a copy of the Appalachian Regional Commission's approval of a grant for the referenced project dated July 19, 1996.

Appalachian Regional Commission funds in the amount of \$750,000 have been made available to the Administrator, Rural Utilities Service, U.S. Department of Agriculture.

A copy of the approval is enclosed.

Sincerely yours,

THOMAS M. HUNTER
Executive Director

Enclosure

cc: State Alternate
Ralph Goolsby
WFBlumer/JDemchalk
Files

TMH/cty 7/22/96

APPALACHIAN REGIONAL COMMISSION
 1666 Connecticut Avenue, N.W.
 Washington, D. C. 20235

REV (2-91)

To: Walley Beyer, Administrator
 Rural Utilities Service
 U.S. Department of Agriculture
 South Building, Room 5014
 14th & Independence Ave., S.W.
 Washington, D.C. 20250
 Attn: T.W. Davis, AG Box 1548

The Appalachian Regional Commission has approved a project for assistance under the Appalachian Regional Development Act of 1965 as amended, as follows:

Kanawha Falls PSD Water Tank Replacement, Fayette County, West Virginia, WV-12195-95-I-214-0616

Grantee: Kanawha Falls PSD

ARC	\$750,000	62.3%
WV Water Development Authority (Loan)	<u>453,800</u>	<u>37.7%</u>
Total Project Cost	\$1,203,800	100.0%

RECD Expenses Per RECD Agreement:

5% of \$ 50,000	=	\$2,500 Plus
1% of <u>\$700,000</u>	=	<u>\$7,000</u>
Total \$750,000	=	\$9,500

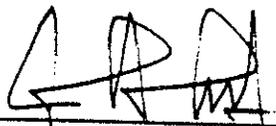
Time Limitation. As the Commission may revoke or revise its approval of any project (except for Section 201 projects) if not underway within 18 months after the ARC approval date, please advise ARC when allowable activity has begun.

Underrun. ARC funds are limited to the lesser of (1) the amount specified in ARC's most recent approval or (2) the difference between the actual eligible project cost and the sum of the actual non-ARC basic grants and the non-federal funds specified in ARC's most recent approval, unless otherwise directed by the Commission.

Section 201 Funding Limitation. ARC assistance is established at the percentage amount specified above up to the above specified dollar amount. In no case shall ARC assistance exceed 80 percent of actual eligible project cost.

Advisory Note for Education Projects. The State education agency monitoring this grant is requested to advise the grantee that the memorandum "Closeout of ARC-Assisted Education Projects-Clarification (P.L. 89-4, Sections 211(a), 211(b) and 214)", dated April 14, 1978, and disseminated by the Division of Vocational and Technical Education, U.S. Office of Education, prescribes closeout procedures to be adhered to in closing out this project.

APPROVED:


 Federal Co-Chairman

JUL 19 1996

Date

Water and Waste System Grant Agreement

United States Department of Agriculture

Rural Utilities Service

THIS AGREEMENT dated March 23, 1998, between

KANAWHA FALLS PUBLIC SERVICE DISTRICT

a public corporation organized and operating under

Chapter 16, Article 13A, West Virginia Code

(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (waste) system to serve the area under its jurisdiction at an estimated cost of \$ 1,180,000 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 430,000 of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of \$ 430,000 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 750,000 or 80 percent of said project development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the Conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to ~~Section 105(a) of the Consolidated Farm and Rural Development Act~~ for the purpose only of defraying a part not to exceed 80 percent of the project development costs, as defined by applicable Rural Utilities Service instructions. *The Appalachian Regional Commission of 1965, as amended.

Grantee Agrees That Grantee Will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, ~~wherefor one or more classes of service adopted by resolution of the~~ ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.
*as approved by the West Virginia Public Service Commission.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

The proposed project consists of replacing its existing tanks at Boomer, Charlton Heights, Glen Ferris and Gauley Bridge as follows: Boomer - 300,000 gallon; Charlton Heights and Glen Ferris - 300,000 gallon; Gauley Bridge low service - 200,000 gallon; Gauley Bridge high service - 50,000 gallon.

L. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with grant funds. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

1. Use of nonexpendable property.

(a) The Grantee shall use the property in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the property in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that nonexpendable personal property is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of less than \$1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of \$1,000 or more. The Grantee may retain the property for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share \$100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

All tangible items, together with appurtenant furnishings and equipment, including all accessions, repairs, and replacements associated with the proposed facility.

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/1997]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$750,000 _____ which it will advance to Grantee to meet not to exceed 80 _____ percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph 1 above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

Chairman

attested and its corporate seal affixed by its duly authorized

Secretary

Attest: Kanawha Falls Public Service District

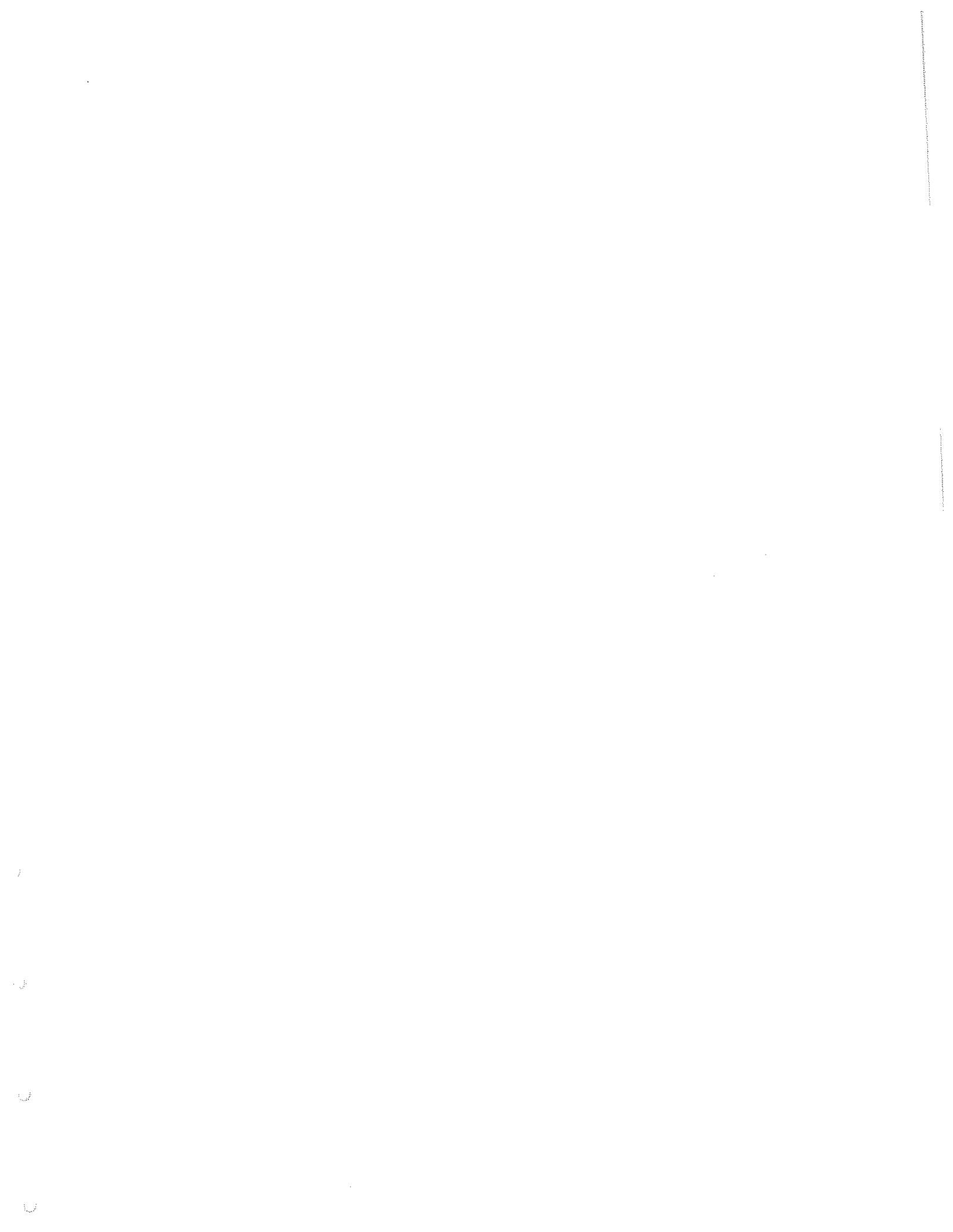
By Roy E Young
ROY E. YOUNG
(Title) Chairman

By Percy Mosley 2
PERCY MOSLEY
(Title) Secretary

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By Rose Mary Christian 2-22-62
ROSE MARY CHRISTIAN (Title) Rural Development Specialist



JACKSON & KELLY PLLC
ATTORNEYS AT LAW

6000 HAMPTON CENTER
P. O. BOX 619

MORGANTOWN, WEST VIRGINIA 26507

TELEPHONE 304-599-3000 TELECOPIER 304-285-2040

<http://www.jacksonkelly.com>

February 22, 2002

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40588
TELEPHONE 859-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D. C. 20037
TELEPHONE 202-973-0200

MEMBER OF LEX MUNDI
THE WORLD'S LEADING ASSOCIATION
OF INDEPENDENT LAW FIRMS.

1600 LAIDLEY TOWER
CHARLESTON, WEST VIRGINIA 25322
TELEPHONE 304-340-1000

217 WEST BURKE STREET
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

Kanawha Falls Public Service District
Gauley Bridge, West Virginia

United States of America,
United States Department of Agriculture,
Rural Utilities Service
Beckley, West Virginia

Re: Kanawha Falls Public Service District Water Revenue Bonds,
Series 2002A (United States Department of Agriculture)

Ladies and Gentlemen:

We have served as bond counsel to Kanawha Falls Public Service District (the "Issuer") in connection with the issuance of its Water Revenue Bonds, Series 2002A (United States Department of Agriculture), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the issuance of the Bonds. The Bonds are issued in the principal amount of \$430,000, in the form of one bond and bear interest from the date hereof, on the amount advanced thereunder, at the rate of 4.75% per annum.

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 of the Code of West Virginia, 1931, as amended (the "Act"), and have been authorized by a Bond Resolution duly adopted by the Issuer on February 20, 2002, as supplemented by a Supplemental Resolution duly adopted by the Issuer on February 20, 2002 (collectively, the "Resolution"). The Bonds are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the

existing public water facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution 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, as follows:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms thereof.

3. The Bonds have been duly authorized, issued, executed and delivered by the Issuer and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and a pledge of the Net Revenues of the System, on a parity as to liens, pledge and source of and security for payment with the Prior Bonds, all in accordance with the terms of the Bonds and the Resolution.

4. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

5. The Bonds have not been issued on the basis that the interest 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 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.

Kanawha Falls Public Service District
United States of America
February 22, 2002
Page 3

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

We have examined the executed Bond numbered AR-1 and in our opinion, the form of said Bond and its execution are regular and proper.

Very truly yours,

A handwritten signature in black ink that reads "Jack v Kelly PLLC". The signature is written in a cursive, somewhat stylized font.

2/4/02
006699/00302



JAMES C. BLANKENSHIP III
ATTORNEY AT LAW
105 EAST WISEMAN AVENUE
P. O. Box 326
FAYETTEVILLE, WEST VIRGINIA 25840
304-574-3556
FAX 574-2365

February 22, 2002

Kanawha Falls Public Service District
Gauley Bridge, West Virginia

United States of America,
United States Department of Agriculture,
Rural Utilities Service
Beckley, West Virginia

Jackson & Kelly PLLC
Charleston, West Virginia

RE: Kanawha Falls Public Service District Water Revenue Bonds,
Series 2002A (United States Department of Agriculture)

Ladies and Gentlemen:

I am counsel to Kanawha Falls Public Service District (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson & Kelly PLLC, as bond counsel, relating to the above-captioned bonds of the Issuer (the "Bonds"), the letter of conditions dated March 23, 1998, as amended, from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), a Bond Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on February 20, 2002, as supplemented by a Supplemental Resolution duly adopted on February 20, 2002 (collectively, the "Resolutions"), orders of The County Commission of Fayette County relating to the Issuer and the appointment of members of the Board, and other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

Kanawha Falls Pubic Service District
United States of America
Jackson & Kelly PLLC
February 22, 2002
Page 2

I am of the opinion that:

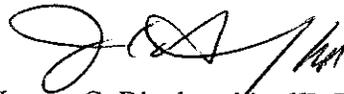
1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to adopt the Resolution, all under the Act and other applicable provisions of law.
2. The members and officers of the Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.
3. The Resolution has been duly adopted by the Board and is in full force and effect.
4. The execution and delivery of the Bonds and the consummation of the transactions contemplated by the Resolution and the Bonds 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 resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.
5. The Issuer has received all permits, licenses, approvals, consents, certificates, orders, exemptions, registrations and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for use of the System, including, without limitation, the adoption of a resolution prescribing such rates and charges.
6. To the best of my knowledge, there is no 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 Resolution, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds, the collection of the Gross Revenues or the pledge of the Net Revenues for payment of the Bonds.

Kanawha Falls Public Service District
United States of America
Jackson & Kelly PLLC
February 22, 2002
Page 3

7. All successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act and the Resolution; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,



James C. Blankenship, III, Esquire

JCB/ceb

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

FINAL TITLE OPINION

LOAN APPLICANT Kanawha Falls Public Service District		ADDRESS OR PROPERTY COVERED BY THIS OPINION See Attachment A-1	
APPLICANT FOR TITLE EXAMINATION Kanawha Falls Public Service District		COUNTY Fayette	STATE West Virginia

I. I have examined title to the property described in the security instrument described in paragraph II. B. below. My examination covered the period from the time of termination of title search covered by my Preliminary Title Opinion on Form RD 1927-9; or the time of recordation of the initial loan security instrument if this opinion covers land already owned by the loan applicant in a subsequent loan case, to February 22, 2002, at 10:00 a.m. (including the time of filing the current security instrument).
(Date) p.m.

II. Based on said title examination, my preliminary title examination if any, and any additional information concerning the title which has come to my attention, it is my opinion that:

A. Good and marketable title, in accordance with title examination standards prevailing in the area, to said property (real estate and any water rights offered as security) is now vested in Kanawha Falls Public Service District

as N/A
(Joint tenants, tenants by the entirety, etc.)

B. The United States of America holds a valid FIRST STATUTORY lien on said property as required by Rural Development or the Farm Service Agency, or their successor (Agency), which lien was filed for record on N/A, at _____ a.m. and is recorded in N/A (Date)
p.m. (Book, page, and office)

C. Said property and lien are subject only to encumbrances, reservations, exceptions, and defects which were approved by written administrative waivers of the Agency attached hereto or to my Preliminary Title Opinion.

III. If a water right is involved and is not covered by the current security instrument, it is subject only to the encumbrances, reservations, exceptions, and defects set forth in said administrative waivers and was made available as security in the following manner (Water stock would normally be reissued in the names of said land owners and the United States of America and delivered to the Agency Official at the time of loan closing): NONE

- IV. The term "encumbrances, reservations, exceptions, and defects" means all matters which would prevent the United States from obtaining the required lien on the property identified in paragraph I, including but not limited to (a) mortgages, deeds of trust, and vendors', mechanics', materialmen's, and all other liens, including any provisions thereof for future advances which could take priority over the said lien to the United States, (b) Federal, State, and local taxes, including county, school, improvement, water, drainage, sewer, inheritance, personal property, and income, (c) State and Federal bankruptcy, insolvency, receivership, and probate proceedings, (d) judgments and pending suits, in State and Federal courts, (e) recorded covenants; conditions; restrictions; reservations; liens; encumbrances; easements; rights-of-way; leases; mineral, oil, gas, and geothermal rights (regardless of the right of surface entry); timber rights; water rights; pending court proceedings and other matters of record which affect the title of the property or the ability of the buyer or seller to convey or accept title.
- V. This opinion is issued expressly for the benefit of the above-named applicant for title examination and the United States of America acting through the United States Department of Agriculture Agency which provided the assistance, and I assume liability to each hereunder.

February 22, 2002
(Date)


James E. Blankenship (Attorney's signature)
Attorney at Law
WV State Bar ID #368
P.O. Box 326, Fayetteville, WV 25840
(Address, include ZIP Code)

Attachments

ATTACHMENT A-1

PARCEL ONE:

A-PROPERTIES AT GAULEY BRIDGE, WEST VIRGINIA, FORMERLY BELONGING TO THE GAULEY BRIDGE WATER COMPANY AND JAMES P. LIVELY & BESSIE LIVELY, HIS WIFE, INDIVIDUALLY

- I. All of that certain water system originally owned by C. A. Conley, consisting of mains, service pipe and equipment, reservoirs, tanks, pumps, pump houses, dams, rights-of-way belonging to the said C. A. Conley and conveyed unto the Gauley Bridge Water Company by deed dated June 2, 1938 by C. A. Conley and Annie Conley, his wife, and recorded in the Fayette County Clerk's Office in Deed Book 89 at Page 151.
- II. All of that certain water system and real estate and personal property formerly belonging to the Board of Education of the County of Fayette, West Virginia, consisting of a water pump, line leading from water pump to water tank, three inch line extending from water tank to the high school, and that certain lot or parcel of land upon which the tanks were erected, all located at or near Gauley Bridge and used in connection with the water system for the high school at Gauley Bridge, and further including all of those rights granted to the Board of Education by Otway Gunnoe and G. D. Brown, Trustees, by deed dated April 1, 1926 and recorded in the Fayette County Clerk's Office in Deed Book 62 at Page 67, which include certain rights of way over the property owned at the time by Otway Gunnoe, and further includes Lot No. 84 of the 1925 Addition to Gauley Bridge.

And being the same property that was conveyed by the said Board of Education to the Gauley Bridge Water Company by deed dated July 13, 1938, and recorded in said Clerk's Office in Deed Book 89 at Page 151.

- III. Lots 1, 2 and 3, in Block 6, together with appurtenances thereunto as shown on a map marked "Subdivision of the Miller Lands, Gauley Bridge, West Virginia", dated April 24, 1937, E. B. Roeser, recorded in the Fayette County Clerk's Office in Map Book 3 at Page 151 and being the same property that was conveyed unto James P. Lively, the Grantor herein by deed of O. D. Kilby, et ux, dated December 28, 1942, and recorded in said Clerk's Office in Deed Book 102 at Page 557.

The eastern 12 feet of Lot No. 13, Block 7 of the Miller lands as described above, in item III, being more particularly described as follows:

Beginning at a point in the northern boundary line of Lot 13, which said point is N 41°15' E 18 feet from the corner of Lot 12 and 13 and Route #19; thence, N 41° 15' W 12 feet, a corner to Lot 13 and 14; thence with the northern boundary of Lot 14 'N.40° 53' E 15 feet; thence S 59° 57' E to the Low Water Mark of the Gauley River; thence with the meanderings of said river down stream, more or less in a southwesterly direction 27 feet; thence, N 59° 57' W to the place of beginning. That portion of Lot No. 13

April 28, 1943 and recorded in the Fayette County Clerk's Office in Deed Book 103 at Page 358 and said part of Lot 13 being conveyed unto Lively by deed of Bill Riccardi, dated May 4, 1945 and recorded in said Clerk's Office in Deed Book 110 at Page 65.

- III. All of those certain rights including pipe lines, and wooden water tanks and easements granted to the said Gauley Bridge Water Company by deed of G. H. Brackland, dated September 9, 1938, and recorded in Deed Book 89 at Page 499, which includes the private water systems owned by a number of citizens at Gauley Bridge.
- IV. All other lines, easements, tanks, machines, tools, intakes, filtrations, plants, equipment, and good will owned by the Gauley Bridge Water Company in the area presently served by that corporation in the villages of Gauley Bridge, & Glen Ferris, West Virginia.

B-BOOMER PROPERTIES FOR WATER SERVICE FORMERLY BELONGING TO THE FAYETTE WATER SERVICE COMPANY—

- I. All of the present cast iron water mains, located outside the cyclone chain-link fence surrounding the Alloy Plant of the Electro Metallurgical Division of Union Carbide, serving the villages of Boomer, Alloy, Falls View, the Falls District, Fayette County, West Virginia, together with all fire hydrants, valves, drains and other appurtenances now in use with said mains, with the exception of all fire fighting equipment other than said fire hydrants.

All the lateral galvanized water mains extending from the aforementioned cast iron water mains, except the three-quarter inch or smaller house service pipes serving individual houses or buildings in the said villages of Boomer and Falls View, and Alloy.

The right to use the rights of way and easements owned by the said Fayette Water Service Company that are necessary in order to maintain, repair and make connections to said cast iron water main lateral galvanized pipe.

That certain lot or parcel of land together with the steel water tank located thereon, being the lot marked "Water Tower" as shown on the map designated, "Map showing Boomer Addition, Section 2, Electro Metallurgical Company, Falls District, Fayette County, West Virginia, E. B. L.-102", and dated August 28, 1955 and recorded in the Fayette County Clerk's Office. And being the same property that was conveyed to the Fayette Water Service Company by deed of James P. Lively and Bessie Lively, his wife, dated June 15, 1956 and recorded in the Fayette County Clerk's Office in Deed Book 213 at Page 93.

C-WATER PROPERTIES OF THE BOOMER WATER WORKS, INC., LOCATED AT
BOOMER, FALLS VIEW AND ALLOY, WEST VIRGINIA

- I. All of the existing case iron lateral feeder lines for water supply from the main six-inch case iron line that parallels Park Road as shown on the Boomer Hillside Subdivision Map, E.B.L. -56.

All of the lateral two-inch galvanized pipe water supply lines existing and extending from the above-mentioned cast iron lateral feeder lines and from the main six-inch cast iron supply line. Said pipe lines supply existing houses as shown on the Boomer Hillside Subdivision Map, E.B.L. - 56.

Together with the rights of way and easements over private property on Boomer Hill that are necessary in order to maintain, repair, supplement and make connections to said cast iron water mains, galvanized two-inch lateral water main.

And being the same property that was conveyed unto the Boomer Water Works, Inc. by deed of Union Carbide & Carbon Corporation, dated November 2, 1953, and recorded in the Fayette County Clerk's Office in Deed Book 213 at Page 95, excluding sewer lines described in Section B above.

- II. Lot No. 30-A located in the Village of Boomer, Falls District, Fayette County, West Virginia, as shown on that certain map entitled, "Map Showing Boomer Addition, Section 1, Electro Metallurgical Company, Falls District, Fayette County., West Virginia, E.B.L. -101", dated August 25, 1955, and recorded in the Fayette County Clerk's Office in Map Book 14 at Page 5.

And being the same property that was conveyed unto James P. Lively, individually, by deed of Union Carbide & Carbon Corporation, dated January 5, 1956, and recorded in the Fayette County Clerk's Office in Deed Book 213 at Page 90, which property has never been conveyed to the Boomer Water Works, Inc.

All of the above property conveyed in Sections A, B, C and D are made subject to the reservations and exceptions contained in said Deeds above referred to, with the exceptions of that certain deed from the Board of Education to the Gauley Bridge Water Company as set out above.

- III. That certain tract or parcel of land situate, lying and being, between the Alloy Plant and the Town of Boomer, West Virginia and more particularly bounded and described as follows:

"Beginning at a point, which point is located on the southern Side of U. S. Route 60 at a distance of 293 feet in a southeasterly direction from the boundary separating the property of R. H. Buckholt from that of Riccardi; thence, S 57° 12' W 34 feet, more or less, to the southwestern boundary of the property owned by Riccardi which

direction along the line of said right of way 30 feet more or less, to a point on said right of way; thence N 57° 12' E 29 feet more or less to a point on the southerly side of U. S. Route 60; thence in a southeasterly direction along the line of said U. S. Route 60, 30 feet, more or less, to the beginning, and being a part of Lot No. 1 of the J. H. Simms Estate as shown on a map of said Estate made by Bennett-Perry-Thomas." This deed provides that the property shall be used only for the business of a public utility.

And being the same property that was conveyed to James P. Lively, individually, by Bill Riccardi and Anna Riccardi, his wife, dated October 10, 1952, and recorded in said Clerk's Office in Deed Book 184 at Page 379, which said property was never conveyed to the Boomer Water Works, Inc.

D-WATER PROPERTIES OF BOOMER WATER WORKS, INC. LOCATED AT CHARLTON HEIGHTS, WEST VIRGINIA

- I. All of the water plant and water lines owned by the Boomer Water Works, Inc. used to serve water for domestic and commercial purposes to residents of Charlton Heights, on lands purchased from the Charlton Development Company and other lands adjacent thereto, said water plant and lines consisting of all pipe now in use transporting water and all pipe in storage, together with valves, fittings, meters and other accessories in their use or storage, together with all tanks, pumping equipment, houses, structures, filters, motors, chlorinator and other appliances and pumps, together with all the rights of way to lay pipes, run wire lines to the pumps and tanks, repair, remove, augment and enlarge same, over all present streets and alleys and undeveloped portions of land which may still belong to the Charlton Development Company. There is also conveyed all existing rights of way and permits acquired from the Electro Metallurgical Company, New York Central Railway and the State Road Commission and from any other parties resident on the lands at Charlton Heights, West Virginia; this conveyance includes all structures, houses and sheds and all apparatus thereto.

There is further conveyed that certain tract or parcel of land on which is located a storage tank, more particularly bounded and described as follows:

"Beginning at a stake in the division line between the Charlton Development Company property of 104 acres and the Electro Metallurgical Company, which said stake is N 85° 54' W 311 feet from a stake in said division line, which stake is in a branch where a concrete monument marked, "EM Company, 676" once stood, thence S 4° 6' W 66 feet to a stake, thence N 85° 54' W 50 feet to a stake; thence north 4° 6 minutes E 66 feet to a stake; thence S 85° 54' E 50 feet to the point of beginning, as shown on a map of said lot attached to the deed referred below and made a part hereof.

There is also conveyed Parcel. A. which lies North and adjoins Lots 29 and 30 of Block E, as shown on the map of Charlton Heights. Which said Parcel A contains a tank and pump house and which said Parcel A is more particularly

Shown on the certain map entitled, "Map showing all of Lot 29, together with Parcel A adjoining on the north side thereof, which are to be conveyed by Charlton Development Company to Boomer Water Works, Inc.", which is attached to and made a part thereof of the Corrective Deed described below.

The above tracts of land and water works and rights of way and easements being conveyed to the Boomer Water Works, Inc. by deed of the Charlton Development Company, dated September 21, 1943 and recorded in the Fayette County Clerk's Office in Deed Book 104 at Page 346 and further by that certain Corrective Deed to the said Boomer Water Works, Inc. from The Charlton Development Company made on April 25, 1946 and recorded in said Clerk's Office in Deed Book 115 at Page 250. There is excepted and reserved from this conveyance Lot No. 29, Block E, presently in the name of James P. Lively, individually; but the said James P. Lively does herewith convey unto the said Grantee herein an easement across Lot 29, Block E, its length on the side adjoining Lot 30, Block E for that certain main water line and lateral line, which may extend from said main water line through Parcel A as described above.

II

That certain tract or parcel of land situate on the Kanawha River between the New York Central Railway and the Kanawha River itself being more particularly bounded and described as follows:

"Being at a point on the southern side of a 16 foot street along with the southern right of way line of the New York Central Railway and the Kanawha River itself being more particularly bounded and described as follows:

"Being at a point on the southern side of a 16 foot street along with the southern right of way line of the New York Central Railroad, said point being N 86° 17' W 166 feet from an iron pin at the northwest corner of Lot No. 8, Block A, and 49 feet from the center line of the New York Central Railroad; thence leaving the line of the 16 foot street, S 10° 15' W passing a stake on the top of the river bank 62.1 feet, a distance of 136.6 feet to the Kanawha River; thence, down the Kanawha River binding thereon a distance of 30 feet, more or less, to a stake; thence, leaving the Kanawha River N 10° 15' E passing a stake on the top of river bank 75.2 feet, a distance of 135.2 feet to a point 49 feet south of the center line of the New York Central Railroad; thence, with the line parallel to the right of way line of the New York Central Railroad 30 feet to the beginning, containing 0.093 acres, more or less.

And being the same property that was conveyed unto the Boomer Water Works, Inc.

said Clerk's Office in Deed Book 105 at Page 163 and subject to the reservations and exceptions contained therein.

III

All of that certain tract or parcel of land being a part of Lot NO. 5. Block I as shown on the Map of Charlton Heights, more particularly described as follows:

"Beginning at the common corner of Lot 5 and 6 in Block I and Electro Metallurgical Company property; thence S 55° 24' W 60 feet to a stake on the boundary of Electro Metallurgical Company property and Charlton Development Company land; being the point of beginning; thence, S 55° 24' W 60 feet to a stake; in said boundary line; thence at right angles, and in a southeasterly direction 60 feet to a stake; thence N 55° 24' E 60 feet to a stake; thence at right angles and in a southwesterly direction 60 feet to beginning.

And being the same property that was conveyed to the Boomer Water Works, Inc. by deed of O. E. Stephens, Kenneth H. Robbins and Secondo Dalportao, et ux, dated July 10, 1951 recorded in said Clerk's Office in Deed Book 172 at Page 388, to which deed reference is made for a more complete description of said property and subject to the reservations and exceptions contained therein.

However, the Grantee does not assume any of the obligations of that certain agreement between the above named parties and the Boomer Water Works, Inc. as described in the certain agreement and contract, dated April 24, 1951 and recorded in said Clerk's Office in Deed Book 161 at Page 535.

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of Boomer Water Works, Inc., et als, dated the 31st day of January, 1958, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 213, at Page 551.

PARCEL TWO:

Situate on the easterly side of U. S. Route 60 below the dam across the Kanawha River, at Glen Ferris, Valley (formerly Falls) District, Fayette County, West Virginia:

BEGINNING at the southwest corner of that certain building designated as Filter Station #20 on the attached drawing of Electro Metallurgical Company dated November 4, 1957, bearing drawing No. EBSF-1134, and entitled "Location Filter Station & Filtered Water Lines at Glen Ferris on Plant Property," thence running N 19° 40' W 53.25 feet; thence running N 70° 20' 22.5 feet; thence

beginning, containing .028 acre, said lot being shown in green and designated as "Filter Station #20" upon the aforesaid drawing attached hereto. Reference to said drawing is hereby made for a more particular description of the lot herein conveyed.

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of UNION CARBIDE CORPORATION DATED THE 14th day of February, 1958, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 214, at Page 51.

PARCEL THREE:

Situate at Glen Ferris, Valley (formerly Falls) District, Fayette County, West Virginia:

That certain 100,000 gallon steel water tank and the surface of the lot upon which said tank is situate, said lot being more particularly described as follows: A Circular plot having a radius of twenty (20) feet about the center of the 100,000 gallon filtered water tank at Glen Ferris located three hundred twenty (320) feet, more or less, from the center of the platform supporting Transmission Tower No. 3A, and three hundred fifty (350) feet, more or less, from a brass plug set in the concrete walk near the stairs leading to the Glen Ferris Plant Office Building, containing .029 acre.

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of UNION CARBIDE CORPORATION dated the 14th day of February, 1958, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 214, at Page 55.

PARCEL FOUR:

Situate, lying and being at Gauley Bridge, Valley (formerly Falls) District, Fayette County, West Virginia:

BEGINNING at a point N 71-30 W 569.37 from the center of a concrete tank, thence S 12 W 86.28 feet to a stake; thence N 78 W 150 feet to a stake; thence N 12 E 150 feet to a stake; thence S 78 E 150 feet to a stake, and thence S 12 W 63.72 feet to the point of beginning, containing 22,500 square feet.

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of GENE COMBS and JEAN ANN COMBS, husband and wife, dated the 24th day of September, 1960, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 232, at Page 181.

PARCEL FIVE:

Situate near the Village of Falls View in Valley (formerly Falls) District, Fayette County, West Virginia:

BEGINNING at a point on the southerly right of way line of the New York Central Railroad, said point being the intersection of the said southerly right of way line with a line from Union Carbide Property Monument No. 386 to Property Monument No. 385 and bearing S. 23° 19' W. 315.70 feet, more or less, from said Monument No. 386, thence S. 65° 25' E. 250 feet along with and binding upon said southerly right of way line of the New York Central railroad to a point; thence leaving said southerly right of way line S. 23° 19' W. to the low water line of the Kanawha River; thence in a westerly direction downstream with the said low water line of the Kanawha River to its intersection with a southerly extension of the line between Monuments 386 and 385; thence along with said extension and passing through Monument No. 385; N. 23° 19' E. to the place of beginning, containing 0.689 acres, more or less

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of UNION CARBIDE CORPORATION dated the 1st day of September, 1960, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 237, at Page 348.

PARCEL SIX:

Situate at Gauley Bridge, in Valley (formerly Falls) District, Fayette County, West Virginia, adjoining the southern right of way line of State Route No. 39, and extending back in depth to the low water mark of Gauley River, the same being more particularly bounded and described as follows, to wit:

BEGINNING at a stake in the southern right of way line of State Route 19 (now State Route No. 39), which said stake is nine (9) feet distant from the corner of Lots 10 and 11 on said road, thence with said Route N 42- 21 E 21 feet to a stake at the corner of Lots 11 and 12, and continuing with the right of way of said

of Lot 13, corner to the property line of Gauley Bridge Water Works, thence leaving said Water Works line and through Lot 13, S 52-27 E to a stake in the low water mark of Gauley River, thence down and with the low water mark of Gauley River 69 feet to a stake in same, thence leaving the river and through Lot 11, N 52-27 W to the place of beginning, and being 21 feet of Lot 11, all of Lot 12, and eighteen (18) feet of Lot 13, in Block 7, as same are shown and designated on that certain map entitled "Subdivision of the Miller Lands at Gauley Bridge, W. Va.",

Map revised as of September 28, 1945, recorded in the office of the Clerk of the County Court of Fayette County, West Virginia, in Map Book No. 6, at Page 72.

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of LESLEY MARTIN and SYLVIA SIBYL MARTIN, husband and wife, dated the 24th day of April, 1964, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 255, at Page 170.

PARCEL SEVEN:

Situate in Valley (formerly Falls) District, Fayette County, West Virginia, said right of way and easement being twenty (20) feet in width, measured ten (10) feet on each side of the centerline described as follows:

BEGINNING at a point in the easterly line of a 3.53 acre tract conveyed to C. W. Reinhart by deed dated August 4, 1950, and of record in the office of the Clerk of the County Court of Fayette County, West Virginia, in Deed Book 154, at page 588, and thence running over the lands of the party of the first part in a northeasterly direction as shown on that certain map attached hereto and to be recorded herewith prepared by Bennett-Naeve-Thomas Engineering Company, dated May 1968, last revised September 20, 1968, and entitled "MAP SHOWING KANAWHA FALLS PUBLIC SERVICE DISTRICT WATER LINE IN RELATION TO PROPERTY OF UNON CARBIDE CORPORATION NEAR GAULEY BRIDGE, VALLEY (formerly Falls) DISTRICT, FAYETTE COUNTY, WEST VIRGINIA," SAID CENTERLINE BEING DESIGNATED "Water Line" and shown in red on said map.

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of UNION CARBIDE CORPORATION dated the 1st day of June, 1968, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 281, at Page 374.

PARCEL EIGHT:

Situate in Valley (formerly Falls) District, Fayette County, West Virginia:

A 12 foot easement for the laying, burying and maintenance of a water line for KANAWHA FALLS PUBLIC SERVICE DISTRICT which said easement shall be 12 feet wide and begin at Mountain View Drive and run with the boundary of the Shumate property North of the lot of Shumate, and Part-B of 12 and thence with the boundary of Part-B North 29° 29' East 133 feet and thence North 25° 40' East 70.30 feet to the Wilburn line, said easement to be 12 feet wide and running along this border (which is the western and northern borders of said lot)

And being the same EASEMENT which was granted unto KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of Delbert Lee Strickland and Judith A. Strickland, his wife, dated the 20th day of June, 1972, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 304, at Page 609.

PARCEL NINE:

Situate in Valley District, (formerly Falls) District, Fayette County, West Virginia. at the present site of the Falls View National Guard Armory.

This easement is for a 0.155 acre tract and a 20 foot access right of way for the construction of a pipeline and for the access to said pipeline for repairs and maintenance in the future.

A more specific description of the 0.155 acres and the location of the pipeline are shown on a plat attached hereto entitled "Plat showing parcel of land and easement to be conveyed to Kanawha Falls Public Service District, by: State of West Virginia Armory Board For: Water storage tank site & access right of way" which is dated May, 1980 and prepared by Appalachian Engineers and which is made a part of this agreement.

And being the same easement which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by Agreement of the WEST VIRGINIA STATE ARMORY BOARD, a public corporation, dated the 24th day of August, 1981, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 402, at Page 213.

PARCEL TEN:

Situate in the Town of Gauley Bridge, Valley District, Fayette County, West Virginia, and being above the Gauley Bridge Baptist Church and adjoining the Gauley Riverview Addition, a map of which is on file in the Fayette County clerk's Office in Map Book 8 at Page 101, and is more particularly described as follows:

BEGINNING at 1 inch diameter aluminum pin at the northeast corner of Lot 26 of the Gauley Riverview Addition, said pin being 33.7 feet S 82° 47' W of a 3 inch iron pipe found at the intersection of two old fences and being the western corner of Lot 2, said pin being on the upper side of an old rail road; thence, S 4° 17' W 63.8 feet to an aluminum pin on the down hill side of the old road; thence, S 36° 56' W 115.0 feet to an aluminum pin in the old road; thence, N 53° 04' W 100.0 feet up the hill to an aluminum pin; thence, N 0° 09' W 76.0 feet to an aluminum pin located 7.3 feet down the hill from a locust marked with a railroad spike and red paint, said pin being the common corner with Lots 25 and 26 of the Gauley Riverview Addition; thence, N 82° 47' E 115.2 feet with said Lot 26 to the point of the beginning containing 19,165 square feet (0.44) acre) more or less and being the same parcel as shown on a map titled, "Land to Be Conveyed to Kanawha Falls Public Service District", by S. E. Thornton, Civil Engineer, dated April, 1981, attached hereto and made a part of this deed.

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of JEAN ANN COMBS WILSON a/k/a JEAN ANN COMBS and SMYTHE F. WILSON, her husband, dated the 10th day of June, 1996, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 532, at Page 267.

PARCEL ELEVEN:

Situate in the Town of Gauley Bridge, Valley District, Fayette County, West Virginia, and more particularly bounded and described as follows:

BEGINNING at a point which is a one inch diameter aluminum pin at the northeast corner of Lot 26 of the Gauley Riverview Addition, which said pin is 33.7 feet S 82° 47' W of a 3 inch iron pipe found at the intersection of two old fences and being the western corner of Lot 2, said pin being on the upper side of an old railroad and being also the northeast corner of the Kanawha Falls Public Service District 19,165 square foot lot conveyed by the Grantors herein to Kanawha Falls Public Service District and recorded in Deed Book 532 at page 267; thence S 82° 47' W 100 feet to a point still in the northern boundary line of Kanawha Falls Public Service; thence N 7° 13' E 100 feet; thence S 82° 47' E 100 feet to a point; thence S 7° 13' W 100 feet to the beginning containing 10,000 square feet, more or less.

And being the same real estate which was conveyed KANAWHA FALLS PUBLIC SERVICE DISTRICT, a public corporation established by the County Court of Fayette County, West Virginia, by deed of JEAN ANN COMBS WILSON a/k/a JEAN ANN COMBS and SMYTHE F. WILSON, her husband, dated the 12th day of August, 1997, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 543, at Page 455.

PARCEL TWELVE:

BEGINNING at the northwest corner of the 150x150 land site owned by the Kanawha Falls Public Service District behind the National Guard Armory located at Kanawha Falls; thence 524-10 W 105 feet to a point; thence N 65 – 50 W 75 Feet to a point; thence N 24 – 10 E 255 Feet to a point; thence S 65 – 50 E 225 feet to a point; thence S 24 – 10 W 150 feet to a point; thence N 65 – 50 W 150 feet to the point of beginning and containing 0.96 acres and shown upon a plat of record in the Office of the County Commission of Fayette County, West Virginia, in Deed Book 503, at Page 58.

And being the same real estate conveyed unto the Kanawha Falls Public Service District by deed dated May 1, 1993 and recorded in said Clerk's office in Deed Book 503, at page 56.

PARCEL THIRTEEN:

Description of a parcel of land containing 14,261.41 square feet located at Falls View, Valley District, Fayette County, West Virginia presently owned by Union Carbide Corporation to be conveyed to Kanawha Falls Public Service District.

BEGINNING at an iron pin located in the southwesterly right-of-way line of the Consolidated Rail Corporation, said point being located 33.00 feet in a southwesterly direction, measured at right angles, from the center line of the west bound main line track, said point also being located at the fourth (4th) corner of a parcel of land containing 2.042 acres heretofore described in that certain deed from Union Carbide Corporation to Elkem Metals Company dated June 30, 1981 and recorded in the office of the Clerk of the Fayette County Commission in Deed Book 400, at Page 250, and running thence from said beginning point leaving said railroad with the third line of said 2.042 acre parcel of Elkem reversed S. 23° 19' W. passing an iron pin at the top of the bank at 145.65 feet and continuing on in the same straight line in all a distance of 184.15 feet, more or less to a stake located at the water's edge of Kanawha River at the normal pool of London Dam at elevation 614.00, said point being the third (3rd) corner of said 2.042 acre parcel of Elkem; thence leaving said 2.042 acre parcel and running down the river with the meanders of the waters edge of Kanawha River N. 57° 30' W. a distance of 80.89 feet to a stake located at the southwesterly corner of a parcel of land containing 0.689 acre presently owned by Kanawha Falls Public Service District, (See Deed Dated May 6, 1961 and recorded in Deed Book 227, page 218)

running with the southwesterly line of said 0.689 acre parcel of Kanawha Falls Public Service District N. 23° 19' E. a distance of 173.00 feet to a stake in the southeasterly right-of-way line of Consolidated Rail Corporation, said point being located 33.00 feet in a southwesterly direction, measured at right angles, from the centerline of the west bound main line track; thence leaving said 0.689 acre parcel and running with the southwesterly right-of-way of said Consolidated Rail Corporation S. 65° 25' E. a distance of 79.88 feet to the place of beginning, containing Fourteen Thousand Two Hundred Sixty-one Square Feet and Forty-one One Hundredths of another Square Feet, (14,261.41 Square Feet), more or less, according to a map prepared by Field Engineering Company of Charleston, West Virginia from maps and other information furnished, not by a survey on the ground, said map titled, "MAP SHOWING PARCEL OF LAND LOCATED AT FALLS VIEW, VALLEY DISTRICT, FAYETE COUNTY, WV PREENTLY OWNED BY UNION CARBIDE CORPORATION TO BE CONVEYED TO KANAWHA FALLS PUBLIC SERVICE DISTRICT", on a scale of one inch equals fifty (50) feet and dated December 5, 1984.

The above described parcel of land being part of a tract of land containing nine (9) acres heretofore described in that certain deed from West Virginia Eagle Coal Company to Electro Metallurgical Company, (now Union Carbide Corporation) dated June 30, 1928 and recorded in said Clerk's office in Deed Book 66, page 374.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

FINAL TITLE OPINION

LOAN APPLICANT Kanawha Falls Public Service District	ADDRESS OR PROPERTY COVERED BY THIS OPINION See Attachment A-2	
APPLICANT FOR TITLE EXAMINATION Kanawha Falls Public Service District	COUNTY Fayette	STATE West Virginia

I. I have examined title to the property described in the security instrument described in paragraph II. B. below. My examination covered the period from the time of termination of title search covered by my Preliminary Title Opinion on Form RD 1927-9; or the time of recordation of the initial loan security instrument if this opinion covers land already owned by the loan applicant in a subsequent loan case, to February, 22, 2002, at 10:00 a.m. (including the time of filing the current security instrument).
(Date) p.m.

II. Based on said title examination, my preliminary title examination if any, and any additional information concerning the title which has come to my attention, it is my opinion that:

A. Good and marketable title, in accordance with title examination standards prevailing in the area, to said property (real estate and any water rights offered as security) is now vested in Kanawha Falls Public Service District

as N/A
(Joint tenants, tenants by the entirety, etc.)

B. The United States of America holds a valid FIRST STATUTORY lien on said property as required by Rural Development or the Farm Service Agency, or their successor (Agency), which lien was filed for record on N/A,
(Priority) (Mortgage, etc.)
_____, at _____ a.m. and is recorded in N/A (Date)
p.m. (Book, page, and office)

C. Said property and lien are subject only to encumbrances, reservations, exceptions, and defects which were approved by written administrative waivers of the Agency attached hereto or to my Preliminary Title Opinion.

III. If a water right is involved and is not covered by the current security instrument, it is subject only to the encumbrances, reservations, exceptions, and defects set forth in said administrative waivers and was made available as security in the following manner (Water stock would normally be reissued in the names of said land owners and the United States of America and delivered to the Agency Official at the time of loan closing): NONE

- IV. The term "encumbrances, reservations, exceptions, and defects" means all matters which would prevent the United States from obtaining the required lien on the property identified in paragraph I, including but not limited to (a) mortgages, deeds of trust, and vendors', mechanics', materialmen's, and all other liens, including any provisions thereof for future advances which could take priority over the said lien to the United States, (b) Federal, State, and local taxes, including county, school, improvement, water, drainage, sewer, inheritance, personal property, and income, (c) State and Federal bankruptcy, insolvency, receivership, and probate proceedings, (d) judgments and pending suits, in State and Federal courts, (e) recorded covenants; conditions; restrictions; reservations; liens; encumbrances; easements; rights-of-way; leases; mineral, oil, gas, and geothermal rights (regardless of the right of surface entry); timber rights; water rights; pending court proceedings and other matters of record which affect the title of the property or the ability of the buyer or seller to convey or accept title.
- V. This opinion is issued expressly for the benefit of the above-named applicant for title examination and the United States of America acting through the United States Department of Agriculture Agency which provided the assistance, and I assume liability to each hereunder.

February 22, 2002
(Date)


James C. Blankenship (Attorney's signature)
Attorney at Law
WV State Bar ID #368

Attachments

P.O. Box 326, Fayetteville, WV 25840
(Address, include ZIP Code)

ATTACHMENT A-2

The following is situate in Valley District, Fayette County, West Virginia:

TRACT NO. 1: **LOT 26 OF THE GAULEY RIVER VIEW ADDITION** and more particularly described upon a map of said Addition of record in the office of the Clerk of the County Commission of Fayette County, West Virginia, in Map Book 8 at Page 101.

And being the same real estate which was conveyed unto Kanawha Falls Public Service District by Deed of Jean Ann Wilson, being the same person as Jean Ann Combs and Jean Ann Conley, and Smyth Wilson, wife and husband, dated the 31st day of July, 2001, and of record in the Office of the Clerk of the County Commission of Fayette County, West Virginia, in Deed Book 579 at Page 549.

TRACT NO. 2: **BEGINNING** at a ¾" iron pipe (set) at the edge of a 15' dirt road; thence N 69-06-00 E 100.00 ft. to a ¾" iron pipe (set); thence S 20-54-00 E 75.00 ft. to a ¾" iron pipe (set); thence S 69-06-00 W 100.00' to a ¾" wire pipe set; thence N 20-54-00 W 75.00 ft. to the point of beginning, and containing 7500 sq. ft., more or less, and more particularly described upon the map entitled "Plat Showing Property to be Acquired by Kanawha Falls Public Service District from Appalachian Mining, Inc. being 7,500 sq. ft., or 0.172 acres", prepared by Ghosh Engineers, Inc., scale 1" = 100' dated February, 2002, which said map is attached to the next-mentioned Deed bearing date of the 13th day of February, 2002.

And being the same real estate which was conveyed unto Kanawha Falls Public Service District by Deed of Appalachian Mining, Inc., a West Virginia corporation, dated the 13th day of February, 2002, and to be recorded in the Office of the Clerk of the County Commission of Fayette County, West Virginia.

OPINION OF COUNSEL RELATIVE TO RIGHTS-OF-WAY

Date February 22, 2002

Dear Sir:

I have reviewed the action taken by Kanawha Falls Public Service District (hereinafter called the "Corporation") in obtaining a right-of-way for the construction, operation, and maintenance of the facilities to be installed, repaired, or enlarged with the proceeds of a loan made or insured by, and/or a grant from Rural Development to the Corporation. I have examined the right-of-way instruments, permits, or licenses obtained from landowners, public bodies, and public utilities and made such searches of the public records necessary to determine the legal sufficiency of the instruments covered by the "Right-of-way Certificate," executed by the Corporation on February 22, 2002, ~~XXXX~~. I also have examined the "Right-of-way Map" to determine whether continuous and adequate land and rights-of-way are owned or have been acquired by the instruments covered in the "Right-of-way Certificate."

Based on the foregoing examination, and to the best of my knowledge, information, and belief, I am of the opinion that:

- A. The legal instruments by which the Corporation has acquired said rights-of-way (a) are in appropriate and due legal form and adequately confer upon the Corporation the necessary rights-of-way for the construction, operation, and maintenance of its facilities in their present or proposed location, and such omissions or defects as may exist will in no substantial way or manner endanger the value or operation of the facilities, and (b) have each been properly recorded in the appropriate public land records of each County in which any of the land affected thereby is situated. Such consents, releases, or subordinations from lienholders recommended by me or required by Rural Development have been obtained.
- B. The legal instruments referred to above give unto the Corporation a continuous and adequate right-of-way to permit the construction, operation, and maintenance of the Corporation's facilities except as below noted.
- C. Exceptions: NONE

Very truly yours,


James C. Blankenship, III

Attorney for Kanawha Falls Public Service District

Certificate of Owner's Attorney.

I, the undersigned, James C. Blankenship, III, the duly authorized and acting legal representative of Kanawha Falls Public Service District, do hereby certify as follows

I have examined the attached contract(s) and performance and payment bond(s) and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements are adequate and have been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions, and provisions thereof.


James C. Blankenship, III

Date: February 22, 2002

NOTE: Delete phrase "performance and payment bonds" when not applicable.

H. Wyatt Hanna, III
ATTORNEY AT LAW

512 D STREET • P.O. BOX 8070 • SOUTH CHARLESTON, WEST VIRGINIA 25303
(304) 744-3150 • FAX (304) 744-3157

February 22, 2002

Kanawha Falls PSD
P.O. Box 448
Gauley Bridge, WV 25085

United States of America
United States Department of Agriculture
Rural Utilities Service
Beckley, WV

Jackson & Kelly PLLC
Charleston, WV

RE: Kanawha Falls Public Service District
Water Revenue Bonds, Series 2002 A
(United States Department of Agriculture)

Ladies and Gentleman:

I am Special Counsel to Kanawha Falls Public Service District (the "Issuer") in connection with certain matters before the Public Service Commission of West Virginia (the "PSC"). As such Counsel, I am of the opinion that:

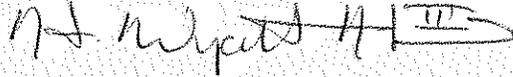
1. The Issuer has received the PSC Order entered on June 26, 2001, in Case No. 01-0238-PWD-CN, granting to the Issuer a Certificate of public Convenience and Necessity for the Project and approving the rates for the System and the financing for the Project. The time for appeal of such Order has expired prior to the date hereof without any appeal having been filed.

2. The Issuer has duly published the required notice with respect to, among other things, the amount of the above captioned Bonds (the "Bonds") to be issued, the interest rate and terms of the Bonds, the Project to be designed, acquired or constructed and the cost of the Project, the anticipated user rates and charges and the date that a formal application for a Certificate of public Convenience and Necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended, and has duly complied with the provisions thereof.

Page 2
February 22, 2002

All Counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

A handwritten signature in cursive script, appearing to read "H. Wyatt Hanna, III". The signature is written in dark ink and is positioned above the printed name.

H. Wyatt Hanna, III

HWHIII/rb