

MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS,
SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CLOSING DATE: MARCH 16, 2001

2.5	Minutes of Board Meeting regarding Adoption of USDA Loan Resolution.	11
2.6	Bond Resolution.	12
2.7	Supplemental Resolution.	13
2.8	Minutes of Board Meeting regarding Adoption of Bond Resolution and Supplemental Resolution.	14
2.9	Affidavits of Publication regarding Notice of Borrowing and Notice of Meeting to Adopt Bond Resolution and Supplemental Resolution.	15
2.10	Specimen Bond.	16
2.11	Bond Register.	17
2.12	USDA Consent to Issuance of Parity Bonds.	18
2.13	WDA Consent to Issuance of Parity Bonds.	19

III. Certificates, Receipts and Other Documents

3.1	General Certificate.	20
3.2	Certificate of Secretary as to Truth and Accuracy of Documents Delivered.	21
3.3	Certificate of Consulting Engineer.	22
3.4	Certificate of Accountant.	23
3.5	Certificate of No Litigation.	24
3.6	Receipt for Bonds.	25
3.7	Receipt for Bond Proceeds.	26
3.8	Acceptance of Appointment As Depository Bank.	27

3.9	Appalachian Regional Commission Grant Agreement.	28
3.10	Financing Statement and Certificate of Filing.	29
3.11	Municipal Bond Commission New Issue Report Form	30

IV. Opinions

4.1	Opinion of Jackson & Kelly PLLC, Bond Counsel.	31
4.2	Opinion of Counsel to Issuer.	32
4.3	Final Title Opinion.	33

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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, AND CHAPTER 16, ARTICLE 13A OF THE 2000 CUMULATIVE SUPPLEMENT TO 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*

February 21, 2001


Secretary of State
By: Mary Jo Standring, Director of

§ 16-13-24

PUBLIC HEALTH

compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article. (1955, c. 135; 1967, c. 105; 1994, c. 61.)

Applied in *City of Morgantown v. Town of Star City*, 136 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.

- 16-13A-1. Legislative findings.
- 16-13A-1a. Jurisdiction of the public service commission.
- 16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
- 16-13A-1c. 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.
- 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
- 16-13A-3a. Removal of members of public service board.
- 16-13A-4. Board chairman; members' compensation; procedure; district name.
- 16-13A-5. General manager of board.
- 16-13A-6. Employees of board.
- 16-13A-7. Acquisition and operation of district properties.
- 16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
- 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
- 16-13A-9a. Limitations with respect to foreclosure.
- 16-13A-10. Budget.
- 16-13A-11. Accounts; audit.
- 16-13A-12. Disbursement of district funds.
- 16-13A-13. Revenue bonds.
- 16-13A-14. Items included in cost of properties.
- 16-13A-15. Bonds may be secured by trust indenture.
- 16-13A-16. Sinking fund for revenue bonds.
- 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.
- 16-13A-18. Operating contracts.
- 16-13A-18a. Sale, lease or rental of water, sewer or gas system by district; distribution of proceeds.
- 16-13A-19. Statutory mortgages; lien created; foreclosure thereof.
- 16-13A-20. Refunding revenue bonds.
- 16-13A-21. Complete authority of article; liberality.

PUBLIC SERVICE DISTRICTS

§ 16-13A-1

- Sec. 16-13A-23. Validation of acts and proceedings of public service boards.
- 16-13A-24. Acceptance of loans, grants or temporary advances.
- 16-13A-25. Borrowing and bond issuance procedure.

Sec. 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.

Editor's notes.—Acts 1989, 1st Ex. Sess., c. 3, redesignated the board of health and the department of health as the division of health, within the department of health and human resources. See also Acts 1997, c. 225.

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

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 v. Michiel.

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 § 2-1-3-6 for support of the public service commission. 50 Op. Atty. Gen. 447 (1963).

Cited in *Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am.*, 132 W. Va. 252, 162 S.E.2d 189 (1968); *State v. Neary*, 179 W. Va. 115, 365 S.E.2d 385 (1987); *McClung Invs., Inc. v. Green Valley Community Pub. Serv. Dist.*, 465 S.E.2d 434 (W. Va. 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

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.)

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. Atty Gen.*, June 27, 1973.

Public service district. — 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. *Chaynon Pub. Serv. Dist. v. Tasa*

Cowl 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. Atty 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

§ 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, 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 and 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, 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 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, which passed March 8, 1986, and became effective ninety days from passage.

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.

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.)

Effect of amendment of 1997. — The amendment, in the third and fourth paragraphs, added "except in cases of merger or consolidation where the number of board members may equal five," at the end, in the fourth paragraph, inserted "and residing within the state of West Virginia" following "who are persons residing within the district"; in the fifth paragraph, inserted "except in the cases of merger or consolidation where the number of board members may equal five" in the middle of the paragraph; in the seventh paragraph, added the third sentence; in the ninth paragraph, added the third and fourth sentences; and made stylistic changes.

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

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. Atty Gen. 131 (1961).

Furnishing water to another state. — A public service district may furnish water whole-sale in bulk quantities to a municipal corporation in another state. 51 Op. Atty Gen. 739 (1966). 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.

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be 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. Salaries of each of its board members shall be as follows: For districts with fewer than six hundred customers, each board member may receive 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; for districts with six hundred customers or more but fewer than two thousand customers, each board member may receive 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; for districts with two thousand customers or more, each board member may receive 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 for districts with four thousand or more customers, each board member may receive 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. 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. 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 by said section. A majority of the members constituting the board also constitute a quorum to do business. 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 such change shall be effective from and after filing 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.)

Effect of amendment of 1997. ... The amendment rewrote the second sentence in the fourth sentence, deleted "and regulations" following "as provided for by the rules"; in the seventh sentence, substituted "as provided by" for "as provided by section three, article nine-a, chapter six of this code"; added "and with the public service commission" at the end of the tenth sentence; and made stylistic changes.

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. Atty 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.)

Effect of amendment of 1997. — The "more than five thousand dollars"; and in the amendment, in the second sentence, substituted "more than fifteen thousand dollars" for sixth sentence, made a stylistic change.

§ 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 town 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).

Cited in 45 Op. Atty. 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 § 22-11-31, 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 (1986).

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 to require potential users who live out-

side the boundaries of the districts, but within the 10-mile limit, to hook onto the district's sewer facilities. *Op. Atty 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-19l 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 (Michiel).

§ 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 resolution 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 and 85.

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

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

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

§ 16-13A-18. Operating contracts.

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

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

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

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer 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.)

Effect of amendment of 1997. — The "all" preceding "the members of the public service commission" in the first paragraph, substituted "vice board"; and reworded the provision "a majority of not less than sixty percent of" for

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

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

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

In general. — The provision granting bond-

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

§ 16-13A-20. Refunding revenue bonds.

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

In general. — The only purpose for refunding bonds is the retirement or refinancing of outstanding bond issues of a particular district.

Previous issuance of bonds. — This section is clearly written in language which speaks only of refunding bonds issued by any district

Combination of bond issues. — Combination of two outstanding bond issues into one which has previously issued bonds. Op. Atty. refunding bond issue may well be restricted by Gen., July 8, 1976.

the use of the singular language in this section. Op. Atty. Gen., July 8, 1976.

§ 16-13A-21. Complete authority of article; liberal construction; district to be public instrumental-ity; 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 X, § 1, State ex rel. McMillion v. Stahl, 141 W. granted to the property, income, and bonds of Va. 233, 89 S.E.2d 693 (1955). the district does not violate W. Va. Const., art.

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 [January 29, 1960], 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 to include (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. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

§ 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 [March 13, 1965], 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 con-

tained shall be construed to excuse a criminal act. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

Editor's notes. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

§ 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 note, is permissible borrowing under this section by public service districts of money from counties and/or municipalities, as evidenced by a

§ 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 profile 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. (1989, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213; 1997, c. 159.)

Gross references. — Class II legal advertisement "Thirty days" for "Sixty days" and inserted "public service" preceding the second occurrence of "district"; inserted "public service" in (d); and made stylistic changes.

Effect of amendment of 1997. — The amendment inserted the second and third sentences of the first paragraph.

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.

- 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.
- 16-13B-13. Assessment against property of public, charitable, elementary, educational or religious institutions; duty of those in charge to cause assessments to be paid.
- 16-13B-14. Method of paying for cost of project; how assessments may be evinced.
- 16-13B-15. Assessment certificates; assignments; designation of registrar for assessment certificates.
- 16-13B-16. No liability of state, county, municipality and assessment district.
- 16-13B-17. Payment of assessment fees; leases.
- 16-13B-18. Liens; recording notice of liens; suit for enforcement; priority.
- 16-13B-19. Reassessment for void, irregular or omitted assessments.
- 16-13B-20. How additional territory may be added to assessment district.
- 16-13B-21. Operation and maintenance of wastewater and water projects; rates and charges therefor.
- 16-13B-22. Liberal construction.

§ 16-13B-1. Short title.

This article shall be known and may be cited as the "West Virginia Community Improvement Act." (1992, c. 150.)

§ 16-13B-2. Definitions.

For purposes of this article:

(a) "Assessment certificate" means a certificate issued by a board pursuant to section fifteen [§ 16-13B-15] of this article to evidence an assessment levied

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ANNOTATED**

VOLUME 5A

1998 Replacement Volume

2000 SUPPLEMENT

*Including Acts passed during the
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ARTICLE 13A.

**PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE
AND GAS SERVICES.**

Sec.

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

§ 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.

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).

§ 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.

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

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).

ARTICLE 13C.

DRINKING WATER TREATMENT REVOLVING FUND ACT.

Sec.
16-13C-1. Definitions.
16-13C-3. Drinking water treatment revolv-

ing fund; duties of division of health and water development authority; set-aside accounts.

§ 16-13C-1. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

- (1) "Authority" means the water development authority provided for in section four [§ 22C-1-4], article one, chapter twenty-two-c of this code.
- (2) "Capacity development" means the technical, managerial and financial capability of a public water system.
- (3) "Cost" means the cost of all labor, materials, machinery, equipment, lands, property, rights and easements, plans and specifications and all other expenses necessary or incident to the acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part of a project.
- (4) "Disadvantaged community" means the service area of a public water system that meets affordability criteria established after public review and comment by the state.
- (5) "Federal safe drinking water act" means the federal statute commonly known as the "Safe Drinking Water Act", 42 U.S.C. 300f et seq., as enacted, amended, and as may be subsequently amended.
- (6) "Fund" means the West Virginia drinking water treatment revolving fund created in this article.

ORDERS—Mason County Court, W. Va.

TERMS

May 20

19 74

CASO & HARRIS INC., SPENCER, W. VA. RE-ORDER NO. 50915-C

REVENUE SHARING FUND

No. 56	Smeltzer Nursery & Stone Yart	707.54
No. 57	Carolina Lumber & Supply Co.	214.45
No. 58	Zide's Sprot Shop	8.01
No. 59	Mason Aggregates, Inc.	509.76
No. 60	Carolina Lumber & Supply Co.	941.04
No. 61	Billy Daniel	464.40

This being the day, date and hour set for a public hearing regarding the creation of a public service district in Mason County, the following persons, all interested citizens of the county, appeared: John A. Hussell, Emma Boswell, Mrs. John A. Hussell, Mrs. Robert Boles, Mrs. Jack Jeffers, Mr. Robert Boles, Mr. and Mrs. R. O. Blain, Mr. Michael Whalen, Mrs. Clayton R. Hesson, Mrs. Clarence Hesson and Mr. George Crump. Also appearing were Mr. Michael Shaw, attorney, and Mr. Griffin Boggess, Farmers Home Administration. Mr. Shaw explained the procedure for creating a public service district which was followed by a period of comments and questions.

Mr. Jack Burdett, Carl Cook, Lida Garland and Vicki Keefer appeared before the Court and reported progress in obtaining a one-room schoolhouse for display, in connection with the Bi-Centennial Celebration.

Mr. Ray Hayes appeared before the Court and stated that he had accepted a job at \$500.00 per month with the Court at a previous meeting but had received no compensation as such and voiced his complaint regarding same.

It was moved by Mr. William Rardin, seconded by Mr. Adkins and passed by unanimous vote that two more basketball goals be purchased for recreational purposes.

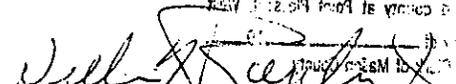
The mowing of grass at the airport was discussed. It was moved by Mr. William Rardin that Straud McDermitt be hired to mow the airport grounds, seconded by Mr. Adkins, and passed by unanimous vote.

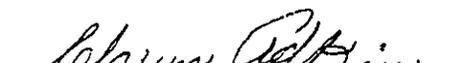
The statement of the account of Pantasote Plant Funds was presented before the Court, examined and ordered filed for the period ending April 30, 1974.

The proposal of H. D. Wallace to repair the iron fence at Mason County Memorial Park in the total amount of \$307.00 was presented and approved.

No further business claiming the attention of this Court, it is ordered said Court shall stand adjourned until Tuesday, May 28th at 2:00 p.m.

CLERK OF COURT
MASON COUNTY CLERK'S OFFICE
COURT HOUSE
MASON COUNTY, WEST VIRGINIA


William H. Rardin, Clerk


Clarence Adkins, President Pro. Tem.

ORDERS—Mason County Court, W. Va.

TERMS May 28 19 74

CASTO & HARRIS INC., SPENCER, W. VA. RE-ORDER NC 30015-C

No. 22699	Oxford Chemicals	249.35
No. 22700	Sixty-Two Auto Sales	34.95
No. 22701	Weintrob Bros.	86.00
No. 22702	Geo. D. Barnard Co.	22.03
No. 22703	Pt. Pleasant Hardware	1.58
No. 22704	So. States Pt. Pleasant Coop.	2.00
No. 22705	Cleaning Supplies Co.	25.25
No. 22706	Mason Co. Insurance Agency	455.00
No. 22707	H. D. Wallace	307.00
No. 22708	Morgan's Inc.	39.48
No. 22709	Smith Plumbing & Heating	2.15
No. 22710	Hutchison Sanitary Supply	289.74
No. 22711	Casto & Harris Inc.	1376.12

REVENUE SHARING FUND

No. 63	B & Q Machine & Repair Inc.	360.32
No. 64	The Pine Log Co.	100.00

The following estates, settlements, etc., were presented and approved:

Virginia L. Dotson Barrett - Executrix of the estate of William Amos Dotson, dec'd. Appointment.
 Mervin Chapman - Administrator of the estate of Esther Marie Chapman, dec'd. Appointment.
 Donna H. Lucas - Executrix of the estate of James E. Lucas, Sr., dec'd. Appointment.
 Rev. Marvin Goodin - Minister to perform marriage ceremony in State of West Virginia.
 Hobart Dewees - Administrator for the estate of Mary Emma Dewees, dec'd. Appointment.
 Dollie Delva Sturgeon - Executrix of the estate of John W. Sturgeon, dec'd. Appointment.
 Millard L. Downing - Minister to perform marriage ceremony in State of West Virginia.

The Clerk of the Court reported to the Court that receipts in the amount of \$179.22 were turned in at the Sheriff's Office for the week ending May 28, 1974 and the amount of \$62.00 for deposit to the Sheep and Dog Fund.

The following letter was received:

May 28, 1974

Mr. William Rardin, Jr.
 %Mason County Court
 Point Pleasant, W. Va. 25550

Dear Mr. Rardin:

Due to my Church activities I regret to say that I cannot stay on as a member of the Mason County Building Commission.

I appreciate being elected to the Commission, but find that I could not do my best with my other involvements in Church life, so please accept my resignation.

I shall always be concerned with the betterment of Point Pleasant and Mason County.

Sincerely,

/s/ Tally Hanna

Whereupon, it was duly moved by William Rardin, seconded by Clarence Adkins and passed by unanimous vote that Mr. Hanna's resignation be accepted and that David Eisel be named to fill the vacancy created by said resignation.

The applications of Judith Ann Derenberger and Louise W. Ferrell for notary public in the County of Mason were approved and ordered certified to the Governor of State of W. Va.

The Sheriff's monthly financial statement for the month ending April 30, 1974 was presented, examined and ordered filed.

It was duly moved by Mr. William Rardin, seconded by Clarence Adkins and passed by

ORDERS—Mason County Court, W. Va.

TERMS _____ May 28 _____ 19 74 _____

CASIO & HARRIS INC., SPENCER, W. VA. RE-DROER NO 50013-C

unanimous vote that the following order be entered:

Pursuant to Notice duly served by publication and posting, there came on for hearing before the Court, on Monday, May 20, 1974, at 2 o'clock P.M., the subject of the creation of a public service district in Mason County, West Virginia.

After consideration of all the comments by interested citizens present, a review of the relevant law, and an awareness of the need for extended and improved public service properties, the court doth find and determine that the construction or acquisition by purchase or otherwise, and maintenance, operation, improvement and extension of public service properties by a public service district will be conducive to the preservation of public health, comfort and convenience of said area.

It is, therefore, ordered that there is hereby created a public service district; the name of said public service district shall be the Mason County Public Service District; the territory of which is to be all of Mason County, West Virginia; provided, however, no city, incorporated town, other municipal corporation, or any geographic area presently served by a non-profit corporation, shall be included within the bounds of such district, except upon the adoption of a resolution of the governing body of such city, incorporated town, other municipal corporation, or other non-profit corporation consenting thereto.

It is further ordered that the following three persons, all of whom reside within such district, are appointed as members of the public service district board for terms as set out herein:

1. Richard Ord, for a term of 2 years
2. James Lewis, for a term of 4 years
3. Vitus Hartley, Jr., for a term of 6 years

It is further ordered that each member shall hold his office until a successor is duly appointed and qualified.

It is further ordered that said Board shall promptly organize and enter upon its duties pursuant to Chapter 16, Article 13A, Section 3, and succeeding sections of the Code of West Virginia.

Dated this the 28 day of May, 1974

ENTER: /s/ B. T. Robertson
President

The following letter was received:

Dear Mr. Rardin:

In response to your request for financial aid we are pleased to inform you that the Secretary of Transportation has allocated the sum of \$90,000.00, under the terms of the Airport and Airway Development Act of 1970, to install obstruction lighting on Kyger Creek power plant stacks for the Mason County Airport, Point Pleasant West Virginia.

It is essential that you proceed with due diligence toward meeting the requirements for project approval and a Grant Offer. Your representative will be contacted by our Beckley Airports Field Office in the near future to establish a mutually acceptable schedule in order that a Grant Agreement may be executed as expeditiously as possible.

Sincerely,

/s/ For ROBERT H. STANTON
Director

It was duly moved by William Rardin, seconded by Basil Robertson, and passed by unanimous vote that advertisements be run for the erection of a firehouse building, museum building and the moving of a one-room schoolhouse bids.

This day appeared Ray Hayes and presented a bill dated May 2, 1974 for time for last half of April in the amount of \$250.00.

ORDERS—Mason County Commission, W. Va.

TERMS _____

AUG 17 1998

19 _____

263

CASO & HARRIS INC., SPENCER, W. VA. RE-ORDER NO. 94727-90

THE COUNTY COMMISSION OF MASON COUNTY met in Special Session in the Courthouse thereof on Monday, August 17, 1998 at 4:00 p.m. to appoint members to the Public Service District. Present were Phyllis A. Arthur, President; Rick J. Northup and Rick Handley, Commissioners and John D. Gerlach, County Administrator.

Before appointing new members to the PSD, President Arthur introduced and congratulated the 1998 Fair Queen, Aimee Stover, first runner up, Kristen Keefer and second runner up, Kara Walbrown.

Matthew Clark, Attorney, appeared on behalf of Vitus Hartley, PSD Board Member. Mr. Clark addressed the Commission concerning Mr. Hartley's residential status and his desire to continue serving on the board.

The Commission stated that based on the Prosecuting Attorney's interpretation of the law, they had no other choice but to appoint new Board Members to the PSD that lived in the same service district.

Upon motion by Northup and unanimous agreement, the following members and terms were approved:

Charles "Chuck" Lanier	2 year term
William "Bill" Hughes	4 year term
Dorsel Keefer	6 year term

The Commission also instructed Administrator Gerlach to write a letter of appreciation to each of the outgoing board members for their outstanding service to Mason County.

STATE OF WEST VIRGINIA, MASON COUNTY CLERK'S OFFICE
I, Diana N. Cromley, Clerk of the County Commission do hereby certify that this foregoing is a true and correct copy and transcript from the record of my office. Given under my hand and seal of the said county at Point Pleasant, West Virginia, This the 22nd day of July, 1999
Diana N. Cromley, County Clerk of Mason County
By Meagan H. Lambert Deputy

3

RICK NORTHUP, President
POINT PLEASANT, WV



PHYLLIS A. ARTHUR, Commissioner
NEW HAVEN, WV

DIANA N. CROMLEY, Clerk
POINT PLEASANT, WV

RICK HANDLEY, Commissioner
POINT PLEASANT, WV

THE COUNTY COMMISSION OF MASON COUNTY
COURTHOUSE - 200 SIXTH STREET
POINT PLEASANT, WEST VIRGINIA 25550

PHONE (304) 675-1110
FAX (304) 675-4982

September 5, 2000

Randy Grinstead, Manager
Mason County Public Service District
101 Camden Avenue
Point Pleasant, WV 25550

Dear Mr. Grinstead:

While meeting in regular session Thursday evening August 18, 2000 the Mason County Commission unanimously agreed to reappoint Chuck Lanier to the Mason County Public Service District Board.

If you need any further information, please feel free to contact me.

Very truly yours

A handwritten signature in black ink that reads "John D. Gerlach".

John D. Gerlach
Administrator
Mason County Commission

JDG:kj

State of West Virginia, County of Mason, to-wit

I, DORSAL KEEFER, 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 A MEMBER OF THE MASON COUNTY PUBLIC SERVICE DISTRICT

in Mason County, West Virginia, for the term of said office commencing on 17TH day of AUGUST, 19 98, to the best of my skill and Judgment. So

Recorded Book/Page Mason County Clerk Date/Time Recorded: 09/02/1998 08:34:31:3K INST #: 50574 Type: OATHS Clerk of the County Commission Total Recd/Due: .00

Dorsal Keefer

Subscribed and sworn to before the undersigned this 2ND day of SEPTEMBER, 19 98

Diana N. Cromley Clerk of the County Commission

31/617

State of West Virginia, County of Mason, to-wit

I, WILLIAM "BILL" HUGHES, 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 A MEMBER OF THE MASON COUNTY PUBLIC SERVICE DISTRICT

in Mason County, West Virginia, for the term of said office commencing on 17TH day of AUGUST, 19 98, to the best of my skill and Judgment. So

Recorded Book/Page Mason County Clerk Date/Time Recorded: 09/02/1998 08:35:25:1 INST #: 50575 Type: OATHS Clerk of the County Commission Total Recd/Due: .00

William Hughes

Subscribed and sworn to before the undersigned this 2ND day of SEPTEMBER, 19 98

Diana N. Cromley Clerk of the County Commission

STATE OF WEST VIRGINIA, MASON COUNTY CLERK'S OFFICE I, Diana N. Cromley, Clerk of the County Commission do hereby certify that this foregoing is a true and correct copy and transcript from the record of my office. Given under my hand and seal of the said county at Point Pleasant, West Virginia, This the 2nd day of September, 1999 Diana N. Cromley, County Clerk of Mason County By Meghan H. Soule Deputy

4

State of West Virginia, County of Mason, to-wit

I, MARY L. SMITH, 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 SECRETARY OF THE MASON COUNTY PUBLIC SERVICE DISTRICT BOARD OF DIRECTORS

in Mason County, West Virginia, for the term of said office commencing on 18TH day of JANUARY, 2001, to the best of my skill and Judgment. So help me God.

Mary L. Smith

Subscribed and sworn to before the undersigned this 20TH day of FEBRUARY, 2001

Clara A. Crowley
Clerk of the County Commission

RECORDED BOOK/PAGE MASON COUNTY CLERK DATE/TIME RECORDED: 02/20/2001 15:06:07:14 INST # 66977 TYPE: OATHS

State of West Virginia, County of Mason, to-wit

I, CHARLES R. LANIER, 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 MASON COUNTY PUBLIC SERVICE DISTRICT

in Mason County, West Virginia, for the term of said office commencing on the 17TH day of AUGUST, 2000, to the best of my skill and Judgment. So help me God.

Charles R. Lanier

Subscribed and sworn to before the undersigned this 20TH day of FEBRUARY, 2001

Clara A. Crowley
Clerk of the County Commission

RULES OF PROCEDURE

MASON COUNTY PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

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

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

Section 3. The official seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Mason County 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 July in each year and shall end on June 30 of the following 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 Mason 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 Division 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 Mason 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:

News Media

Address

Point Pleasant Register

200 Main Street
Point Pleasant, WV 25550

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 Mason 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.

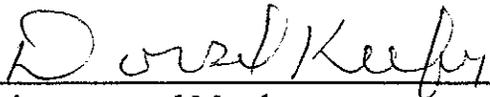
Section 6. The members and officers of the Board shall make available to the County Commission, at all times, all of its books and records pertaining to the District's operation, finances and affairs, for inspection and audit.

ARTICLE VII

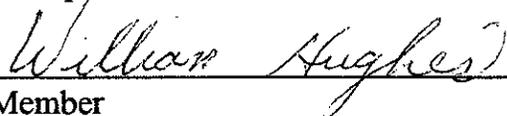
AMENDMENTS TO RULES OF PROCEDURE

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.

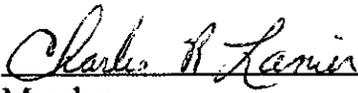
Adopted this 15th day of June, 2000.



Chairperson and Member



Member



Member

CERTIFICATION

Certified a true copy of the Rules of Procedure duly adopted by the Board of Mason County Public Service District on June 15, 2000.

Dated this 28th day of June, 2000.

[SEAL]

May L. Smith
Secretary

06/05/00
100424/00305

M I N U T E S

MASON COUNTY PUBLIC SERVICE DISTRICT

January 18, 2001

The meeting on January 18, 2001 was called to order by Mr. Keefer. Attending, in addition to Mr. Keefer, were William Hughes, Charles Lanier, Randy Grinstead, David Nibert and Mary Smith. Keith Biggs was also present.

As prescribed in our By-laws, reorganization of the Board of Directors was the first item of business in the January meeting. Mr. Hughes made a motion to retain the present officers, as follows:

Chairman - Dorsel Keefer
 Treasurer - Charles Lanier
 Secretary - Mary Smith

Mr. Lanier seconded the motion.

Mr. Keefer made a motion, seconded by Mr. Hughes, to approve the expenditures for January, to date, on the general accounts.

Mr. Keefer inquired about the Robertsburg project. Mr. Grinstead replied that the lines have been filled to the bowling alley and that we will start filling the water tank soon.

The bid opening is February 1 for the Jeffers Ridge Water Project. Bids for the No. 4 well at Letart came in higher than anticipated. There is a possibility that we may receive permission to use the remainder of the Robertsburg monies to cover the cost of this well.

Mr. Keefer asked for and received an update on the other water projects.

Requisition No. 6 for the Lakin Treatment Plant was presented for approval. Mr. Lanier made a motion to approve the requisition for \$127,324.22. Mr. Hughes seconded.

The Lakin-Letart Engineering Agreement was not received, so this item was tabled until a future meeting. Mr. Grinstead reported that he needs to review the numbers in the Wadsworth Avenue Engineering Agreement further and requested a delay on this item as well.

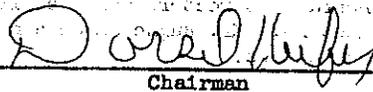
Mr. Biggs was recognized. He presented individual packets containing facts and figures on an all-gravity sewer line on Route 62 to each Board member. In addition, he asked the Board to approve the gravity system in this meeting. Mr. Grinstead recommended that this issue be tabled until receipt of the Mason County Development Authority and Commission's written recommendations.

The next item was a personnel matter, and Mr. Lanier made a motion to enter into executive session at 7:00. It was seconded by Mr. Hughes. The subject of this session was compensation for a District employee. After the discussion, Mr. Lanier made a motion to go back into regular session at 7:15. Mr. Hughes seconded.

Mr. Lanier then made a motion that the employee receive the discussed increase, effective January 1, 2001.

This being all of the business to be covered, Mr. Keefer adjourned the meeting.

Respectfully submitted,


Chairman


Secretary

000622alj101900.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: October 19, 2000

FINAL

11-8-00

CASE NO. 00-0622-PWD-CN

MASON COUNTY PUBLIC SERVICE DISTRICT,
a public utility.

Application for a certificate of convenience and necessity
for construction, operation and maintenance of extensions
to its water distribution system in Mason County.

RECOMMENDED DECISION

On July 17, 2000, the Mason County Public Service District (District), by its general manager, Randy Grinstead, filed with the Public Service Commission, pursuant to W.Va. Code § 24-2-11, a duly verified application for a certificate of convenience and necessity for the construction, operation and maintenance of extensions to its water distribution system in an area known as Jeffers Ridge in Mason County. The application stated the following: The project will consist of the construction of a water booster station, a 158,000 gallon water storage tank, a pressure reducing station, and approximately fifteen miles of 2" through 10" water lines to serve an additional ninety-eight customers. The District estimates the total cost of this project not to exceed \$875,000. Included in the attachments were commitment letters for financing the project by a \$500,000.00 grant from the Appalachian Regional Commission and a \$375,000 loan from the USDA-Rural Development Program. The application stated that the District does not anticipate any increase in rates.

On July 18, 2000, the Commission directed the District to publish a Notice of Filing, which provided that, if no protest was filed within thirty days after the date of publication, the Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application.

On July 24, 2000, the Commission, by Order, referred this matter to the Division of Administrative Law Judges (ALJ Division) for decision on or before February 13, 2001.

On August 18, 2000, the undersigned ALJ issued a Procedural Order requiring the District to file an affidavit of publication of the Notice of Filing no later than August 25, 2000, and Commission Staff to file its final recommendation no later than October 16, 2000.

On August 21, 2000, Staff Attorney Cecelia Jarrell filed an Initial Memorandum, with attached memorandum from Ralph Clark, Engineer I, P.E., Engineering Division; James Weimer, Engineer I, P.E., Engineering Division; and Max Ellis, Utilities Analyst, Utilities Division, stating, "The proposed system is needed to provide a safe and dependable supply of water to the proposed customers and to remove the public health hazard resulting from the use of unsafe and inadequate wells." Staff was reviewing this matter.

On August 23, 2000, the District filed an affidavit establishing publication of the Notice of Filing on August 4 and 11, 2000, in the Point Pleasant Register, published in Mason County.

On October 11, 2000, Ms. Jarrell filed a Final Joint Staff Memorandum, with attached memorandum from Messrs. Clark, Weimer, and Ellis, recommending that the certificate be granted and the funding be approved.

FINDINGS OF FACT

1. On July 17, 2000, the Mason County Public Service District filed with the Public Service Commission an application for a certificate of convenience and necessity for the construction, operation and maintenance of extensions to its water distribution system in an area known as Jeffers Ridge in Mason County. No rate increase was requested. (See application).
2. The project will consist of the construction of a water booster station, a 158,000 gallon water storage tank, a pressure reducing station, and approximately fifteen miles of 2" through 10" water lines to serve an additional ninety-eight customers. (See application; Final Joint Staff Memorandum filed October 11, 2000).
3. The total project cost is estimated at \$875,000, including construction costs of \$668,000. The project is a self help undertaking with the residents to be served acting as project labor. (See application; Final Joint Staff Memorandum).
4. The project will be financed by a \$500,000.00 grant from the Appalachian Regional Commission and a \$375,000 loan, at 4.5% interest for a 40-year term, from the USDA-Rural Development Program. (See attachment to application, Final Joint Staff Memorandum).
5. Commission Staff opined that the installed cost per customer, \$8750, is high but not unacceptable. The customer density is low, at 6.75 per line mile. Staff was of the view that the plans

and specifications for the project are consistent with the Commission's rules and regulations. (See Final Joint Staff Memorandum).

6. The State of West Virginia Office of Environmental Health Services approved the project by issuance of Permit No. 14,368. (See Final Joint Staff Memorandum).

7. It was Staff's view that the project is needed and recommended that the application be granted and the project and funding be approved. (See Initial Joint Staff Memorandum filed August 21, 2000).

8. The Notice of Filing was published on August 4 and 11, 2000, in the Point Pleasant Register, published in Mason County, and no protest was filed. (See affidavit of publication filed August 23, 2000; 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 and its funding, because the public convenience and necessity require the project; the funding is appropriate; no protest has been filed; and Commission Staff has recommended such approval.

ORDER

IT IS, THEREFORE, ORDERED that the application filed on July 17, 2000, by Mason County Public Service District for a certificate of convenience and necessity to construct operate and maintain an extension in an area known as Jeffers Ridge in Mason County be granted and the project be approved.

IT IS FURTHER ORDERED that the funding for the project, consisting of a \$500,000 grant from the Appalachian Regional Commission and a \$375,000 loan, at 4.5% interest for a 40-year term, from the USDA-Rural Development Program, be approved.

IT IS FURTHER ORDERED that, if there is any change in the cost of the project, estimated at \$875,000, or in the terms, conditions or scheduling of the project, Mason County Public Service District file a petition with the Commission for approval of such revisions.

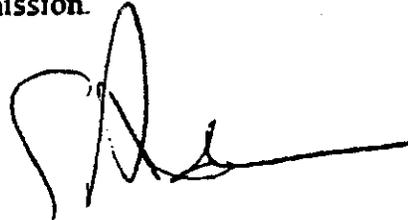
IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

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
000622aa.wpd



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

July 23, 1998

Vitus Hartley, Jr., Chairman
Mason County Public Service District
101 Camden Avenue
Point Pleasant, WV 25550

Dear Mr. Hartley:

This letter, with Attachments 1 through 12 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 \$375,000 and other funding in the amount of \$500,000, for a total project cost of \$875,000. 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
(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 - Water Users Agreement (Applicant and Attorney Copies)
- Attachment No. 10 - Declination Statement (Applicant and Attorney Copies)
- Attachment No. 11 - Labor Standards Provisions
- Attachment No. 12 - 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 4.5% interest rate and a monthly amortization factor of 0.00459, which provides for a monthly payment of \$1,722.00. 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 equal priority with the PSD's 1981, 1987, 1997A and 1997B Water Revenue Bonds, 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 RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.

3. Users - This conditional commitment is based upon you having obtained proper signed user agreements with at least 86 bona fide full time users located within the planned service area. You must provide evidence you have not signed user agreements from individuals located outside the planned service area.

The enclosed Water Users Agreement will be used. Each user signing an agreement must make a users contribution of \$100.00. Each potential user who is located along planned lines and declines the offered service will be provided an opportunity to sign a "Service Declination Statement." A guide "Service Declination Statement" is attached for your use. If a potential user refuses to sign either a users agreement or a declination statement, the individual making the contact for the PSD should complete the declination statement for that potential user and note thereon his/her visit with the potential user, the potential user's refusal to sign, and the reason therefore. The declination statement should also be dated and signed by the individual making contact.

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 that all potential users have been offered the proposed service.

Information and material evidencing compliance with this requirement must consist of (1) signed users agreements, (2) signed or completed Service Declination Statements, (3) records of user contributions being paid, (4) a map locating each potential users property and identifying it by a number, (5) a list of all signed bona fide users numbered so as to be a cross-reference with the map, and (6) a list of all declination statements numbered so as to be a cross-reference with the map.

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, either 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. Form RD 1942-19 is 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.

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:
- West Virginia Department of Highways
 - Railroads
 - State Department of Health
 - Department of Environmental Protection
 - Corps of Engineers
 - Public Land Corporation
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, or other agreement approved by RUS. One copy of this item is attached hereto (Attachment No. 6).
 - (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. 11). 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"

RUS Bulletin 1780-12 - "Water or Waste System Grant Agreement"

RUS Bulletin 1780-27 - "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"

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.

Attached is a copy of RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," for your review. You will be required to execute a completed form at the time of grant closing.

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

Accountant

Attorney

Bond Counsel ✓

Cerrone and Associates, Inc.
Wheeling, WV

Attachment No. 1 to Letter of Conditions
Mason County Public Service District (Jeffers Ridge - Water)

Project Construction Budget

<u>Project Cost</u>	<u>ARC Grant</u>	<u>RUS Loan</u>	<u>Total</u>
Construction	387,100	277,900	665,000
Construction Contg.	20,800	14,200	35,000
Land and Rights	5,000	3,500	8,500
Legal and Admin. Fees	2,300	1,700	4,000
Engineering Fees	59,500	40,500	100,000
Basic - \$100,000			
Inspection - \$0			
Special - \$0			
Bond Counsel	3,000	2,000	5,000
Interest		20,000	20,000
Project Contg.	22,300	15,200	37,500
Totals	<u>500,000</u>	<u>375,000</u>	<u>875,000</u>

Rates - Available for general domestic, commercial and industrial service.

First	6,000 gals. @	\$5.57 per M gals.
Next	14,000 gals. @	\$4.10 per M gals.
Next	20,000 gals. @	\$3.38 per M gals.
Next	60,000 gals. @	\$2.77 per M gals.
Over	100,000 gals. @	\$ 2.05 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 -	\$33.42 bi-monthly
3/4" meter -	\$50.13 bi-monthly
1" meter -	\$83.55 bi-monthly
1 1/2" meter -	\$167.10 bi-monthly
2" meter -	\$267.36 bi-monthly
3" meter -	\$501.30 bi-monthly
4" meter -	\$835.50 bi-monthly
6" meter -	\$1,671.00 bi-monthly

Minimum Bi-Monthly Bill \$33.42 for 6,000 gallons

Bulk Rate Users are charged at the rate of \$1.10 per 1,000 gallons.

Attachment No. 1 to Letter of Conditions
Mason County Public Service District (Jeffers Ridge - Water)

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

Prior to Construction - \$100.00

After the start of construction, there shall be a charge of \$300.00 for connection to the system.

Reconnection Charge

\$20.00

Attachment No. 1 to Letter of Conditions
Mason County Public Service District (Jeffers Ridge - Water)

Use and Income Analysis

Jeffers Ridge Extension

34	users @	6,000	gallons @	\$33.42	per user =	\$1,136.28	bi-monthly
41	users @	10,400	gallons @	\$51.46	per user =	\$2,109.86	bi-monthly
11	users @	12,000	gallons @	\$58.02	per user =	\$638.22	bi-monthly

86 Users

\$3,884.36 Bi-Monthly Revenue x 6 = \$23,306.16 Annual Revenue

Existing System

1,127	users @	6,000	gallons @	\$33.42	per user =	\$37,664.34	bi-monthly
1,701	users @	10,400	gallons @	\$51.46	per user =	\$87,533.46	bi-monthly
99	users @	25,500	gallons @	\$109.41	per user =	\$10,831.59	bi-monthly
21	users @	60,500	gallons @	\$215.21	per user =	\$4,519.41	bi-monthly
10	users @	185,000	gallons @	\$498.87	per user =	\$4,988.70	bi-monthly
3	users @	1,945,000	gallons @	\$2,138.89	per user =	\$6,416.67	bi-monthly

2,961 Users

\$151,954.17 Bi-Monthly Revenue x 6 = \$911,725.02

Robertsburg Extension

62	users @	6,000	gallons @	\$33.42	per user =	\$2,072.04	bi-monthly
74	users @	10,400	gallons @	\$51.46	per user =	\$3,808.04	bi-monthly
20	users @	12,000	gallons @	\$58.02	per user =	\$1,160.40	bi-monthly

156 Users

\$7,040.48 Bi-Monthly Revenue x 6 = \$42,242.88 Annual Revenue

Total

3,203 Total Users

\$162,879.01 Bi-Monthly Revenue x 6 = \$977,274 Annual Revenue

Attachment No. 1 to Letter of Conditions
Mason County Public Service District (Jeffers Ridge - Water)

Budget

Income:

Existing System	\$911,725
Jeffers Ridge Extension	23,306
Robertsburg Extension	42,243

TOTAL	\$977,274
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Expenses:

O & M	\$664,150
*Debt Service	283,836
**Reserve	28,383

TOTAL	\$976,369
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Balance and Depreciation	\$ 905
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Operating and Maintenance Expenses

Existing System	\$642,700
Proposed Robertsburg Extension	12,550
Proposed Jeffers Ridge Extension	8,900
Chemicals	\$ 450
Power for Pumping	1,300
Maintenance	3,500
Customer Accounting	2,600
Office Supplies and Expenses	680
Insurance	370

TOTAL	\$664,150
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*Existing Debt Service -	\$227,832
Proposed Debt Service (Jeffers Ridge) -	20,664
Proposed Debt Service (Robertsburg) -	35,340
Total Debt Service -	\$283,836

**Existing Debt Service Reserve -	\$22,783
Proposed Debt Service Reserve (Jeffers Ridge) -	2,066
Proposed Debt Service Reserve (Robertsburg) -	3,534
Total Debt Service Reserve -	\$28,383

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.			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.			3
	State Clearing-house Review or IJDC Review	2	1780.33(b)	App.			3
Bulletins 1780-2 1780-3	Preliminary Engineering Report	2	1780.33(c)	Eng.			6
	Audit for last year of operation	1	1780.33(e)	App./Acct.			1
AD 1049	Certification Regarding Drug-Free Workplace	1	1780.33(h)	App.			5
	Minutes Adopting Drug-Free Workplace Program	1	LOC	App.			5
RD 1940-20	Request for Env. Info/ Attachments	2	1780.33(f)	App./Eng.			3

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Bulletin 1780-22	Applicant Eligibility Certification/ Other Credit Certification	1	1780.33(d)	App.			3
Exhibit A / A-1	Certifications Regarding Lobbying	2	1780.33(h)	App.			2
	Env. Assessment for Class II Actions (Exhibit H, 1940-G)	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.			3
	Comments from U.S. Fish and Wildlife Service (Endangered Species)	2	Exhibit H 1940-G	App.			3
	Farmland Conversion Impact Rating	1	Exhibit H 1940-G	RUS/ NRCS			3
	FONSI / Evidence of Publication	1	Exhibit 1 RD 1940-G News Ad	RUS/App.			3
	Copy of Existing Rate Tariff	2	1780.33	App.			8

<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>
	Applicant's IRS Tax Number (TIN)	1	1780.33(g)	App.			3
	Agency Determination on the Availability of "Other Credit" with Documentation	1	1780.7(d)	RUS			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
	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.			8
	Projected Bill Analysis for New Users	2	1780.33(c)	App./Eng.			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

<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>
Bulletin 1780-7 or other approved	Legal Services Agreement with Local Attorney	3	1780.39 (b)(2)	App./Att.			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			3
	Relationships/ Associations with Agency Employees	1	1780.1(f)				3
RD 1942-45	Project Summary	3	1780.41(a)	RUS			1
RD 442-7	Operating Budget	3	1780.33(h)	App.			3
RD 1942-14	Project Fund Analysis	3	1780.41(a)	RUS			2
Bulletin 1780-1	Project Selection Criteria	2	1780.17	RUS			1
	Letter of Conditions	7	1780.41 (a)(5)	RUS			3
RD 1942-46	Letter of Intent to Meet Conditions	2	1780.41 (a)(6)	App.			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>
RD 1940-1	Request for Obligation of Funds	4	1780.41(a)	RUS/App.			2
Bulletin 1780-12	Association Water or Sewer System Grant Agreement	2	1780.45(c)	RUS/App.			2
	Evidence of "Other Funds"	1	1780.44(f)	App.			2
	Evidence of Applicant Contribution	1	1780.44(f)	App.			2
Bulletin 1780-12	Water Users Agreement (Copy)	1	1780.39(c)	App.			5
AD 1047	Certification Regarding Debarment (Primary)	1	1780.33(h)	App.			5
AD 1048	Certification Regarding Debarment (Contractor)	1 ea.	1780.33(h)	All Appropriate Vendors			5
RD 1910-11	Applicant Certification, Federal Collection Policies	1	1780.33(h)	App.			3
	Evidence of Users:						
	1. Map of Users with each identified by number	1	LOC	App.			Sep. File

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	2. List of Signed Users Numbered to Map	1	LOC	App.			5
	3. List of Declination Statement Numbered to Map	1	LOC	App.			5
	4. Evidence of Tap Fees Being Paid	1	LOC	App.			5
	5. Having Users Agreements and Declination Statements Available		LOC	App.			
	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

<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 1927-10	Final Title Opinion	1	1780.44 (g)(2)	App./Att.			5
	Narrative Opinion from Attorney	1	1780.44(g)	Att.			5
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.			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.			6
RD 400-4	Assurance Agreement	1	1901-E	App.			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
	DOH Permit	1	1780.15(d)	App.			6
	Public Land Corp. Permit	1	1780.15(d)	App.			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>
	Corps of Engineers Permit	1	1780.15(d)	App.			6
	Contract Documents, Plans and Specifications	2		Eng.			Sep. File
	Dept. of Health Approval	1	1780.15(d)	Eng.			6
	Dept. of Environmental Protection Permit	1		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
	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 308 (a)(1) or to Section 309A (h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928 (a)(1) or 1929a (h)).

§§1780.84 and 1780.86 [Reserved]**§1780.87 Permanent instruments for Agency loans.**

Agency loans will be evidenced by an instrument determined legally sufficient and in accordance with the following order of preference:

(a) First preference - Form RD 440-22, "Promissory Note". Refer to paragraph (b) of this section for methods of various frequency payment calculations.

(b) Second preference - single instruments with amortized installments. A single instrument providing for amortized installments which follows Form RD 440-22 as closely as possible. The full amount of the loan must show on the face of the instrument, and there must be provisions for entering the date and amount of each advance on the reverse or an attachment. When principal payments are deferred, the instrument will show that "interest only" is due on interest-only installment dates, rather than specific dollar amounts. The payment period including the "interest only" installment cannot exceed 40 years, the useful life of the facility, or State statute limitations, whichever occurs first. The amortized installment, computed as follows, will be shown as due on installment dates thereafter.

(1) Monthly payments. Multiply by twelve the number of years between the due date of the last interest-only installment and the final installment to determine the number of monthly payments. When there are no interest-only installments, multiply by twelve the number of years over which the loan is amortized. Then multiply the loan amount by the amortization factor and round to the next higher dollar.

(2) Semiannual payments. Multiply by two the number of years between the due date of the last interest-only installment and the due date of the final installment to determine the correct number of semiannual periods. When there are no interest-only installments, multiply by two the number of years over which the loan is amortized. Then multiply the loan amount by the applicable amortization factor.

(3) Annual payments. Subtract the due date of the last interest-only installment from the due date of the final installment to determine the number of annual payments. When there are no interest-only installments, the number of annual payments will equal the number of years over which the loan is amortized. Then multiply the loan amount by the applicable amortization factor and round to the next higher dollar.

(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.

§1780.90 Multiple advances of Agency funds using temporary debt instruments.

When none of the instruments described in §1780.87 are legally permissible or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advances of Agency funds and will be for the full amount of the Agency loan. The instrument will be prepared by bond counsel, or local counsel if bond counsel is not involved, and approved by the State program official and OGC. At the same time the Agency delivers the last advance, the borrower will deliver the permanent bond instrument and the canceled temporary instrument will be returned to the borrower. The approved debt instrument will show at least the following:

- (a) The date from which each advance will bear interest;
- (b) The interest rate as determined by §1780.13;
- (c) A payment schedule providing for interest on outstanding principal at least annually; and
- (d) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instruments and no longer than the 40-year statutory limit.

§§1780.91 - 1780.93 [Reserved]

§1780.94 Minimum bond specifications.

The provisions of this section are minimum specifications only and must be followed to the extent legally permissible.

(a) **Type and denominations.** Bond resolutions or ordinances will provide that the instruments be either a bond representing the total amount of the indebtedness or serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than \$1,000). Single bonds may provide for repayment of principal plus interest or amortized installments. Amortized installments are preferred by the Agency.

(b) **Bond registration.** Bonds will contain provisions permitting registration for both principal and interest. Bonds purchased by the Agency will be registered in the name of "United States of America" and will remain so registered at all times while the bonds are held or insured by the Government. The Agency address for registration purposes will be that of the Finance Office.

(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.

(i) Additional revenue bonds. Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless acceptable documentation is provided establishing that net revenues for the fiscal year following the year in which such bonds are to be issued will be at least 120 percent of the average annual debt serviced requirements on all bonds outstanding, including the newly-issued bonds. For purposes of this section, net revenues are, unless otherwise defined by State statute, gross revenues less essential operation and maintenance expenses. This limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then-outstanding principal indebtedness. Junior and subordinate bonds may be issued in accordance with the loan resolution.

(j) Precautions. The following types of provisions in debt instruments should be avoided:

- (1) Provisions for the holder to manually post each payment to the instrument.
- (2) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than the Agency, may post the date and amount of each advance or repayment on the instrument.
- (3) Provisions that amend covenants contained in Forms RD 1942-47 or RD 1942-9.
- (4) Defeasance provisions in loan or bond resolutions. When a bond issue is defeased, a new issue is sold which supersedes the contractual provisions of the prior issue, including the refinancing requirement and any lien on revenues. Since defeasance in effect precludes the Agency from requiring refinancing before the final maturity date, it represents a violation of the statutory refinancing requirement; therefore, it is disallowed. No loan documents shall include a provision of defeasance.

(k) Assessment bonds. When security includes special assessment to be collected over the life of the loan, the instrument should address the method of applying any payments made before they are due. It may be desirable for such payments to be distributed over remaining payments due, rather than to be applied in accordance with normal procedures governing extra payments, so that the account does not become delinquent.

(l) Multiple debt instruments. The following will be adhered to when preparing debt instruments:

- (1) When more than one loan type is used in financing a project, each type of loan will be evidenced by a separate debt instrument or series of debt instruments;
- (2) Loans obligated in different fiscal years and those obligated with different terms in the same fiscal year will be evidenced by separate debt instruments;
- (3) Loans obligated for the same loan type in the same fiscal year with the same term may be combined in the same debt instrument;
- (4) Loans obligated in the same fiscal year with different interest rates that will be closed at the same interest rate may be combined in the same debt instrument.

§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]



RURAL
UTILITIES
SERVICE

P.O. Box 303
Parkersburg, WV 26102
Telephone 304-420-6666
TTY/TDD 1-800-982-8771
Fax 304-420-6876

United States
Department of
Agriculture

Rural Development

February 12, 2001

Dorsel F. Keefer, Chairman
Mason County Public Service District
101 Camden Avenue
Point Pleasant, WV 25550

Dear Mr. Keefer:

The pre-closing for the District's RUS loan will be held on March 14, 2001, at 10:00 AM at the District's Office, 101 Camden Avenue, Point Pleasant, West Virginia. The preconstruction conference will follow at 11:00 AM. The official loan closing date for the District's Jeffers Ridge Water Extension Project will be March 16, 2001.

Reference is made to our Letter of Conditions dated July 23, 1998. All of the requirements of this letter must be met and in addition, the loan must be closed in accordance with RUS Instruction 1780 and the attached "Closing Guidelines for Community Facilities Loans to Public Bodies."

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

1. The District's attorney will need to provide Form RD 442-22 "Opinion of Counsel Relative to Rights of Way," showing no exceptions. This form should be dated March 16, 2001.
2. The District's attorney must furnish a 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 District. The opinion(s) should be dated March 16, 2001.
3. The District's engineer must provide a resume of the proposed inspector(s).
4. The District 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 District should proceed to obtain the necessary bond and forward same to the WVDOH requesting the permit be issued.

6. The RUS loan will be closed utilizing an interest rate of 4.5%. This results in payments of \$1,722/month. The District must establish and fund monthly a debt service reserve account and a depreciation reserve account. These reserve accounts together must equal 10% of the annual debt service each year for the life of the loan. Five percent (5%) will be deposited into each account until an annual debt payment has been accumulated. Thereafter, the entire ten percent (10%) will be deposited into the depreciation reserve account.
7. A certificate from the District's accountant that the accounts and records required by the bond ordinance and PSC have been established and are operational.
8. The District must provide evidence that it has acquired insurance and bond coverage in accordance with Item 11 of the Letter of Conditions.
9. The District must furnish evidence that it provides State Workers' Compensation Insurance. A certificate of good standing will be satisfactory.

If you have any questions regarding these or any other matters pertaining to your loan, please contact our office at your earliest convenience.

Sincerely,

GARY D. WILSON
Rural Development Specialist

Enclosures

cc: Acting State Director
USDA-Rural Development
Morgantown, WV

Francesca Tan, Esquire ✓
Jackson & Kelly, PLLC
Morgantown, WV

Cerrone Associates, Inc.
Wheeling, WV

Kenneth E. Plants
1102 Oakbridge Drive
Hurricane, WV 25526

Craig Tatterson, Esquire
Point Pleasant, WV

**CLOSING GUIDELINES FOR
COMMUNITY FACILITY LOANS TO PUBLIC BODIES**

At or before the closing for the financing, the following conditions must be satisfied:

1. **General Requirements.** There must be full compliance with all requirements specified in (a) applicable Farmers Home Administration Instructions, (b) correspondence from OGC, (c) any applicable correspondence from the Administrator's office, (d) FmHA letter of conditions, (e) clearinghouse comments, and (f) any state office memorandum of approval.
2. **Loan Resolution.** Confirm that the Applicant has duly adopted the fully executed Form FmHA 1942-47, Loan Resolution (Public Bodies).
3. **Grant Agreement.** In the event that a grant is also to be made to the Applicant, then the grant may be closed in accordance with FmHA Instructions provided that these Closing Instructions have also been complied with and duly authorized officials of the Applicant have fully executed Form FmHA 1942-31, Grant Agreement.
4. **Civil Rights.** Confirm that the following fully executed civil rights forms are in the docket:
 - a. Form RD 400-1, Equal Opportunity Agreement.
 - b. Form RD 400-4, Assurance Agreement.
 - c. Form FmHA 400-8, Compliance Review (Pre-loan closing).
5. **Environmental Impact.** Confirm that a completed and executed Environmental Impact Assessment, is in the docket. If the Assessment indicates that an Environmental Impact Statement must be filed, this must be accomplished prior to loan closing.
6. **Clearinghouse Comments.** Confirm that A-95 approvals have been received from both state and regional clearinghouses. Note any comments received and confirm that the Applicant intends to comply with such comments. If the Applicant expresses a contrary intention, the State Office should be notified immediately in detail. The State Office should consult OGC with respect to the legal ramification of any such noncompliance.
7. **Specimen Bond(s).** Prior to closing, confirm that the terms of the specimen bond(s) are consistent with FmHA Instructions, the FmHA Letter of Conditions and other obligating documents. Amortization schedules and maturity dates should be checked **very carefully.**
8. **Certification of Payment.** If FmHA loan proceeds will be used to retire interim indebtedness, the Applicant must provide FmHA with written statements in accordance with FmHA Instruction 1942-A, 1942.17(n)(2) [7 C.F.R. 1942.17].

9. **Examination of Executed Bond(s)**. The Rural Development Specialist should examine the executed original Bond(s) at the closing to determine the following:
- a. That the repayment and other terms of the Bond(s) are consistent with the FmHA Letter of Conditions and obligating documents.
 - b. That the Bond(s) has been fully executed by the proper officials of the Applicant as recited on the face of the Bond(s).
 - c. That the persons executing the Bond(s) are officials of the Applicant as shown on the General Incumbency Certificate.
 - d. That the Applicant's seal is on the Bond(s).
 - e. That any authentication certificate contained on the Bond(s) has been properly executed.
 - f. That the Bond(s) is fully registered in the name of the United States of America/Farmers Home Administration.
 - g. That the place of payment shown on the face of the Bond is correct and administratively acceptable.
 - h. That the Bond(s) is dated the date of closing.
10. **Dates, Seals and Signatures**. All certifications and opinions furnished by the Applicant, Local Counsel or Bond Counsel should be dated as of the date of Loan Closing. Wherever appropriate, the seal of the Applicant should be impressed on materials being furnished by the Applicant. Bond transcript items "b," "i," "k," and "m" listed below should be manually-executed originals. For the remaining Bond transcript documents, an original manual attestation by the Applicant's Clerk or Secretary will suffice.
11. **Bond Transcript**. A bond transcript should be compiled by Bond Counsel in accordance with the requirements contained in FmHA Instructions 1942-A, 1942.19(c) [7 C.F.R. 1942.19]. Confirm that the bond transcript contains each of the following items:
- a. Certified copies of all organizational documents, i.e., special acts, charter, by-laws.
 - b. General Incumbency Certificate (may sometimes be referred to as Signature Certificate).
 - c. Certified copies of minutes or excerpts therefrom of all meetings of the Applicant's governing body at which action was taken in connection with the authorization and issuance of the Bond(s).
 - d. Certified copies of documents evidencing that the Applicant has complied fully with all statutory requirements incident to the calling and holding of a favorable bond election unless Bond Counsel advises you this is not applicable.

- e. Certified documents evidencing that the Applicant has complied fully with all statutory requirements incident to advertising the consideration and/or adoption of the bond ordinance unless Bond Counsel advises you that this is not applicable.
- f. Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvements, if such documents are not included in the minutes furnished.
- g. Copies of official Notice of Sale and Affidavit of Publication of Notice of Sale unless Bond Counsel advises you that this is not applicable.
- h. Specimen Bond (of each denomination), with any attached coupons.
- i. No Litigation Certificate of Local Counsel (See Item 12 below).
- j. Certified copies of resolutions or other documents pertaining to the award of the Bond(s).
- k. Non-Arbitrage Certificate.
- l. Any additional or supporting documents required by Bond Counsel.
- m. Preliminary approving opinion, if any, and final unqualified approving opinion of Bond Counsel, including opinion regarding interest on bonds being exempt from Federal and any State income taxes.

Any omissions from the Bond transcript should be supplied by the Rural Development Specialist with the assistance of the Applicant and Bond Counsel. Obviously, certain of the documents listed above will normally be delivered prior to the closing.

- 12. Attorney's No-Litigation Certificate. Local Counsel should deliver a manually-executed original attorney's no-litigation certificate dated the date of closing.
- 13. Evidence of Title. In all cases, confirm that Local Counsel has supplied FmHA with his or her title opinion regarding the sites for any project structures such as treatment plants and community buildings. The opinion should be on Form FmHA 1927-10 with any changes necessary to reflect the circumstances of this financing. In the case of utility-type financings, confirm that executed Form FmHA 442-21 and 442-22 concerning rights-of-way are also in the docket. Any title exceptions should either be removed prior to closing or be specifically cleared through OGC.
- 14. Additional Instructions. OGC will normally issue additional closing instructions on a case-by-case basis containing special requirements for specific loans. The District Director should review the Closing Instructions prepared by OGC relating to the specific case and close the loan in accordance with those instructions.



LOAN RESOLUTION
(Public Bodies)

COPY

A RESOLUTION OF THE Board

OF THE Mason County Public Service District

AUTHORIZING 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 ITS

Water

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

WHEREAS, it is necessary for the Mason County 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

THREE HUNDRED SEVENTY-FIVE THOUSAND AND XX / 100

pursuant to the provisions of Chapter 16, Article 13A, West Virginia Code; and

WHEREAS, the Association intends to obtain assistance from 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 contractor 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 USDA. 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 Mason County Public Service District

hereby certify that the Board of such Association is composed of

3 members, of whom, 2 constituting a quorum, were present at a meeting thereof duly called and

held on the 4th day of August 1998 ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of March 16, 2001 the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this 16th day of March 2001

Mary L. Smith
Mary L. Smith
Title Secretary

M I N U T E S

MASON COUNTY PUBLIC SERVICE DISTRICT

August 4, 1998

A special Board meeting was called for August 4 for the purpose of signing RUS loan documents for the Robertsburg and Jeffers Ridge Projects. Vitus Hartley, Jr., Mario Liberatore, Randy Grinstead and Mary Smith attended from the District and Gary Wilson and Virginia McDonald represented RUS.

Mr. Hartley called the meeting to order and requested that Mr. Wilson explain the documents. Mr. Wilson chose to discuss Jeffers Ridge first, since ARC funds are involved. With that exception, all other documents are basically the same for both projects. Jeffers Ridge lacks engineering and legal counsel, which Robertsburg has in place.

He explained how interest on the loans is determined, with Jeffers Ridge getting the lowest rate, based on community income. He pointed out that the ARC funding has not been approved; there is no formal documentation as yet.

A motion was made by Mr. Liberatore authorizing Vitus Hartley, Jr., Chairman, to sign all the necessary documents to complete the Robertsburg and Jeffers Ridge projects. The motion was seconded by Mr. Hartley.

This being all the business to be conducted, the meeting was adjourned by Mr. Hartley.

Respectfully submitted,


Chairman


Secretary

**MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)**

BOND RESOLUTION

Table of Contents

	<u>Page</u>
ARTICLE I	
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS	
Section 1.01. Definitions	1
Section 1.02. Authority for this Resolution	8
Section 1.03. Findings	8
Section 1.04. Resolution Constitutes Contract	9
 ARTICLE II	
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF PROJECT	
Section 2.01. Authorization of Acquisition and Construction of Project	10
 ARTICLE III	
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS	
Section 3.01. Authorization of Bonds	11
Section 3.02. Terms of Bonds	11
Section 3.03. Execution of Bonds	11
Section 3.04. Negotiability, Transfer and Registration	12
Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost	12
Section 3.06. Bonds not to be Indebtedness of the Issuer	13
Section 3.07. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds	13
Section 3.08. Form of Bonds	13
Section 3.09. Sale of Bonds	21

ARTICLE IV

[RESERVED] 22

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. . . 23
Section 5.02. Establishment of Funds and Accounts with Commission 23
Section 5.03. System Revenues and Application Thereof 23
Section 5.04. Tap Fees 26

ARTICLE VI

APPLICATION OF BOND PROCEEDS;
CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds;
Pledge of Unexpended Bond Proceeds 27
Section 6.02. Disbursements from Bond Construction Trust Fund 27

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer 28
Section 7.02. Bonds not to be Indebtedness of the Issuer 28
Section 7.03. Bonds Secured by Pledge of Net Revenues;
Lien Position with respect to Prior Bonds 28
Section 7.04. Initial Schedule of Rates and Charges 28
Section 7.05. Sale of the System 29
Section 7.06. Issuance of Other Obligations Payable Out of
Revenues and General Covenant Against Encumbrances 30
Section 7.07. Parity Bonds 30
Section 7.08. Books; Records and Audit 32
Section 7.09. Rates 34
Section 7.10. Fiscal Year; Budget 34
Section 7.11. No Competing Franchise 35
Section 7.12. Enforcement of Collections 35
Section 7.13. No Free Services 35
Section 7.14. Insurance and Bonds 35

Section 7.15. Certificate of Consulting Engineers	37
Section 7.16. Contracts	37
Section 7.17. Statutory Mortgage Lien	37
Section 7.18. Connections	37
Section 7.19. Completion of Project; Permits and Orders	37
Section 7.20. Compensation of Board Members	38
Section 7.21. Funds and Accounts Under Prior Resolutions	38

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments	39
---------------------------------	----

ARTICLE IX

DEFAULTS AND REMEDIES

Section 9.01. Events of Default	40
Section 9.02. Remedies	40
Section 9.03. Appointment of Receiver	40

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds	42
---------------------------------------	----

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment	43
Section 11.02. Resolution Constitutes Contract	43
Section 11.03. Severability of Invalid Provisions	43
Section 11.04. Headings, Etc.	43
Section 11.05. Conflicting Provisions Repealed; Prior Resolutions	43
Section 11.06. Covenant of Due Procedure	43
Section 11.07. Effective Date	44

EXHIBIT A - PROJECT DESCRIPTION

MASON COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF MASON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT TO EXCEED \$375,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE), AND THE SALE THEREOF TO THE UNITED STATES OF AMERICA, UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL UTILITIES SERVICE; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF MASON COUNTY 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 2001 A, 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 Bonds for all or a portion of the proceeds of the Series 2001 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 Cerrone Associates, Inc., Wheeling, 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.

“Debt Service” means the scheduled amount of interest and amortization of principal payable on the Series 2001 A Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

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

“Depreciation Account” means the Depreciation Account established by the Prior Resolutions and continued by Section 5.01 hereof.

“Event of Default” means any event or occurrence specified in Section 9.01.

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

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

“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 2001 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, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System, as hereafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that “Gross Revenues” does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments purchased pursuant to Section 8.01 hereof) or any Tap Fees, as hereinafter defined.

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

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

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

“Net Revenues” means Gross Revenues less Operating Expenses.

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, fiscal agents, depository banks, registrars, paying agents and trustees other than those capitalized

as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"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 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, collectively, the Series 1981 Bonds, the Series 1987 Bonds, the Series 1997 A Bonds, the Series 1997 B Bonds, the Series 1999 A Bonds and the Series 2000 A Bonds.

"Prior Resolutions" means, collectively, the respective resolutions adopted by the Issuer, 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 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;

(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; and

(j) Advanced - Refunded Municipal Bonds.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolutions and continued by Section 5.01 hereof.

"Reserve Accounts" means, collectively, the respective reserve accounts of the Series 2001 A Bonds and the Prior Bonds.

"Resolution" means this resolution, as from time to time amended or supplemented.

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

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

"Series 1981 Bonds" means the Issuer's Water Revenue Bonds, Series 1981, dated January 22, 1981, issued in the original aggregate principal amount of \$1,100,000.

"Series 1987 Bonds" means the Issuer's Water Revenue Bonds, Series 1987, dated June 25, 1987, issued in the original aggregate principal amount of \$610,000.

"Series 1997 A Bonds" means the Issuer's Water Revenue Bonds, Series 1997 A, dated September 25, 1997, issued in the original aggregate principal amount of \$1,440,000.

"Series 1997 B Bonds" means the Issuer's Water Revenue Bonds, Series 1997 B, dated September 25, 1997, issued in the original aggregate principal amount of \$818,000.

"Series 1999 A Bonds" means the Issuer's Water Revenue Bonds, Series 1999 A (United States Department of Agriculture), dated August 5, 1999, issued in the original aggregate principal amount of \$620,000.

"Series 2000 A Bonds" means the Issuer's Water Revenue Bonds, Series 2000 A (West Virginia DWTRF Program), dated June 28, 2000, issued in the original aggregate principal amount of \$960,000.

"Series 2001 A Bonds" means the Mason County Public Service District Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), authorized to

be issued hereby.

“Series 2001 A Bonds Construction Trust Fund” means the Series 2001 A Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2001 A Bonds Reserve Account” means the Series 2001 A Bonds Reserve Account established by Section 5.02 hereof.

“Series 2001 A Bonds Reserve Requirement” means an amount equal to \$20,664.

“Series 2001 A Bonds Sinking Fund” means the Series 2001 A Bonds Sinking Fund established by Section 5.03(A)(2) hereof.

“Sinking Funds” means, collectively, the respective sinking funds of the Series 2001 A Bonds and the Prior Bonds.

“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 2001 A Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2001 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 2001 A Bonds and the Prior Bonds, including the Sinking Funds, the Reserve Accounts, the Depreciation Account and the Renewal and Replacement Fund.

“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 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 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.

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 Mason 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 \$875,000. The Project will be financed with the proceeds of the sale of the Series 2001 A Bonds anticipated to be in the amount of \$375,000 and a grant from the Appalachian Regional Commission in the amount of \$500,000.

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 2001 A Bonds and to make payments into all funds and accounts provided for in this Resolution and the Prior Resolutions.

E. It is deemed necessary for the Issuer to issue the Series 2001 A Bonds in the aggregate principal amount of not more than \$375,000 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 2001 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 2001 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 Resolutions and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. Prior to the issuance of the Series 2001 A Bonds, the Issuer will obtain (1) the certificate of an Independent Certified Public Accountant stating that the parity tests of the Prior Bonds have been met and (2) the consent of the Holders of the Prior Bonds to the issuance of the Series 2001 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 2001 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 2001 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 have expired.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Series 2001 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 \$875,000, 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 2001 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.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of this Resolution, the Series 2001 A Bonds of the Issuer, to be known as "Mason County Public Service District Water Revenue Bonds, Series 2001 A (United States Department of Agriculture)," is hereby authorized to be issued in the aggregate principal amount of not more than \$375,000, for the purposes of permanently financing a portion of the cost of acquisition and construction of the Project and the cost of issuance of the Bonds.

Section 3.02. Terms of Bonds. The Series 2001 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 2001 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 2001 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 \$1,722, except that the final installment shall be paid at the end of 40 years from the date of the Series 2001 A Bonds in the sum of the unpaid principal and interest due on the date thereof, at a rate, not exceeding 4.50% per annum, as shall be determined by the Supplemental Resolution and shall be sold for the par value thereof.

The Series 2001 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 2001A 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 2001 A Bond form.

Section 3.03. Execution of Bonds. The Series 2001 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 2001 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 2001 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 2001 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 2001 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 2001 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 2001 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 2001 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 2001 A Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Series 2001 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 2001 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 2001 A Bonds and the Prior Bonds and to make the payments into all funds and accounts hereinafter established or established in the Prior Resolutions, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2001 A Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bonds. The text of the Series 2001 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

due under this Bond and shall not affect the obligation of the Borrower 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 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 Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government. Borrower 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 extensions, additions, betterments and improvements to the existing waterworks system of the Borrower (the "Project" and together with any further extensions, additions, betterments and improvements thereto, herein called the "System"); and (ii) to pay certain costs of issuance and related costs. This Bond is authorized and issued under 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 a Resolution duly adopted by the Borrower on _____, 200 __, as supplemented by a Supplemental Resolution duly adopted by the Borrower on _____, 200__ (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution. 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 BORROWER'S (1) WATER REVENUE BONDS, SERIES 1981, DATED JANUARY 22, 1981, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,100,000; (2) WATER REVENUE BONDS, SERIES 1987, DATED JUNE 25, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$610,000; (3) WATER REVENUE BONDS, SERIES 1997 A, DATED SEPTEMBER 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,440,000; (4) WATER REVENUE BONDS, SERIES 1997 B, DATED SEPTEMBER 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$818,000; (5) WATER REVENUE BONDS, SERIES 1999 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED AUGUST 5, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$620,000; AND (6) WATER REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA DWTRF PROGRAM), DATED JUNE 28, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$960,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues (as defined in the Resolution) to be derived from the operation of the System, which lien is on a parity with the lien of the Prior Bonds, moneys in the Series 2001 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 which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provisions or limitations, nor shall the Borrower be obligated to pay the same or the interest hereon except from the Net Revenues, the moneys in the Series 2001 A Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, the Borrower 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 to provide for the proper and reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing year of principal of and interest on this Bond, the Prior Bonds and on all obligations secured by or payable from such revenues on a parity with this Bond, provided however, that so long as the Series 2001 A Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on this Bond in the then current or any succeeding year, and the reserve accounts for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, are funded at an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Borrower has entered into certain further covenants with the owner of this Bond for the terms of which reference is made to the Resolution. Remedies provided the owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of the Secretary of the Borrower, 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 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.

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 such purposes and periods of time.

If at any time it so appears to the Government that Borrower 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, Borrower will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts connected with the issuance hereof, as provided by law and the Resolution, shall be applied solely to the costs of acquisition and construction of the Project, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and upon 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 Borrower, 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 Borrower for the prompt payment of the principal of and interest on this Bond.

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.

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.

This Bond is given as evidence of a loan to Borrower 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.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, MASON COUNTY PUBLIC SERVICE DISTRICT
has caused this Bond to be signed by its Chairperson and its seal to be hereunto impressed
and attested by its Secretary, all as of the date first written above.

MASON COUNTY PUBLIC SERVICE DISTRICT

Chairperson

[SEAL]

ATTEST:

Secretary

(Form of)

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$		(19) \$	
(2) \$		(20) \$	
(3) \$		(21) \$	
(4) \$		(22) \$	
(5) \$		(23) \$	
(6) \$		(24) \$	
(7) \$		(25) \$	
(8) \$		(26) \$	
(9) \$		(27) \$	
(10) \$		(28) \$	
(11) \$		(29) \$	
(12) \$		(30) \$	
(13) \$		(31) \$	
(14) \$		(32) \$	
(15) \$		(33) \$	
(16) \$		(34) \$	
(17) \$		(35) \$	
(18) \$		(36) \$	
		TOTAL	\$

(Form of)

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 2001 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 created with (or continued if previously established by the Prior Resolutions) and shall be held by the Depository Bank separate and apart from all other funds or accounts of Depository Bank and from each other:

- (1) Revenue Fund (established by the Prior Resolutions);
- (2) Depreciation Account (established by the Prior Resolutions);
- (3) Renewal and Replacement Fund (established by the Prior Resolutions);

and

- (4) Series 2001 A Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special account is created with and shall be held by the Commission:

- (1) Series 2001 A Bonds Reserve Account.

Section 5.03. System Revenues and Application Thereof. So long as the Bonds shall be Outstanding and unpaid, the Issuer covenants with the Bondholders as follows:

(A) The entire Gross Revenues derived from the operation of the System and all parts thereof shall be deposited by the Issuer in the Revenue Fund which is hereby continued. 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. Funds in the Revenue Fund shall be disposed of only in the following manner and order of priorities and as provided in the Prior Resolutions.

(1) The Issuer shall first, each month, pay from the Revenue Fund the current Operating Expenses of the System.

(2) Next, from the moneys in the Revenue Fund, the Issuer (i) shall make the interest payments on the Prior Bonds in the amounts and on the dates required by the Prior Resolutions, and (ii) commencing on the day which is 30 days following the date of delivery of the Series 2001 A Bonds and continuing on the corresponding day of each month, shall remit to the address designated by the Series 2001 A Bonds (herein called the "Series 2001 A Bonds Sinking Fund"), the monthly payment of interest set forth in the

Supplemental Resolution or such lesser amount as is evidenced by the Record of Advances attached to the Series 2001 A Bonds. If funds in the Revenue Fund are not sufficient to make all the payments required by this Section, the Issuer shall apportion and prorate the funds available to the payments required herein.

(3) Next, from the moneys in the Revenue Fund, the Issuer (i) shall make the principal payments of the Prior Bonds in the amounts and on the dates required by the Prior Resolutions, and (ii) commencing on the day which is 24 months following the date of delivery of the Series 2001 A Bonds and continuing on the corresponding day of each month, shall remit to the Series 2001 A Bonds Sinking Fund, the monthly payment of principal set forth in the Supplemental Resolution or such lesser amount as is evidenced by the Record of Advances attached to the Series 2001 A Bonds, such amount being the amount required to amortize the principal of the Series 2001 A Bonds over the life of the Series 2001 A Bonds. If funds in the Revenue Fund are not sufficient to make all the payments required by this Section, the Issuer shall apportion and prorate the funds available to the payments required herein.

The deposits to the Series 2001 A Bonds Sinking Fund provided in this paragraph and in Section 5.03(A)(2) above, constitute actual payments of principal of and interest on the Series 2001 A Bonds to the Government.

(4) Next, from the moneys in the Revenue Fund, the Issuer (i) shall make the reserve account payments into the Reserve Accounts of the Prior Bonds in the amounts and on the dates required by the Prior Resolutions, and (ii) commencing on the day which is 24 months following the date of delivery of the Series 2001 A Bonds and continuing on the corresponding day of each month, shall remit to the Commission for deposit in the Series 2001 A Bonds Reserve Account, an amount equal to $\frac{1}{2}$ of $\frac{1}{12}^{\text{th}}$ of $\frac{1}{10}^{\text{th}}$ of the Series 2001 A Bonds Reserve Requirement, until the amount in the Series 2001 A Bonds Reserve Account equals the Series 2001 A Bonds Reserve Requirement. In the event additional monies shall be required to maintain the Series 2001 A Bonds Reserve Requirement in the Series 2001 A Bond Reserve Account, payment of monies to the Depreciation Account as provided in Section 5.03(A)(5) hereof shall not be made but instead such payments shall be made to the Series 2001 A Bonds Reserve Account until the Series 2001 A Bonds Reserve Requirement is accumulated therein, at which time payments to the Depreciation Account shall resume.

(5) Next, from the moneys in the Revenue Fund, the Issuer (i) shall make the payments into the Depreciation Account in the amounts and on the dates required by the Prior Resolutions, and (ii) commencing on the day which is 24 months following the date of delivery of the Series 2001 A Bonds and continuing on the corresponding day of each month, shall remit to the Depository Bank for deposit in Depreciation Account, an amount equal to $\frac{1}{2}$ of $\frac{1}{12}^{\text{th}}$ of $\frac{1}{10}^{\text{th}}$ of the Series 2001 A Bonds Reserve Requirement; provided, that after the Series 2001 A Bonds Reserve Requirement has been accumulated in the Series 2001 A Bonds Reserve Account as provided in Section 5.03(A)(4) hereof, the

Issuer shall, each month, remit to the Depository Bank for deposit in the Depreciation Account, an amount equal to $1/12^{\text{th}}$ of $1/10^{\text{th}}$ of the Series 2001 A Bonds Reserve Requirement so long as the Series 2001 A Bonds are outstanding. Moneys in the Depreciation Account shall be used first, to make up any deficiencies for monthly payments of principal of and interest on the Series 2001 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 Account may be withdrawn by the Issuer and used for extraordinary repairs and for replacements of equipment and improvements for the System, or any part therefor.

(6) Next, from the moneys in the Revenue Fund, the Issuer shall remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to $2\frac{1}{2}\%$ of the Gross Revenues each month, exclusive of any payments into the Reserve Accounts. Moneys in the Renewal and Replacement Fund may be withdrawn by the Issuer and used for extraordinary repairs and for replacements of equipment and improvements for the System, or any part therefor.

(7) If all of the above required payments are then current, the Issuer may use any moneys remaining in the Revenue Fund for the following purposes: (a) for prepayment of the amount, or any part thereof, of the Bonds Outstanding in accordance with the terms thereof, (b) additions, betterments or improvements to the System which the Consulting Engineers certify are needed and/or (c) payments of principal and interest on subordinate water revenue bonds, or other obligations which may hereafter be issued by the Issuer on account of the System.

(B) All of the funds and accounts provided for above shall constitute trust funds and shall be used only for the purposes provided herein.

(C) The moneys in excess of the sum insured by the maximum amounts insured by the FDIC in all funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Government Obligations or such other obligations as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

(D) If on any monthly payment date the Net Revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payments dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Section 5.03(A), above, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority.

(E) All remittances made by the Issuer to the Government, the Commission or the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

(F) The Commission is hereby designated as the fiscal agent for the administration of the Series 2001 A Bonds Reserve Account created hereunder. Moneys in the Series 2001 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

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

Section 5.04. Tap Fees. During the construction of the Project, Tap Fees, if any, shall be deposited in the Series 2001 A Bonds Construction Trust Fund. Following completion of the Project, Tap Fees shall be deposited in the Revenue Fund and may be 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 the moneys received from time to time from the sale of the Series 2001 A Bonds shall be deposited in the Series 2001 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 2001 A Bonds.

Section 6.02. Disbursements from Bond Construction Trust Fund. The Series 2001 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 for the payment of interest on the Series 2001 A Bonds during construction and for a period up to six months thereafter 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 2001 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 2001 A Bonds hereby authorized.

Expenditures or disbursements by the Depository Bank from the Series 2001 A Bonds Construction Trust Fund shall be made only after such expenditures or disbursements shall 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 2001 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 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 2001 A Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional 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 2001 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 2001 A Bonds shall be secured by a first lien on the Net Revenues on a parity with the lien 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 2001 A Bonds and to make the payments into all funds and accounts and all other payments provided for in this Resolution and the Prior Resolutions 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 2001 A Bonds as the same become due, and for the other purposes provided in this Resolution and the Prior Resolutions.

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.

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 2001 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 (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the amounts required by this Resolution.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the System may be sold, transferred, mortgaged, leased or otherwise disposed of only in accordance with the terms of the Prior Resolutions. So long as the Series 2001 A Bonds are Outstanding, the System may be sold, transferred, mortgaged, leased or otherwise disposed of or encumbered (other than any statutory mortgage lien created under the Act on account of obligations issued within the restrictions hereof) only with the written consent of the Government, and such consent will specify the disposition of any such sale or transfer.

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, pro rata, in the Depreciation Account and the Renewal and Replacement Fund with respect to the Bonds Outstanding. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, in writing, determine upon consultation with the Consulting Engineers 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 derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall, upon receipt of approval of the Registered Owners, if needed, be remitted by the Issuer to the Government and the Commission, pro rata, for deposit in the appropriate Sinking Fund and shall be applied only to the purchase or redemption of Bonds of the last maturities then Outstanding at prices not greater than the applicable redemption price, or, if not redeemable at par or otherwise, pro rata, in the Depreciation Account and the Renewal and Replacement Fund with respect to the Bonds Outstanding. The payment of such proceeds into the Sinking Funds or the Depreciation Account and the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in

excess of \$50,000 and insufficient to pay 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 any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2001 A Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof and in the Prior Resolutions (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 2001 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 Resolutions 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 2001 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2001 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 Resolutions. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued pursuant to this Resolution, except under the conditions and in the manner herein provided 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 2001 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of extensions or improvements to the System or refunding one or more series of Bonds issued pursuant hereto or the Prior Resolutions, 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, based upon the necessary investigation and certification by the Consulting Engineer, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months

within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding, including, without limitation, the Prior Bonds;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of another series on a parity therewith. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution

required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2001 A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Resolution with respect to the Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Government, acting by and through 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 have access to the 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 and safeguards to the extent allowed by the uniform system of accounts promulgated by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the

forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and 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 2001 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 with respect to the Bonds 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 operation and maintenance 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, or 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, or 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 2001 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 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2001 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2001 A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirement are on deposit respectively in the Series 2001 A Bonds Reserve Account and the Reserve Accounts for obligations on a parity with the Series 2001 A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2001 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2001 A Bonds.

Section 7.10. Fiscal Year: Budget. While the Bonds are 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 July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to 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 30 days of the adoption thereof. No expenditures for operation and maintenance expenses of the System in excess of such annual budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Board.

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 percent (10%); and provided further, that adoption of a budget of current expenses shall not constitute compliance with the covenant to adopt an annual budget unless the Issuer's failure to submit an annual budget shall be for a reason beyond the control of the Issuer. Each such budget of current expenses shall be delivered and mailed immediately as in the case of the

annual budget.

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, or agency or instrumentality 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 laws of the State and the rules and regulations of the PSC.

Whenever any fees, rates, rentals or other charges for the services or facilities of the System shall remain unpaid for a period of thirty (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 any rules and regulations promulgated by the PSC applicable thereto, 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 any rules and regulations promulgated by the PSC applicable thereto, discontinue and shut off the services and facilities of the System to all delinquent users of the services and facilities of the System, and will not restore such services of the System until all delinquent charges for the services and facilities 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 its System; 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 Bonds. The Issuer hereby covenants and agrees that, so long as the 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, on all above-ground insurable portions of the System, including machinery and equipment housed therein, in an amount equal to the 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 at the commencement of construction of the Project.

(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 Mason 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 officer and employee of the Issuer having custody of the Revenue Fund or of any other funds or valuable 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 2001 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. Contracts. Not later than simultaneously with the delivery of the Series 2001 A Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of the Project.

Section 7.17. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2001 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 2001 A Bonds; provided however, that the statutory mortgage lien in favor of the Holders of the Series 2001 A Bonds issued hereunder 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. 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 the issuance of the Series 2001 A Bonds, with all requisite

appeal periods having expired without successful appeal.

Section 7.20. Compensation of Board Members. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Board 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 and in the Prior Resolutions, nor when there is a default in the performance of or compliance with any covenants or provision hereof or of the Prior Resolutions.

Section 7.21. Funds and Accounts Under Prior Resolutions. The Issuer hereby covenants that all payments into the respective funds and accounts created under the Prior Resolutions will have been made in full as required by the Prior Resolutions prior to the date of delivery of the Series 2001 A Bonds.

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, including but not limited to those in the Series 2001 A Bonds Construction Trust Fund, and used for the purpose of such fund or account. 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 Owner, including the value of accrued interest and giving effect to the amortization of discount and investments in the "consolidated fund" of the West Virginia Investment Management Board shall be valued at par. 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.

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. A. Each of the following events shall constitute an "Event of Default" with respect to the Series 2001 A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Series 2001 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 2001 A Bonds set forth in this Resolution, any Supplemental Resolution or the Series 2001 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 Resolutions 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 2001 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 hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of 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 2001 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 2001 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 2001 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2001 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 2001 A Bonds shall be made without the consent in writing of the Owners of the Series 2001 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 2001 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 2001 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 2001 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 Resolutions. Except for the Prior Resolutions, 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 Resolutions, the Prior Resolutions 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

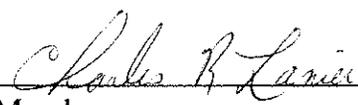
thereto; and that the Chairperson, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred, and are, duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Resolution shall take effect immediately upon its adoption.

Adopted this 14th day of March, 2001.



Chairperson



Member

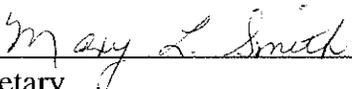
Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of Mason County Public Service District on March 14, 2001.

Dated this 16th day of March, 2001.

[SEAL]


Secretary

02/14/01
100424/00303

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of a water booster station, a 158,000 gallon water storage tank, a pressure reducing station, approximately 15 miles of 2" through 10" water lines to serve an additional 98 customers in an area known as Jeffers Ridge in Mason County, West Virginia, together with all appurtenant facilities.



MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 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 MASON COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DESIGNATING A DEPOSITORY BANK AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Board") of Mason County Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on March 14, 2001 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF MASON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT TO EXCEED \$375,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE), AND THE SALE THEREOF TO THE UNITED STATES OF AMERICA, UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL UTILITIES SERVICE; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; 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 2001 A (United States Department of Agriculture), of the Issuer, in an aggregate principal amount not to exceed \$375,000 (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 Board 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 PUBLIC SERVICE BOARD OF MASON COUNTY 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 Mason County Public Service District Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), of the Issuer, in the original principal amount of \$375,000. 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 4.50% 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 delivery of the Bonds, and thereafter, monthly installments of principal and interest on the Bonds, in the aggregate amount of \$1,722, 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 remaining unpaid on the date thereof. The Bonds are subject to prepayment as set forth in the Resolution.

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. The proceeds of the Bonds shall be deposited in the Series 2001 A Bonds Construction Trust Fund for payment of the costs of the Project, including, without limitation, costs of issuance of the Bonds and related costs.

Section 5. 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 6. The Issuer hereby appoints and designates City National Bank, Point Pleasant, West Virginia, to serve as the Depository Bank for the Revenue Fund, the Depreciation Account and the Renewal and Replacement Fund.

Section 7. The Issuer hereby appoints and designates Ohio Valley Bank, Point Pleasant, West Virginia, to serve as the Depository Bank for the Series 2001 A Bonds Construction Trust Fund.

Section 8. 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 2001 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 9. 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 March 14, 2001.

Section 10. 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 11. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 12. The Issuer hereby approves all contracts relating to the financing, acquisition and construction of the Project.

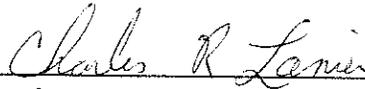
Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 14th day of March, 2001.

MASON COUNTY PUBLIC SERVICE DISTRICT



Chairperson



Member

Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Mason County Public Service District on March 14, 2001.

Dated this 16th day of March, 2001.

[SEAL]

Mary L. Smith

Secretary

02/14/01
100424/00303

MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 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 Mason County 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 Mason County Public Service District met in special session, pursuant to notice duly posted, on the 14th day of March, 2001, in Point Pleasant, West Virginia, at the hour of 10:00 a.m.

- | | | | |
|----------|----------------|---|------------------------|
| PRESENT: | Dorsel Keefer | - | Chairperson and Member |
| | Charles Lanier | - | Treasurer and Member |
| | Mary Smith | - | Secretary |
| ABSENT: | William Hughes | - | Member |

Dorsel Keefer, Chairperson, presided, and Mary Smith, 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 EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING WATERWORKS SYSTEM OF MASON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT TO EXCEED \$375,000 IN AGGREGATE

PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE), AND THE SALE THEREOF TO THE UNITED STATES OF AMERICA, UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL UTILITIES SERVICE; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; 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 MASON COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS, SERIES 2001 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.

Doreen Healy
Chairperson

May L. Smith
Secretary

CERTIFICATION

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

WITNESS my signature on this 16th day of March, 2001.

Mary L. Smith
Secretary

02/14/01
100424/00303

legal on back →

STATE OF WEST VIRGINIA,
MASON COUNTY To-wit.

Personally appeared before the undersigned authority in and for the said County of Mason, this 17th day of March, 2000, who being before me first duly sworn did depose and say that She/He, Elizabeth is an employee of The Register, a daily newspaper of general circulation, printed, published, and circulated in said County; that the Legal notice hereto annexed, was published in said newspaper for 2 consecutive days/weeks, the first publication thereof having been made as aforesaid in the issue of the 9th day of March, 2000, and the last issue on the 16th day of March, 2000.

Elizabeth M. Brumette

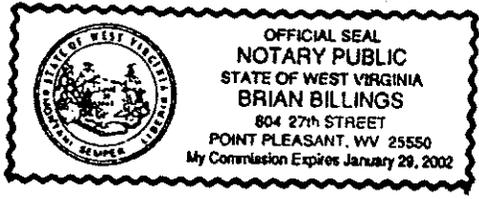
Taken, subscribed and sworn to before me in my said County, this 17 day of March, 2000.

My commission expires Jan 29, 2002

Brian Billings
Notary Public

Publication Fee. \$ 62.79

notice on back



NOTICE OF FILING

The Mason County Public Service District has filed a duly verified pre-filing application for a Certificate of Convenience and Necessity for the construction, operation and maintenance of extensions to its water distribution system.

The Project will consist of the construction of one water booster station one water storage tank and approximately 15 miles of 2" through 10" water lines to serve 98 new customers. The estimated total cost of the Project is not expected to exceed \$875,000.

The District intends to finance the costs of the Project with a grant from the Appalachian Regional Commission and a loan, not expected to exceed \$400,000, from the USDA-Rural Development Program, with interest not to exceed the legal rate. In addition, the District proposes to enter into an

agreement with a local bank to provide interim financing during construction, with interest not to exceed the legal rate. The water rates charged by the District are not expected to change as a result of this project.

This Project will be submitted for approval of the Public Service Commission in the District's formal application. It is anticipated that the formal application will be filed no earlier than thirty days after the second publication of this notice, upon which the formal application the Public Service Commission may grant its consent and approval for the Certificate and the plan of financing (under the provisions of Chapters 16 and Chapter 24 of the Code of West Virginia). Such approval may be granted without hearing if no protest is received by the Public Service Commission within thirty (30) days of the filing of the formal application. Written protests should be directed to Ms. Sandra Squire, Executive secretary, Public Service Commission of West Virginia, 201 Brooks Street, Post Office Box 812, Charleston, WV 25323.

Mason County Public Service District
By: Randy Grinstead,
General Manager.

3/9, 16, 2 tc 875

AFFIDAVIT OF PUBLICATION

Cost of Publication \$47.04

State of West Virginia, County of Putnam, to wit:

I, Phyllis Robinson, being first sworn upon my oath, do depose and say that I am Publisher of the newspaper entitled THE PUTNAM DEMOCRAT, a Democratic newspaper; that I have been duly authorized to execute all affidavits 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 on Thursday, for at least fifty weeks during the calendar year, in Winfield, Putnam 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 or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, that the annexed

notice of Notice of Filing

Mason County Public Service District

Certificate of Convenience and Necessity

Construction, Operation, Maintenance

Extension to Water Distribution System

was duly published in said newspaper once a week for 2 (successive) week(s), commencing with the issue of the 9th day of March 2000, and ending with issue of the 16th day of Mar. 2000, (and was posted, if required, at the _____ on the _____ day of _____, 20_____).

Phyllis Robinson
Phyllis Robinson, Publisher
The Putnam Democrat

Taken, subscribed and sworn to before me in my said county this 17th day of March, 2000.

My commission expires May 4, 2008

Frederica A. Whitney
Notary Public of Putnam County, West Virginia

LEGAL NOTICE

NOTICE OF FILING

The Mason County Public Service District has filed a duly verified pre-filing application for a Certificate of Convenience and necessity for the construction, operation and maintenance of extensions to its water distribution system.

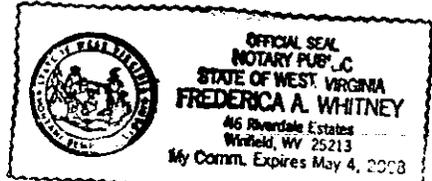
The Project will consist of the construction of one water booster station one water storage tank and approximately 15 miles of 2" through 10" water lines to serve 98 new customers. The estimated total cost of the project is not expected to exceed \$875,000.

The District intends to finance the costs of the Project with a grant from the Appalachian Regional Commission and a loan not expected to exceed \$400,000 from the USDA-Rural Development Program with interest not to exceed the legal rate. In addition, the District proposes to enter into an agreement with a local bank to provide interim financing during construction with interest not to exceed the legal rate. The water rates charged by the District are not expected to change as a result of this project.

This Project will be submitted for approval of the Public Service Commission in the District's formal application. It is anticipated that the formal application will be filed no earlier than thirty days after the second publication of this notice, upon which formal application the Public Service Commission may grant its consent and approval for the Certificate and the plan of financing (under the provisions of Chapter 16 and Chapter 24 of the Code of West Virginia). Such approval may be granted without hearing if no protest is received by the Public Service Commission within thirty (30) days of the filing of the formal application. Written protest should be directed to Ms. Sandra Squire, Executive Secretary, Public Service Commission of West Virginia, 210 Brooks Street, Post Office Box 812, Charleston, WV 25323.

Mason County Public Service District
By: Randy Grinstead,
General Manager

21-3-9, 3-16



Point Pleasant Register

Mason Co. Public Service District

Att. Mary Smith

ID NUMBER 550516314

39 words per. inch

\$2.73 an inch

TOTAL

911

Legal advertisement

March 2, 2001

24.57

MASON COUNTY
PUBLIC SERVICE
DISTRICT

Secretary

03-02, 2001
11

91

NOTICE OF SPECIAL MEETING

The Public Service Board of Mason County Public Service District (the "District") will hold a special meeting on Wednesday, March 14, 2001, at 10:00 a.m., prevailing time, at the District's office at 101 Camden Avenue, Point Pleasant, West Virginia, for the following purposes:

1. To consider and adopt a proposed Bond Resolution authorizing its Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), in the aggregate principal amount of \$375,000 (the "Bonds"), to pay the costs of acquisition and construction of extensions and improvements to the existing public waterworks system of the District and the costs of issuance and related costs.

2. To consider and adopt a proposed Supplemental Resolution approving the terms and other provisions of the Bonds.

3. To consider and adopt a proposed Resolution approving the invoices in connection with the Project for payment with proceeds of the Bonds.

4. 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.

15B

STATE OF WEST VIRGINIA

MASON COUNTY TO_ WIT

Personally appeared before the undersigned authority in and for the said County of Mason, this 9th day of March 2001, who being before me first duly sworn did depose and say that she Elizabeth is an employee of the Register, a daily newspaper of general circulation, printed, published and circulated in said County that the legal notice hereto annexed. was published in said newspaper for 1 consecutive days/weeks, the first publication there of having been made as aforesaid in the issue of the 2 day of March 2001, and the last issue on the day of 20

Elizabeth M Barnett

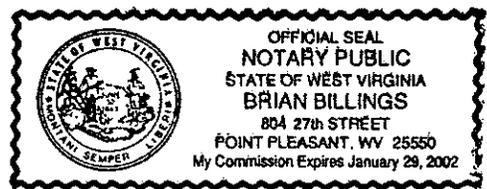
Taken subscribed and sworn to before me in my said County

this 9 day of March, 2001

My commission expires Jan 29, 2002

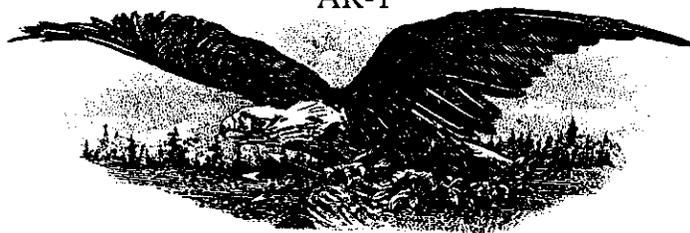
Brian Billings
Notary Public

Publication Fee \$ 24.57





AR-1



SPECIMEN 1

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1

\$375,000

March 16, 2001

FOR VALUE RECEIVED, MASON COUNTY PUBLIC SERVICE DISTRICT, a public corporation organized and existing under the laws of, and a political subdivision of, the State of West Virginia, in Mason County (herein called the "Borrower"), promises to pay to the order of the United States of America (herein called 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 THREE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$375,000), 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 4.50% 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 \$1,722, 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 Borrower as requested by the Borrower 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 Borrower. 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 Borrower 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 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 Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government. Borrower 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 extensions, additions, betterments and improvements to the existing waterworks system of the Borrower (the "Project" and together with any further extensions, additions, betterments and improvements thereto, herein called the "System"); and (ii) to pay certain costs of issuance and related costs. This Bond is authorized and issued under 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 a Resolution duly adopted by the Borrower on March 14, 2001, as supplemented by a Supplemental Resolution duly adopted by the Borrower on March 14, 2001 (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution. 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 BORROWER'S (1) WATER REVENUE BONDS, SERIES 1981, DATED JANUARY 22, 1981, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$1,100,000; (2) WATER REVENUE BONDS, SERIES 1987, DATED JUNE 25, 1987, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$610,000; (3) WATER REVENUE BONDS, SERIES 1997 A, DATED SEPTEMBER 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL

AMOUNT OF \$1,440,000; (4) WATER REVENUE BONDS, SERIES 1997 B, DATED SEPTEMBER 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$818,000; (5) WATER REVENUE BONDS, SERIES 1999 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED AUGUST 5, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$620,000; AND (6) WATER REVENUE BONDS, SERIES 2000 A (WEST VIRGINIA DWTRF PROGRAM), DATED JUNE 28, 2000, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$960,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues (as defined in the Resolution) to be derived from the operation of the System, which lien is on a parity with the lien of the Prior Bonds, moneys in the Series 2001 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 which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provisions or limitations, nor shall the Borrower be obligated to pay the same or the interest hereon except from the Net Revenues, the moneys in the Series 2001 A Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, the Borrower 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 to provide for the proper and reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing year of principal of and interest on this Bond, the Prior Bonds and on all obligations secured by or payable from such revenues on a parity with this Bond, provided however, that so long as the Series 2001 A Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on this Bond in the then current or any succeeding year, and the reserve accounts for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, are funded at an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Borrower has entered into certain further covenants with the owner of this Bond for the terms of which reference is made to the Resolution. Remedies provided the owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of the Secretary of the Borrower, 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 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.

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 such purposes and periods of time.

If at any time it so appears to the Government that Borrower 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, Borrower will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts connected with the issuance hereof, as provided by law and the Resolution, shall be applied solely to the costs of acquisition and construction of the Project, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and upon 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 Borrower, 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 Borrower for the prompt payment of the principal of and interest on this Bond.

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.

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.

This Bond is given as evidence of a loan to Borrower 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.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, MASON COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its seal to be hereunto impressed and attested by its Secretary, all as of the date first written above.

MASON COUNTY PUBLIC SERVICE DISTRICT

Dorel Kerby
Chairperson

[SEAL]

ATTEST:

Mary L. Smith
Secretary

SPECIMEN

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$100,000	3/16/01	(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	\$	

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:

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

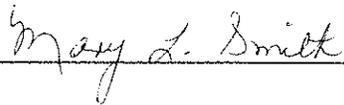
<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. AR-1	\$375,000	March 16, 2001

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:



02/14/01
100424/303



United States
Department of
Agriculture

Rural Development

Federal Building, Room 320
75 High Street
Morgantown, WV 26505
Tel: (304) 284-4888
Fax: (304) 284-4892
TTY/TDD: (304) 284--4836

**MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(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 Rural Utilities Service, United States Department of Agriculture, Rural Development (the "Government"), 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 2001 A (United States Department of Agriculture) (the "Series 2001 A Bonds"), in the original aggregate principal amount of \$375,000, by Mason County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2001 A Bonds (collectively, the "Resolution"), on a parity as to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 1981, dated January 22, 1981; Water Revenue Bonds, Series 1987, dated June 25, 1987; Water Revenue Bonds, Series 1997 A, dated September 25, 1997; and Water Revenue Bonds, Series 1999 A (United States Department of Agriculture), dated August 5, 1999 (collectively, the "Prior Bonds"); (ii) waives any requirements imposed by the Prior Bonds or the resolutions authorizing the Prior Bonds (the "Prior Resolutions"), regarding the issuance of parity bonds which are not met by the Series 2001 A Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolutions by the Resolution.

WITNESS my signature on this 26th day of February, 2001.

**UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL DEVELOPMENT**

Dianne Goff Crysler

DIANNE GOFF CRYSLER

Acting State Director





State of West Virginia
WATER DEVELOPMENT AUTHORITY

180 Association Drive, Charleston, WV 25311-1571
(304) 558-3612 - (304) 558-0299 (Fax)
Internet: www.wvwda.org - Email: contact@wvwda.org

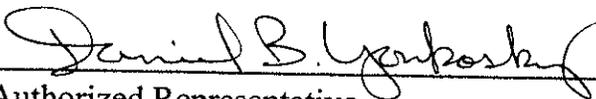
MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon a certificate of the Issuer's certified public accountant stating that the parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds, Series 2001 A (United States Department of Agriculture) (the "Series 2001 A Bonds"), in the original aggregate principal amount of \$375,000, by Mason County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2001 A Bonds, on a parity as to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 1997 B, dated September 25, 1997, and Water Revenue Bonds, Series 2000 A (West Virginia DWTRF Program), dated June 28, 2000 (collectively, the "Prior Bonds").

WITNESS my signature on this 16th day of March, 2001.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY



Authorized Representative



MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 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
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. TRUTH AND ACCURACY
13. SPECIMEN BOND
14. DELIVERY, PAYMENT AND TERMS OF BONDS
15. USERS
16. GRANTS
17. CONFLICT OF INTEREST
18. WETLANDS COVENANT
19. COUNTERPARTS

We, the undersigned CHAIRPERSON and SECRETARY of Mason County Public Service District (the "Issuer"), and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Mason County Public Service District Water Revenue Bonds, Series 2001 A (United States Department of Agriculture) (the "Bonds"), numbered AR-1, dated the date hereof, in the original aggregate principal amount of \$375,000, bearing interest at the rate of 4.50% per annum 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 July 23, 1998, a Bond Resolution duly adopted by the Issuer on March 14, 2001, and a Supplemental Resolution duly adopted by the Issuer on March 14, 2001 (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 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 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, permits, exemptions, consents, authorizations, registrations and certificates required by law for 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 or the System since the approval by the Government of the loan to assist in acquisition and construction of 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 Resolutions and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. The Issuer has obtained (1) the certificate of an Independent Certified Public Accountant stating that the parity tests of the Prior Bonds have been met and (2) the 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:** The undersigned Chairperson and Secretary are the duly elected, qualified and serving officers of the Issuer as indicated by the official titles opposite their signatures below, and were 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.

6. **PUBLIC SERVICE COMMISSION ORDER:** The undersigned Attorney hereby covenants 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 October 19, 2000, in Case No. 00-0622-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 published the required notice with respect to, among other things, the acquisition and construction of the Project, anticipated user rates and charges, the issuance of the Bonds and the filing of a formal application for a certificate of public convenience and necessity 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, are currently in effect.

8. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Mason County Public Service District", and it is a public service district, a public corporation and political subdivision of the State of West Virginia in Mason County of said State. The governing body of the Issuer is its Board, consisting of three members, whose names and dates of termination of their current terms are as follows:

<u>Name</u>	<u>Date Of Termination Of Office</u>
Dorsel F. Keefer	August, 2004
William F. Hughes	August, 2002
Charles R. Lanier	August, 2006

The duly elected or appointed officers of the Board for 2001 are as follows:

Dorsel F. Keefer	-	Chairperson
Charles R. Lanier	-	Treasurer
Mary L. Smith	-	Secretary

The duly appointed and acting attorney for the Issuer is R. Michael Shaw, L.C., of Point Pleasant, 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. TRUTH AND ACCURACY: As of the date hereof, the undersigned Chairperson and Secretary hereby certify that the copies of documents previously or on the date hereof certified by them as being true and accurate are true and accurate as of the date hereof and that none of such documents has been repealed, rescinded, amended or otherwise modified.

13. 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.

14. DELIVERY, PAYMENT AND TERMS OF BONDS: On the date hereof, the Bonds were delivered to the Government by the undersigned Chairperson. At the time of such delivery, the Bonds had been duly and fully executed and sealed on behalf of the Issuer in accordance with the Resolution. The Issuer received the first advance of the principal of the Bonds in the amount of \$100,000, representing more than a de minimus amount of the Bonds delivered.

The Bonds are dated the date hereof, and interest thereon at the rate of 4.50% per annum is payable from such date on the amounts advanced under the Bonds. The Bonds shall be subject to prepayment of scheduled installments, or any portion thereof, at the option of the Issuer, and shall be payable as to both principal and interest as provided in the Bonds.

15. USERS: The Issuer will serve at least 86 bona fide users upon the completion of the Project, in full compliance with the Letter of Conditions.

16. GRANTS: As of the date hereof, the grant from the Appalachian Regional

Commission in the amount of \$500,000 is committed and in full force and effect.

17. **CONFLICT OF INTEREST:** No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or 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.

18. **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.

19. **COUNTERPARTS:** This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

[The remainder of this page is intentionally left blank.]

WITNESS our signatures and the official corporate seal of Mason County Public Service District on this 16th day of March, 2001.

[CORPORATE SEAL]

Signature

Official Title

Dorel Kufy

Chairperson

May L. Smith

Secretary

R. G. Jett

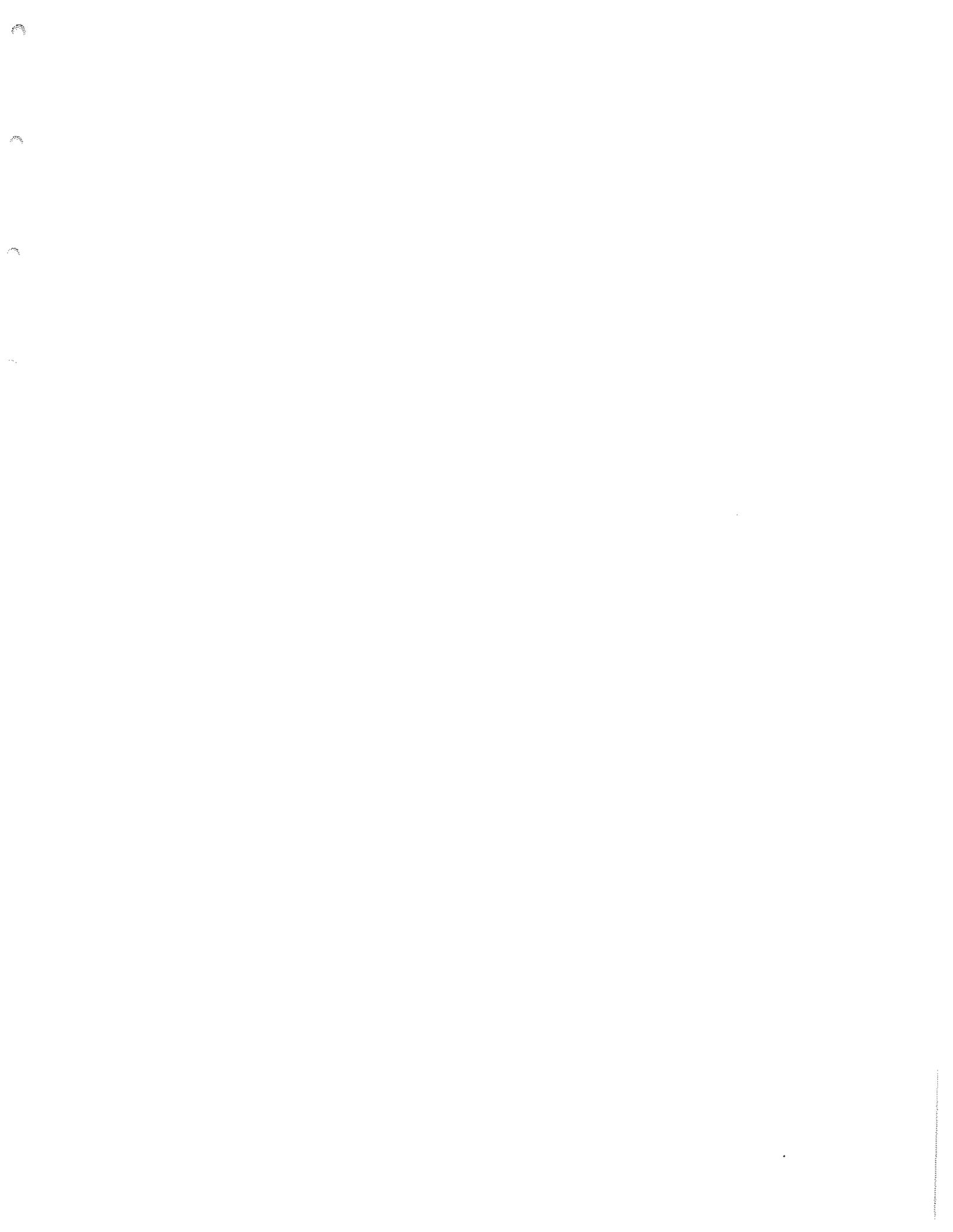
Attorney

02/14/01
100424/00303

EXHIBIT A

Specimen Bond

(see Document 2.10, Tab 16)



WITNESS my signature and the official seal of the Issuer on this 16th day of March, 2001.

[SEAL]

May L. Smith
Secretary

02/23/01
100424/00303

MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

The undersigned duly appointed Secretary of Mason County 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 \$375,000 Mason County Public Service District Water Revenue Bonds, Series 2001 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 Mason County Creating the Issuer.
2. Orders of the County Commission of Mason 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. USDA Consent to Issuance of Parity Bonds.
16. WDA Consent to Issuance of Parity Bonds.
17. Appalachian Regional Commission Grant Agreement.
18. Financing Statement and Certificate of Filing.

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MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF CONSULTING ENGINEER

I, Manning Frymier, Registered Professional Engineer, West Virginia License No. 8497, of Cerrone Associates, Inc., Consulting Engineers, Wheeling, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the existing waterworks system (the "System") of Mason County Public Service District (the "Issuer"), to be constructed primarily in Mason 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 March 14, 2001 (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 July 23, 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.

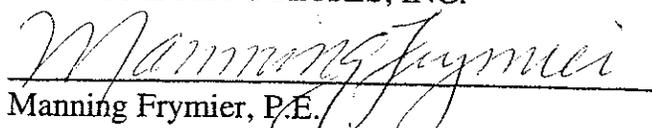
3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my 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 R. Michael Shaw, L.C., 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 Howard M. Cloke, III, 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 16th day of March, 2001.

[SEAL]

CERRONE ASSOCIATES, INC.


Manning Frymier, P.E.
West Virginia License No. 8497

02/14/01
100424/00303



Howard M. Cloke III
Certified Public Accountant
Barboursville, WV 25504
TEL & FAX 304-736-8162

March 16, 2001

MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

United States of America
United States Department of Agriculture,
Rural Utilities Service
PO Box 303
Parkersburg, WV 26102

Mason County Public Service District
101 Camden Avenue
Point Pleasant, WV 25550

Jackson & Kelly PLLC
PO Box 553
Charleston, WV 25322

Ladies and Gentlemen:

I have reviewed the water service rates of Mason County Public Service District (the "Issuer") and the projected operating expenses and anticipated customer usage provided by Cerrone Associates, Inc. It is my opinion that such rates are adequate (i) to provide for all operating expenses of the waterworks system of the Issuer (the "System"), and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for the payment of principal of and interest on the Issuer's Water Revenue Bonds, Series 1981, Water Revenue Bonds, Series 1987, Water Revenue Bonds, Series 1997 A, Water Revenue Bonds, Series 1997 B, Water Revenue Bonds, Series 1999 A (United States Department of Agriculture), Water Revenue Bonds, Series 2000 A (West Virginia DWTRF Program) (collectively, the "Prior Bonds"), and Water Revenue Bonds, Series 2001 A (United States Department of Agriculture) (the Series 2001 A Bonds")

United States of America
Mason County Public Service District
Jackson & Kelly PLLC
March 16, 2001
Page 2

It is further my opinion that the Net Revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Series 2001 A Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2001 A Bonds, will not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for principal of and interest on the Prior Bonds and the Series 2001 A Bonds.

Sincerely,



Howard M. Cloke, III
Certified Public Accountant

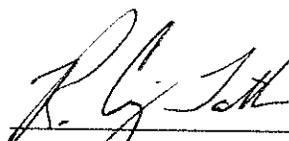
MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

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 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 Mason County Public Service District (the "Issuer"), taken with respect to the issuance or sale 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, sale and issuance 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 March 14, 2001.

WITNESS my signature on this 16th day of March, 2001.



R. Michael Shaw, L.C.
Attorney for Mason County Public Service District

02/14/01
100424/00303

MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 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 16th day of March, 2001, the undersigned received for and on behalf of the Government, the entire amount of the Water Revenue Bonds, Series 2001 A (United States Department of Agriculture) (the "Bonds"), of Mason County Public Service District (the "Issuer"), dated March 16, 2001, issued in the form of one bond in the principal amount of \$375,000, and numbered AR-1. The Bonds bear interest at the rate of 4.50% 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 \$1,722, 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.

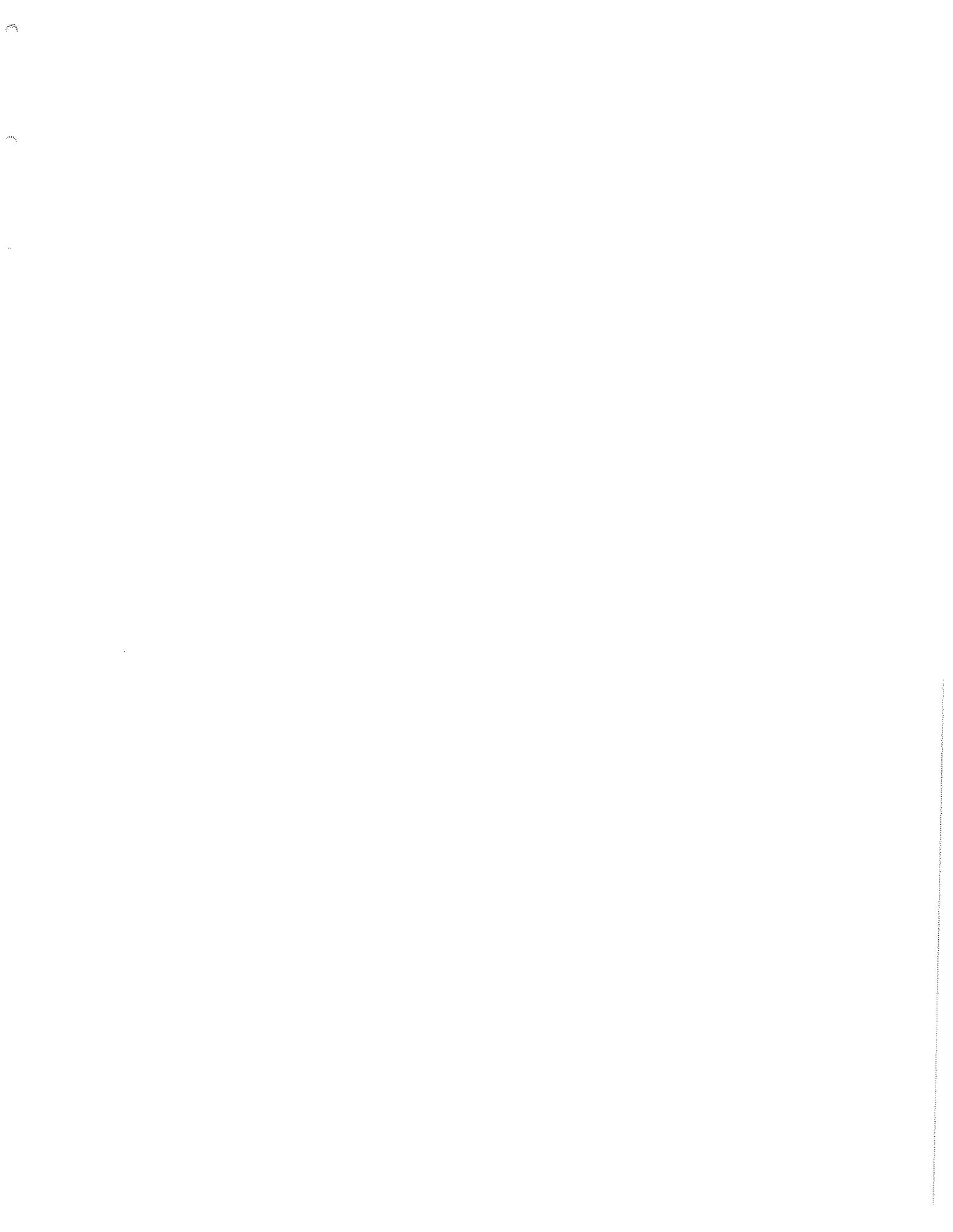
2. At the time of such receipt of the Bonds, they had been executed by the Chairperson and the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 16th day of March, 2001.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL UTILITIES SERVICE

By:  _____
Its Authorized Representative

02/14/01
100424/00303



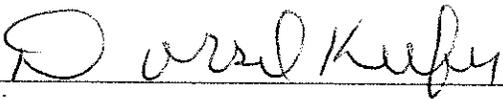
MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

RECEIPT FOR BOND PROCEEDS

The undersigned Chairperson of Mason County 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 \$100,000 as the first advance on the Mason County Public Service District Water Revenue Bonds, Series 2001 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.

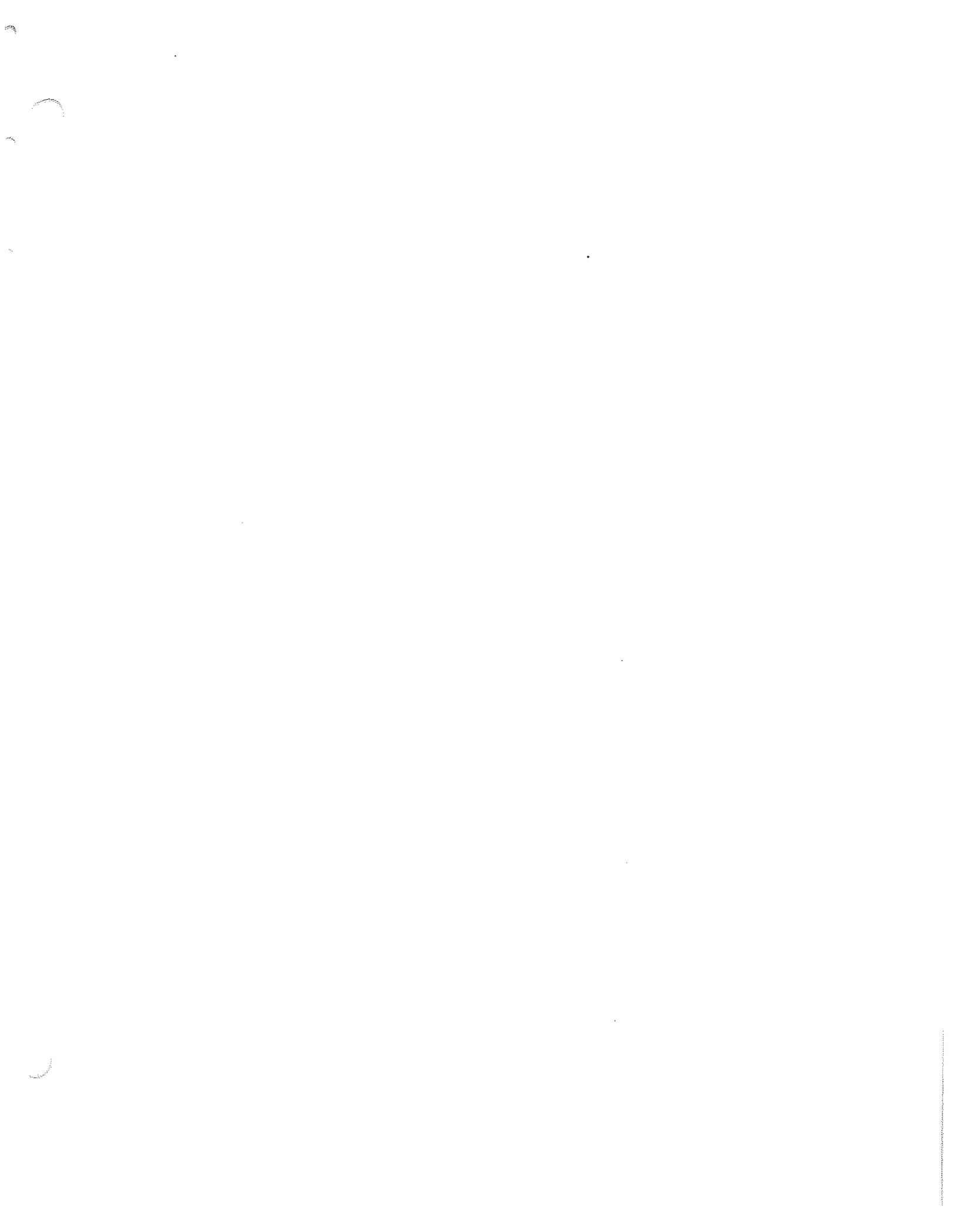
WITNESS my signature on this 16th day of March, 2001.

MASON COUNTY PUBLIC SERVICE DISTRICT



Chairperson

02/14/01
100424/00303



MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

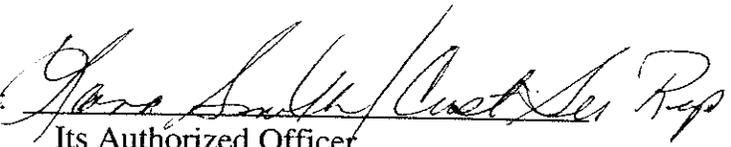
ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

CITY NATIONAL BANK, Point Pleasant, West Virginia, hereby accepts appointment as Depository Bank for the Revenue Fund, the Depreciation Account and the Renewal and Replacement Fund in connection with a Bond Resolution of Mason County Public Service District (the "Issuer") adopted by the Issuer on March 14, 2001, and a Supplemental Resolution adopted by the Issuer on March 14, 2001 (collectively, the "Resolution"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), in the aggregate principal amount of \$375,000, dated March 16, 2001, and agrees to serve as Depository Bank for the Revenue Fund, the Depreciation Account and the Renewal and Replacement Fund, all as set forth in the Resolution.

WITNESS my signature on this 16th day of March, 2001.

CITY NATIONAL BANK

By:


Its Authorized Officer

02/14/01
100424/00303

M0303855.1

27A

MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

OHIO VALLEY BANK, Point Pleasant, West Virginia, hereby accepts appointment as Depository Bank for the Series 2001 A Bonds Construction Trust Fund in connection with a Bond Resolution of Mason County Public Service District (the "Issuer") adopted by the Issuer on March 14, 2001, and a Supplemental Resolution adopted by the Issuer on March 14, 2001 (collectively, the "Resolution"), authorizing issuance of the Issuer's Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), in the aggregate principal amount of \$375,000, dated March 16, 2001, and agrees to serve as Depository Bank for the Series 2001 A Bonds Construction Trust Fund, all as set forth in the Resolution.

WITNESS my signature on this 16th day of March, 2001.

OHIO VALLEY BANK

By: Mario P. Salvatore
Its Authorized Officer

02/14/01
100424/00303



Water and Waste System Grant Agreement
United States Department of Agriculture
Rural Utilities Service

COPY

THIS AGREEMENT dated August 4, 1998, between

Mason County 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 \$ 875,000 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 375,000 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 \$ 375,000 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 500,000 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 306(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.

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.

* the Appalachian Regional Development Act of 1965, as amended,

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. 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.

[Revision 1, 04/17/1998]

(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 Jeffers Ridge water extension consists of approximately 87,700 LF of 2", 4", 6" and 8" waterline, a 244,000 gallon water storage tank, a 150 GPM booster station and various meters, valves and hydrants necessary for the operation and maintenance of the water system. This project will provide water service to a potential of 108 families in the Jeffers Ridge/Southside areas of Mason County, WV.

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.
[Revision 1, 04/17/1998]

1. Use of equipment.

(a) The Grantee shall use the equipment 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 equipment 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 equipment 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 equipment 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.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described equipment (use continuation sheets as necessary).

None

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.

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 I 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:

Mason County Public Service District

By

Vitus Hartley, Jr.
Vitus Hartley, Jr.

(Title)

Chairman

By

Mary E. Smith
Mary E. Smith

(Title)

Secretary

UNITED STATES OF AMERICA

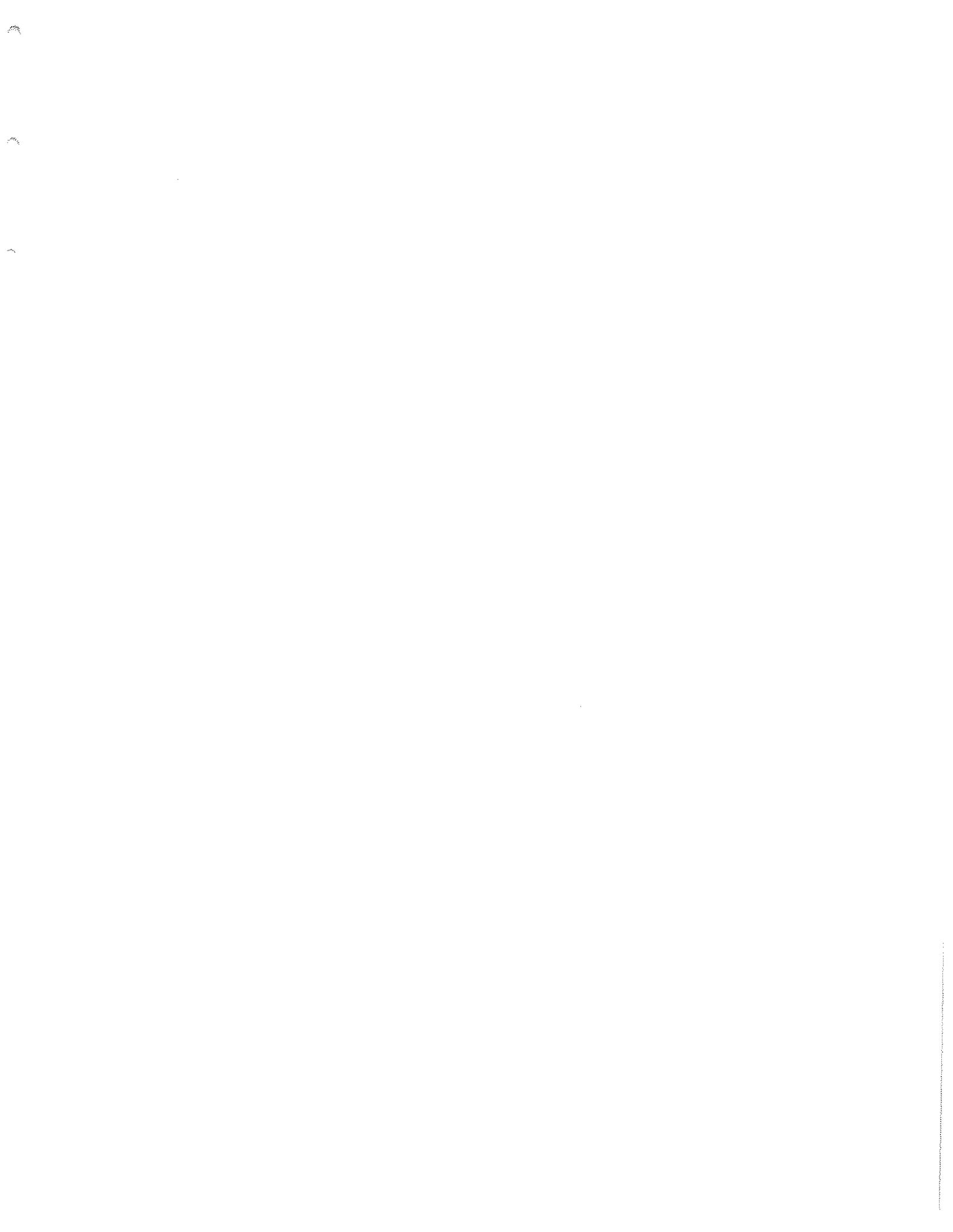
RURAL UTILITIES SERVICE

By

Gary E. Wilson
Gary E. Wilson

Rural Development Specialist
(Title)

March 16, 2001



MASON COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF FILING OF FINANCING STATEMENT

The undersigned Secretary of State of the State of West Virginia, hereby certifies that on the date and at the hour set forth below, there was filed in my office:

(1) A FINANCING STATEMENT between Mason County Public Service District, as debtor, and the United States of America, National Finance Office, as secured party, filed on March 19, 2001, at the hour of 3:16 P.m. as Financing Statement No. 656746.

[SEAL]



Secretary of State of the State of West Virginia

02/12/01
100424/00303

This FINANCING STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code.

3. Maturity date (if any): **3/16/2011**

1. Debtor(s) (Last Name First) and address(es)
Mason County Public Service District
101 Camden Avenue
Point Pleasant, WV 25550

2. Secured Party(ies) and address(es)
United States of America
National Finance Office
1520 Market Street
St. Louis, Missouri 63103

For Filing Officer (Date, Time, Number, and Filing Office)



0556746

01 MAR 19 PM 3:16

WV SEC. OF STATE

4. This financing statement covers the following types (or items) of property:

See Schedule I attached hereto and made a part hereof.

5. Assignee(s) of Secured Party and Address(es)

This statement is filed without the debtor's signature to perfect a security interest in collateral (check if so) already subject to a security interest in another jurisdiction when it was brought into this state which is proceeds of the original collateral described above in which a security interest was perfected

Filed with

West Virginia Secretary of State

Check if covered Proceeds of Collateral are also covered Products of Collateral are also covered No additional sheets presented

TERMINATION STATEMENT: This statement of Termination of Financing is presented to a Filing Office

Mason County Public Service District **United States of America** **3/19/2011** **149529**

By: **Dorel Kufus**
Signature(s) of Debtor(s)

Chairperson
Title

By: **[Signature]**
Signature(s) of Secured Party(ies)

Authorized Representative
Title

(2) Filing Officer Copy-Numerical

(For Use in Most States)

**SCHEDULE I TO FINANCING STATEMENT
OF MASON COUNTY PUBLIC SERVICE DISTRICT**

All Net Revenues from the System; the System; all funds in the Revenue Fund, the Depreciation Account, the Renewal and Replacement Fund, the Series 2000 B Bonds Construction Trust Fund, the Series 2000 B Bonds Sinking Fund and the Series 2000 A Bonds Reserve Account; and all funds therein deposited from time to time; and all proceeds of the foregoing.

For the purposes of this financing statement, these terms are defined as follows:

"Depreciation Account" means the Depreciation Account established by the Prior Resolutions and continued by Section 5.01 of the Bond Resolution described below.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments purchased pursuant to Section 8.01 of the Bond Resolution described below) or any Tap Fees, as hereinafter defined.

"Net Revenues" means Gross Revenues less Operating Expenses.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolutions and continued by Section 5.01 of the Bond Resolution described below.

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and continued by Section 5.01 of the Bond Resolution described below.

"Series 2001 A Bonds Construction Trust Fund" means the Series 2001 A Bonds Construction Trust Fund established by Section 5.01 of the Bond Resolution described below.

"Series 2001 A Bonds Reserve Account" means the Series 2001 A Bonds Reserve Account established by Section 5.02 of the Bond Resolution described below.

"Series 2001 A Bonds Sinking Fund" means the Series 2001 A Bonds Sinking Fund established by Section 5.03(A)(2) of the Bond Resolution described below.

"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 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.

Other defined terms used in this Schedule I and not defined herein shall have the meanings ascribed to them in the Bond Resolution authorizing the Mason County Public Service District Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), a copy of which is on file and may be inspected at the office of the Secured Party indicated above.

02/14/01
100424/00303

Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: 3/16/01

ISSUE: Mason County Public Service District Water Revenue Bonds, Series 2001 A
(United States Department of Agriculture)

ADDRESS: 101 Camden Avenue, Point Pleasant, WV 25550 COUNTY: Mason

PURPOSE OF ISSUE: New Money Refunding Refunds issue(s) dated: _____

ISSUE DATE: 3/16/2001 CLOSING DATE: 3/16/2001

ISSUE AMOUNT: \$375,000 RATE: 4.5%

1st DEBT SERVICE DUE: 4/16/2001 1st PRINCIPAL DUE: 3/16/2003

1st DEBT SERVICE AMOUNT: Not Determined PAYING AGENT: None

BOND COUNSEL: Jackson & Kelly PLLC UNDERWRITERS COUNSEL: _____
Contact Person: Samme L. Gee, Esquire Contact Person: _____
Phone: (304) 340-1318 Phone: _____

CLOSING BANK: Ohio Valley Bank ESCROW TRUSTEE: _____
Contact Person: Mario Liberatore Contact Person: _____
Phone: (304) 675-8660 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT: OTHER: USDA, Rural Utilities Service
Contact Person: Randy Grinstead Contact Person: Gary Wilson
Position: Manager Function: _____
Phone: (304) 675-6399 Phone: (304) 420-6666

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: \$ _____
Capitalized Interest: \$ _____
By _____ Wire _____ Reserve Account: \$ _____
Check _____ Other: _____ \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: \$ _____
Check _____ To Issuer: \$ _____
IGT _____ To Cons. Invest. Fund \$ _____
To Other: _____ \$ _____

NOTES: Series 2001 A Bonds Reserve Account only set up with MBC. Debt service payments will be made directly by District to USDA.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____



JACKSON & KELLY PLLC

ATTORNEYS AT LAW

1600 LAIDLEY TOWER

P. O. BOX 553

CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

<http://www.jacksonkelly.com>

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

412 MARKET STREET
PARKERSBURG, WEST VIRGINIA 26101
TELEPHONE 304-424-3490

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

1144 MARKET STREET
WHEELING, WEST VIRGINIA 26003
TELEPHONE 304-233-4000

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-390-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40596
TELEPHONE 859-256-9500

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.

March 16, 2001

Mason County Public Service District
101 Camden Avenue
Point Pleasant, West Virginia 25550

United States of America,
United States Department of Agriculture,
Rural Utilities Service
P.O. Box 303
Parkersburg, West Virginia 26102

Re: Mason County Public Service District
Water Revenue Bonds, Series 2001 A
(United States Department of Agriculture)

Ladies and Gentlemen:

We have served as bond counsel to Mason County Public Service District (the "Issuer") in connection with the issuance of its Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), dated the date hereof (the "Bonds").

We have examined a record of proceedings relating to the issuance of the Bonds. The Bonds are issued in the principal amount of \$375,000, in the form of one bond and bear interest from the date hereof, on the amount advanced thereunder, at the rate of 4.50% 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 March 14, 2001, as

supplemented by a Supplemental Resolution duly adopted by the Issuer on March 14, 2001 (collectively, the "Resolution"). The Bonds are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the existing waterworks system of the Issuer (the "System"), and (ii) paying certain costs of issuance and related costs. All capitalized terms used herein and not 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 a 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 other resolutions in connection with the issuance and sale of the Bonds and they constitute valid and binding obligations of the Issuer enforceable against the Issuer in accordance with their terms.

3. The Bonds have been duly authorized, issued, executed and delivered by the Issuer and are valid and legally enforceable special obligations of the Issuer, payable solely from a pledge of 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 Issuer's Water Revenue Bonds, Series 1981, Water Revenue Bonds, Series 1987, Water Revenue Bonds, Series 1997 A, Water Revenue Bonds, Series 1997 B, Water Revenue Bonds, Series 1999 A (United States Department of Agriculture), and Water Revenue Bonds, Series 2000 A (West Virginia DWTRF Program), 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.

Mason County Public Service District
United States of America
March 16, 2001
Page 3

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.

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,

T. Jackson & Kelly PLLC

R. MICHAEL SHAW, L.C.
R. CRAIG TATTERSON, ATTORNEY
RE: MASON PSD
PAGE#: 2

public service district, public corporation and political subdivision of the State of West Virginia, and 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.

2. The Resolution has been duly adopted by the Board and is in full force and effect.

3. 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.

4. The Issuer has received all the necessary permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations that are required for the due creation and valid 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, an order of the Public Service Commission of West Virginia entered on October 19, 2000, in Case No. 00-0622-PWD-CN, granting a certificate of 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.

5. 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, and has duly complied with the provisions thereof.

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.

R. MICHAEL SHAW, L.C.
R. CRAIG TATTERSON, ATTORNEY
RE: MASON PSD
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.

Very truly yours,



R. Craig Tatterson





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.

3/16/01

(Date)

R. G. Talle

(Attorney's signature)

PO Box 3

Pt. Pleasant, WV 25556

(Address, include ZIP Code)

Attachments

SCHEDULE A

DESCRIPTION OF REAL ESTATE:

Situate in Clendenin District, Mason County, West Virginia, and bounded and described as follows, to-wit:

Commencing at a 1/2" rebar with plastic cap set this survey, said rebar being a new corner to Ed Duncan (Deed Book 322 Page 363) and at the edge of Second Route 29; thence leaving said Secondary and making a new line through the lands of said Duncan the following three (3) bearings and distances:

- 1) S 02°00' E 25.00' to a 1/2" rebar with plastic cap set.
- 2) N 57° 12' W 30.45' to a 1/2" rebar with plastic cap set.
- 3) N 02° 00' W 25.00' to a 1/2" rebar with plastic cap set, said rebar being a new corner to said Duncan and at the edge of above said Secondary.

Thence with said Duncan and said Secondary S 57° 12' E. 30.45' to the point of beginning; Containing 625. Sq. Ft. (0.014 acre) as shown upon that certain plat made as the result of a survey by Point Surveying and Mapping, Route 1, Box 495, Cottageville, NW 25239, dated 27 July 1999.

Temporary Construction Right-of-Way

A temporary construction right-of-way, to be maintained within a reasonable distance, around the boundaries of the above described 0.014 acre booster station site for the purpose of site preparation, grading, and drainage including the right of the grantee to alter the contour of the existing ground to provide adequate site drainage.

In the event the grantee, its successors and assigns, abandon the booster station to be constructed on the 0.014 acre tract of real estate described herein, such real estate shall by operation of law revert to the grantors and their heirs.

Being the same land conveyed by Ed Duncan and Rebecca Lynn Duncan, his wife, to the Mason County Public Service District, by deed dated the 10th day of August, 1999, and of record in the Office of the Clerk of the County Commission of Mason County, West Virginia, in Deed Book No. 350, Page 755.

DEED OF TRUST:

None.

RIGHT OF WAYS AND EASEMENTS:

None.

LEASES:

None.

RESERVATIONS:

None.

DEFECTS:

None.

TAXES:

The 2000 real estate taxes have not been paid. Said real estate is taxed as part of the real estate in the name of Ed Duncan, as follows:

Clendenin District
1.6 Ac. 79 Trlr
Duncan, Ed
Land Assessment: \$ 4,920.00
Building Assessment: \$ 1,800.00
Total Assessment: \$ 6,720.00
Class 2; taxes are in the sum of \$37.31 per half year.
Tax Map No. 403, Parcel 46.1
Assessor's Account No. 6805335

Taxes for the year 2001 are a lien on the subject real estate, but are not yet due and payable.

GENERAL EXCEPTIONS

1. This opinion is subject to any state of facts which might be disclosed by an accurate survey and visual inspection of the subject real estate.
2. This opinion is subject to the correctness of the records and indices in the Office of the Clerk of the County Commission of Mason County, West Virginia.

3. This opinion is subject to the legal and mental competency of the grantors in the chain of title.
4. This opinion is subject to any delinquent fees, rates and charges made by any Public Service District servicing the subject real estate for either water, sewer or gas facilities.
5. This opinion is for the benefit of and is to be relied upon only by United States Department of Agriculture, and is to be relied upon by no other person, company, corporation or organization of any kind.

- 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.

3/16/01

(Date)

Attachments

R. G. Jell

(Attorney's signature)

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Pt. Pleasant, WV 25550

(Address, include ZIP Code)