# McDOWELL COUNTY PUBLIC SERVICE DISTRICT

**Water Revenue Bonds, Series 2001 A**

**Date of Closing: February 23, 2001**

**BOND TRANSCRIPT**

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# McDOWELL COUNTY PUBLIC SERVICE DISTRICT

## Water Revenue Bonds, Series 2001 A

## BOND TRANSCRIPT

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# McDOWELL COUNTY PUBLIC SERVICE DISTRICT

## Water Revenue Bonds, Series 2001 A
## (United States Department of Agriculture)

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McDOWELL COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS SYSTEM OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $145,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. McDowell County Public Service District (the "Issuer") is a public corporation and public service district and political subdivision of the State of West Virginia in McDowell County of said State, duly created pursuant to the Act by The County Commission of McDowell County.

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

A. The Issuer currently owns and operates a public waterworks system and desires to finance and acquire, construct, operate and maintain certain additional public

service properties consisting of additions, improvements and extensions to such existing waterworks facilities with all appurtenant facilities, within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, improvements and extensions to the existing waterworks facilities of the Issuer, consisting of a water treatment and distribution facility (waterline extension project) and all necessary appurtenant facilities in the communities of Caretta and Bartley, McDowell County, West Virginia (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary/Treasurer of the Public Service Board (the "Governing Body") of the Issuer. The existing waterworks facilities of the Issuer, together with the Project and any further additions, improvements or extensions thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Bonds (hereinafter defined) and all funds and accounts and other payments provided for herein.

D. The estimated maximum cost of the acquisition and construction of the Project is $515,000, of which $145,000 will be obtained from the proceeds of sale of the Series 2001 A Bonds herein authorized, approximately $370,000 will be obtained from a grant from the Purchaser, approximately $129,000 will be obtained from a supplemental grant from the Purchaser, and approximately $37,098 will be obtained from a grant from the West Virginia Infrastructure and Jobs Development Council.

E. It is necessary for the Issuer to issue its Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), in the aggregate principal amount of $145,000 (the "Series 2001 A Bonds"), to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2001 A Bonds prior to, during and for six months after completion of such acquisition and construction of the improvements and extensions; engineering, fiscal agents 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 Project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the acquisition and construction

of the properties and the placement of same in operation; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for costs of the Project by the Issuer shall be deemed costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2001 A Bonds as to liens, pledge and source of and security for payment: (i) Water Revenue Bond, Series 1993, dated June 23, 1993, issued in the original aggregate principal amount of $818,000 (the "Series 1993 Bonds"); (ii) Water Revenue Bond, Series 1995, dated September 26, 1995, issued in the original aggregate principal amount of $500,000 (the "Series 1995 Bond"); (iii) Water Revenue Bond, Series 1997 A, dated October 15, 1997, issued in the original aggregate principal amount of $350,000 (the "Series 1997 A Bond"); (iv) Water Revenue Bonds, Series 1999 A, dated June 21, 1999, issued in the original aggregate principal amount of $360,000 (the "Series 1999 A Bonds"); (v) Water Revenue Bonds, Series 1999 B, dated August 11, 1999, issued in the original aggregate principal amount of $870,000 (the "Series 1999 B Bonds"); and (vi) Water Revenue Bonds, Series 1999 C, dated August 11, 1999, issued in the original aggregate principal amount of $125,000, all held by the Purchaser (collectively, the "Prior Bonds"). Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2001 A Bonds as to liens, pledge and/or source of and security for payment.

There are also outstanding obligations of the Issuer which will not rank on a parity with the Series 2001 A Bonds as to liens, pledge and source of and security for payment being the Waterworks System Design Notes, Series 2000 A, dated August 1, 2000, issued in the original aggregate principal amount of $20,000 (the "Prior Notes").

The Issuer is not in default under the terms of the Prior Bonds, or the resolutions authorizing issuance of the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

H. It is in the best interest of the Issuer that the Series 2001 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letters of Conditions, dated July 7, 1998, and all amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2001 A Bonds, or will have so complied prior to issuance of the Series 2001 A Bonds, including, among other things and without limitation, obtaining a certificate of public

convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2001 A Bonds by those who shall be the Registered Owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2001 A Bonds.

Section 1.04. Definitions. In addition to capitalized terms defined elsewhere herein, the following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended.

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

"Bond Registrar" means the Issuer, which shall usually so act by its Secretary/Treasurer.

"Bonds" means, collectively, the Series 2001 A Bonds and the Prior Bonds.

"Chairman" means the Chairman of the Governing Body.

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

"Consulting Engineer" means Stafford Consultants, Incorporated, Princeton, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means Ameribank, War, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

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

"FDIC" means the Federal Deposit Insurance Corporation.

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

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

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America.

"Grants" means, collectively, all grants committed for the Project.

"Herein" or "herein" means in this Bond Legislation.

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

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated July 7, 1998, and all additional amendments thereto, if any.

"Minimum Reserve" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2001 A Bonds in the then current or any succeeding year.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the Project and the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital; provided that, all monthly amortization payments upon the Bonds and into all funds and accounts have been made to the last monthly payment date prior to the date of such retention.

"Prior Bonds" means, collectively, the Water Revenue Bond, Series 1993, the Water Revenue Bond, Series 1995, the Water Revenue Bond, Series 1997 A, the Water Revenue Bonds, Series 1999 A, the Water Revenue Bonds, Series 1999 B, and the Water Revenue Bonds, Series 1999 C, of the Issuer described in Section 1.02G hereof.

"Prior Notes" means the Issuer's Waterworks System Design Notes, Series 2000 A, dated August 1, 2000, issued in the original aggregate principal amount of $20,000.

"Prior Resolutions" means, collectively, the resolutions of the Issuer, adopted June 23, 1993, September 26, 1995, October 15, 1997, June 16, 1999, and August 11, 1999, respectively, authorizing the Prior Bonds.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

"Qualified Investments" means and includes any of the following, to the extent such investments are permitted by law:

(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 (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Investment Management pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder of the Bonds" or any similar term means any person who shall be the registered owner of the Bonds.

"Resolutions" means, collectively, the Prior Resolutions and the Bond Legislation.

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

"Secretary/Treasurer" means the Secretary/Treasurer of the Governing Body.

"Series 2001 A Bonds" means the Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

"System" means the complete public waterworks system of the Issuer, presently existing in its entirety or any integral part thereof, and shall include the Project and any improvements and extensions thereto hereafter acquired or constructed for the System from any sources whatsoever.

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

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 neuter gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary/Treasurer shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary/Treasurer.

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of $682,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2001 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

## ARTICLE III

## AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of the Bond Legislation, the Series 2001 A Bonds of the Issuer, to be known as "Water Revenue Bonds, Series 2001 A (United States Department of Agriculture)", are hereby authorized to be issued in the principal amount of $145,000, for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2001 A Bonds shall be issued in single form, numbered AR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Series 2001 A Bonds shall bear interest from the date of delivery, payable monthly at the rate of 4.5% per annum, 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, and shall be payable as provided in the respective Bond forms hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2001 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2001 A Bonds, and the right to principal of and stated interest on the Series 2001 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2001 A 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, but the Issuer shall pay any other expenses incurred by the Bond Registrar 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 Series 2001 A Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, sufficient 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 Series 2001 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2001 A 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 Purchaser, 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 Series 2001 A 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 Series 2001 A 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, 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. Execution of Bonds. The Series 2001 A Bonds shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary/Treasurer. In case any one or more of the officers who shall have signed or sealed the Series 2001 A Bonds shall cease to be such officer of the Issuer before the Series 2001 A 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. The Series 2001 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such 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 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2001 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2001 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2001 A Bonds shall have

matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2001 A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, on a parity with the Prior Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 2001 A Bonds and the Prior Bonds, and to make the payments as hereinafter provided, 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 Bond. Subject to the provisions hereof, the text of the Series 2001 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$145,000

No. AR-1

Date: _____

FOR VALUE RECEIVED, McDOWELL COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of _____ DOLLARS ($___ _____), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $666, covering principal and interest, thereafter on said corresponding day of each month, 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 hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the 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 Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted February 21, 2001, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

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

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 BOND, SERIES 1993; (2) WATER REVENUE BOND, SERIES 1995; (3) WATER REVENUE BOND, SERIES 1997 A; (4) WATER REVENUE BONDS, SERIES 1999 A; (5) WATER REVENUE BONDS, SERIES 1999 B; AND (6) WATER REVENUE BONDS, SERIES 1999 C, ALL AS DESCRIBED IN THE RESOLUTION.

IN WITNESS WHEREOF, McDOWELL COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary/Treasurer, all as of the date hereinabove written.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]

_____
Chairman, Public Service Board

HC 31 Box 436J
Welch, West Virginia 24801

ATTEST:

_____
Secretary/Treasurer

## RECORD OF ADVANCES

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

TOTAL $_____

## ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

## SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. 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 the Depository Bank and from each other:

(1) Revenue Fund (established by the Prior Resolutions and continued hereby);

(2) Depreciation Reserve (established by the Prior Resolutions and continued hereby);

(3) Project Construction Account.

Section 4.02. Establishment of Funds and Account with Commission. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolutions) and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

(1) Series 1993 Bonds Reserve Account (established by the Prior Resolutions and continued hereby);

(2) Series 1995 Bonds Reserve Account (established by the Prior Resolutions and continued hereby);

(3) Series 1997 A Bonds Reserve Account (established by the Prior Resolutions and continued hereby);

(4) Series 1999 A Bonds Reserve Account (established by the Prior Resolutions and continued hereby);

(5) Series 1999 B Bonds Reserve Account (established by the Prior Resolutions and continued hereby);

(6) Series 1999 C Bonds Reserve Account (established by the Prior Resolutions and continued hereby); and

(7) Series 2001 A Bonds Reserve Account.

Collectively, the reserve accounts for the Prior Bonds shall be referred to as the "Prior Bonds Reserve Accounts."

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 2001 A Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Moneys in the Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Series 2001 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.02, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.04. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Series 2001 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2001 A Bonds Reserve Account a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2001 A Bonds and the Prior Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 2001 A Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Resolutions 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 provided in the Resolutions.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of the Prior Resolutions not otherwise modified herein:

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

(2) The Issuer shall next, each month, on or before the due date of payment of each installment on the Prior Bonds and the Series 2001 A Bonds, transfer from the Revenue Fund and remit to the National Finance Office, the amounts required to pay the interest on the Prior Bonds and the Series 2001 A Bonds and to amortize the principal of the Prior Bonds and the Series 2001 A Bonds over the respective lives of each Bond issue. All payments with respect to principal of and interest on the Prior Bonds and the Series 2001 A Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit into the respective Prior Bonds Reserve Accounts, the amounts required by the Prior Resolutions; and (ii) for deposit into the Series 2001 A Bonds Reserve Account, 0.4167% of the Minimum Reserve, until the amount in the Series 2001 A Bonds Reserve Account equals the Minimum Reserve. Moneys in the Series 2001 A Bonds Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 2001 A Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 2001 A Bonds, or for mandatory prepayment of the Series 2001 A Bonds as hereinafter provided, and for no other purpose; provided, however, that when the Minimum Reserve has been accumulated in the Series 2001 A

Bonds Reserve Account, all earnings of investments of moneys therein shall at least annually be transferred to and deposited in the Revenue Fund.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Depreciation Reserve, (i) the amount required by the Prior Resolutions; and (ii) 0.4167% of the Minimum Reserve, until the amount in the Series 2001 A Bonds Reserve Account equals the Minimum Reserve, and thereafter, 0.8334% of the Minimum Reserve, so long as the Series 2001 A Bonds are outstanding; provided, however, that in the event Revenues are insufficient to fund the Series 2001 A Bonds Reserve Account in accordance with Section 4.03B(3)(ii) above, or a withdrawal of funds from the Series 2001 A Bonds Reserve Account is made, payment of Revenues into the Depreciation Reserve as provided in this Section 4.03B(4)(ii) shall not be made, but instead Revenues shall be applied to the replenishment of the Series 2001 A Bonds Reserve Account until such deficiency is cured, at which time payments into the Depreciation Reserve as provided in this Section 4.03B(4)(ii) shall resume. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of interest on and principal of the Prior Bonds and the Series 2001 A Bonds as the same become due, and next to restore to the Prior Bonds Reserve Accounts and the Series 2001 A Bonds Reserve Account any sum or sums transferred therefrom, all on a pro rata basis. Thereafter, and provided that payments are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for replacements, repairs, improvements or extensions to the System.

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

Whenever the money in the Reserve Fund shall be sufficient to prepay the Series 2001 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2001 A Bonds at the earliest practical date and in accordance with applicable provisions hereof.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2001 A Bonds Reserve Account as herein provided, and all amounts required for the Series 2001 A Bonds Reserve Accounts will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein. If required by the Purchaser at anytime, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month), deposit with the Commission the required reserve account payments with respect to the Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Depreciation Reserve as herein provided, and all amounts required for the Depreciation Reserve will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund, the Series 2001 A Bonds Reserve Account and the Depreciation Reserve shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 2001 A Bonds and the interest thereon.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2001 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

Subject to the Prior Resolutions, the Commission and the Depository Bank, at the direction of the Issuer, shall keep the moneys in the Series 2001 A Bonds Reserve Account and the Depreciation Reserve invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Investment Management. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from moneys in the Series 2001 A Bonds Reserve Account, so long as the Minimum Reserve is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer, to be deposited in the Revenue Fund.

C. CHANGE OF DEPOSITORY BANK. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2001 A Bonds, provide evidence that there will be at least 133 bona fide users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Commission or the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The moneys in excess of the sum insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia.

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

H. GROSS REVENUES. The Gross Revenues of the System shall only be used for purposes of the System.

I. RESERVE FUNDS. Pursuant to the Supplemental Resolution adopted as of the date hereof, the Issuer agrees that on the date set forth in the Supplemental Resolution, moneys in the Prior Bonds Reserve Accounts shall be transferred from the Depository Bank to the Commission. Once the funds have been transferred to the Commission, the Issuer shall continue to make payments to the respective Prior Bonds Reserve Accounts in accordance with the Prior Resolutions and as stated herein, except that such payments shall be made to the Commission rather than to the Depository Bank.

Section 4.05. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Grants and advances of principal of the Series 2001 A Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed $145,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into the credit agreement with such commercial bank or other lender. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 2001 A Bonds or the Grants. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the

Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Series 2001 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2001 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2001 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 2001 A Bonds.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Series 2001 A Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Series 2001 A Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2001 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the

repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2001 A Bonds.

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

(d) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(e) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer; 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.

(f) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of $50,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2001 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2001 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, on a parity with the Prior Bonds, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2001 A Bonds.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(a) Failure to make payment of any monthly amortization installment upon the Series 2001 A Bonds at the date specified for payment thereof; and

(b) Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2001 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default, appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 5.09. Fiscal Year; Budget. While the Series 2001 A 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 the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st 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 next year preceding by more than 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 failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer on file with the Secretary/Treasurer on the date of adoption hereof, subject to permitted changes.

Section 5.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2001 A Bonds are outstanding.

Section 5.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on July 26, 1999, Case No. 97-0023-PWD-CN, which Final Order is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

## ARTICLE VII

## MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder 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 Bond Legislation, then with respect to the Series 2001 A Bonds, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2001 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 7.02. Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Chairman, Secretary/Treasurer of the Governing Body are hereby authorized and directed to cause the Series 2001 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2001 A Bonds.

Section 7.05. Conflicting Provisions Repealed. The Prior Resolutions and all parts thereof not expressly hereby changed shall continue in full force and effect and this Bond Legislation shall be supplemental to the Prior Resolutions.

All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and

shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption 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 Chairman, Secretary/Treasurer 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 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted this 21st day of February, 2001.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

Terry A. Dunford
Chairman

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of McDOWELL COUNTY PUBLIC SERVICE DISTRICT on the 21st day of February, 2001.

Dated: February 23, 2001.

[SEAL]

Secretary/Treasurer

02/06/01
582180/98002

CH384011.1

MCDOWELL COUNTY PUBLIC SERVICE DISTRICT

Water Revenue Bond, Series 1993
(United States Department of Agriculture)

and

Water Revenue Bond, Series 1995
(United States Department of Agriculture)

and

Water Revenue Bond, Series 1997 A
(United States Department of Agriculture)

and

Water Revenue Bonds, Series 1999 A
(United States Department of Agriculture)

and

Water Revenue Bonds, Series 1999 B
(United States Department of Agriculture)

and

Water Revenue Bonds, Series 1999 C
(United States Department of Agriculture)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING FOR TRANSFER OF RESERVE ACCOUNTS FOR SERIES 1993 BOND, SERIES 1995 BOND, SERIES 1997 A BONDS, SERIES 1999 A BONDS, SERIES 1999 B BONDS AND SERIES 1999 C BONDS AND AMENDMENT OF PRIOR RESOLUTIONS TO EFFECT SUCH TRANSFER

WHEREAS, the McDowell County Public Service District (the "Issuer") has previously issued its: (i) Water Revenue Bond, Series 1993, dated June 23, 1993, issued in the original aggregate principal amount of $818,000 (the "Series 1993 Bonds"); (ii) Water Revenue Bond, Series 1995, dated September 26, 1995, issued in the original aggregate principal amount of $500,000 (the "Series 1995 Bond"); (iii) Water Revenue Bond, Series 1997 A, dated October 15, 1997, issued in the original aggregate principal amount of $350,000 (the "Series 1997 A Bond"); (iv) Water Revenue Bonds, Series 1999 A, dated June 21, 1999, issued in the original aggregate principal amount of $360,000 (the "Series 1999 A Bonds"); (v) Water Revenue Bonds, Series 1999 B, dated August 11, 1999, issued in the original aggregate principal amount of $870,000 (the "Series 1999 B Bonds"); and (vi) Water Revenue Bonds, Series 1999 C, dated August 11, 1999, issued in the original aggregate principal amount of $125,000, (collectively, the "Prior Bonds"), and held by the United States Department of Agriculture (the "Purchaser");

WHEREAS, the Series 1993 Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1999 A Bonds, the Series 1999 B Bonds and the Series 1999 C Bonds are secured by reserve accounts pledged for the payment of principal of and interest on the Series 1993 Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1999 A Bonds, the Series 1999 B Bonds and the Series 1999 C Bonds (hereinafter collectively referred to as the "Prior Bonds Reserve Accounts"), which accounts are, pursuant to the resolutions of the Issuer adopted on June 23, 1993, September 26, 1995, October 15, 1997, June 16, 1999, and August 11, 1999, respectively, authorizing the Prior Bonds (the "Prior Resolutions"), held by the Depository Bank;

WHEREAS, the Purchaser has requested that the Issuer transfer the monies in the Prior Bonds Reserve Accounts from the Depository Bank to the West Virginia Municipal Bond Commission (the "Commission");

WHEREAS, the Prior Resolutions each provide that they may be amended by supplemental resolution with the prior written consent of the Purchaser and such consent has been received by the Issuer; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted,

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF MCDOWELL COUNTY PUBLIC SERVICE DISTRICT:

Section 1. The Prior Resolutions are amended, as necessary, to reflect the following:

A. The Prior Bonds Reserve Accounts are held by the Commission.

B. The Commission is designated as the Fiscal Agent for the administration of the Prior Bonds Reserve Accounts as herein provided, and all amounts required for the Series 1993 Bond Reserve Account, the Series 1995 Bond Reserve Account, the Series 1997 A Bond Reserve Account, the Series 1999 A Bonds Reserve Account, the Series 1999 B Bonds Reserve Account and the Series 1999 C Bonds Reserve Account will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein. If required by the Purchaser at anytime, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

C. The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day of each month), deposit with the Commission the required reserve account payments with respect to the Series 1993 Bond, the Series 1995 Bond, the Series 1997 A Bond, the Series 1999 A Bonds, the Series 1999 B Bonds and the Series 1999 C Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

D. Moneys in the Prior Bonds Reserve Accounts shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

E. Earnings from moneys in Prior Bonds Reserve Accounts, so long as the Minimum Reserve is on deposit in each such account and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer, to be deposited in the Revenue Fund.

F. The Issuer shall remit from the Revenue Fund to the Commission such additional sums as shall be necessary to pay the charges and fees of the Commission then due.

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

Section 2. The Prior Bonds Reserve Accounts shall be transferred to the Commission, and the aforementioned amendments relating to the Prior Bonds Reserve Accounts shall become effective, on February 23, 2001.

Section 3. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 21st day of February, 2001.

MCDOWELL COUNTY PUBLIC SERVICE DISTRICT

Terry A. Lunsford
Chairman

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of McDowell County Public Service District on this 21st day of February, 2001.

Dated: February 23, 2001.

[SEAL]

Secretary

02/20/01
581820/98002

# McDOWELL COUNTY PUBLIC SERVICE DISTRICT

## Water Revenue Bonds, Series 1999 A
## (United States Department of Agriculture)

## BOND RESOLUTION

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McDOWELL COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS SYSTEM OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $360,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1999 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. McDowell County Public Service District (the "Issuer") is a public corporation and public service district and political subdivision of the State of West Virginia in McDowell County of said State, duly created pursuant to the Act by The County Commission of McDowell County.

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

A. The Issuer currently owns and operates a public waterworks system and desires to finance and acquire, construct, operate and maintain certain additional public

service properties consisting of additions, improvements and extensions to such existing waterworks facilities with all appurtenant facilities, within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, improvements and extensions to the existing waterworks facilities of the Issuer, consisting of a water treatment and distribution facility (waterline extension project) and all necessary appurtenant facilities in the communities of Atwell and Raysal, McDowell County, West Virginia (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary/Treasurer of the Public Service Board (the "Governing Body") of the Issuer. The Issuer will purchase water from the City of Welch pursuant to a water purchase contract between the Issuer and said City. The existing waterworks facilities of the Issuer, together with the Project and any further additions, improvements or extensions thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Bonds (hereinafter defined) and all funds and accounts and other payments provided for herein.

D. The estimated maximum cost of the acquisition and construction of the Project is $1,253,000, of which $360,000 will be obtained from the proceeds of sale of the Series 1999 A Bonds herein authorized, $340,000 will be obtained from a grant from the Purchaser, $53,000 will be obtained from a subsequent grant from the Purchaser, and $500,000 will be obtained from a grant from the United States Economic Development Administration.

E. It is necessary for the Issuer to issue its Water Revenue Bonds, Series 1999 A (United States Department of Agriculture), in the aggregate principal amount of $360,000 (the "Series 1999 A Bonds"), to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 1999 A Bonds prior to, during and for six months after completion of such acquisition and construction of the improvements and extensions; engineering, fiscal agents 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 Project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the acquisition and construction of the properties and the placement of same in operation; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for costs of the Project by the Issuer shall be deemed costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 1999 A Bonds as to liens, pledge and source of and security for payment: (i) Water Revenue Bond, Series 1993, dated June 23, 1993, issued in the original aggregate principal amount of $818,000 (the "Series 1993 Bonds"); (ii) Water Revenue Bond, Series 1995, dated September 26, 1995, issued in the original aggregate principal amount of $500,000 (the "Series 1995 Bond"); and (iii) Water Revenue Bond, Series 1997 A, dated October 15, 1997, issued in the original aggregate principal amount of $350,000 (the "Series 1997 A Bond"), all held by the Purchaser (collectively, the "Prior Bonds"). Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 1999 A Bonds as to liens, pledge and/or source of and security for payment.

The Issuer is not in default under the terms of the Prior Bonds, or the resolutions authorizing issuance of the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

H. It is in the best interest of the Issuer that the Series 1999 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letters of Conditions, dated July 7, 1998, and all amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 1999 A Bonds, or will have so complied prior to issuance of the Series 1999 A Bonds, including, among other things and without limitation, obtaining a certificate of public convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 1999 A Bonds by those who shall be the Registered Owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the

covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 1999 A Bonds.

Section 1.04. Definitions. In addition to capitalized terms defined elsewhere herein, the following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended.

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

"Bond Registrar" means the Issuer, which shall usually so act by its Secretary/Treasurer.

"Bonds" means, collectively, the Series 1999 A Bonds and the Prior Bonds.

"Chairman" means the Chairman of the Governing Body.

"Consulting Engineer" means Stafford Consultants, Incorporated, Princeton, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means Ameribank, War, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

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

"FDIC" means the Federal Deposit Insurance Corporation.

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

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

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America.

"Grants" means, collectively, all grants committed for the Project.

"Herein" or "herein" means in this Bond Legislation.

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

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated July 7, 1998, Amendment No. 1 to the Letter of Conditions dated April 6, 1999, and all additional amendments thereto, if any.

"Minimum Reserve" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1999 A Bonds in the then current or any succeeding year.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the Project and the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital; provided that, all monthly amortization payments upon the Bonds and into all funds and accounts have been made to the last monthly payment date prior to the date of such retention.

"Prior Bonds" means, collectively, the Water Revenue Bond, Series 1993, the Water Revenue Bond, Series 1995, and the Water Revenue Bond, Series 1997 A, of the Issuer described in Section 1.02G hereof.

"Prior Resolutions" means, collectively, the resolutions of the Issuer, adopted June 23, 1993, September 26, 1995, and October 15, 1997, respectively, authorizing the Prior Bonds.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

"Qualified Investments" means and includes any of the following, to the extent such investments are permitted by law:

(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 (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Investment Management pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder of the Bonds" or any similar term means any person who shall be the registered owner of the Bonds.

"Resolutions" means, collectively, the Prior Resolutions and the Bond Legislation.

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

"Secretary/Treasurer" means the Secretary/Treasurer of the Governing Body.

"Series 1999 A Bonds" means the Water Revenue Bonds, Series 1999 A (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

"System" means the complete public waterworks system of the Issuer, presently existing in its entirety or any integral part thereof, and shall include the Project and any improvements and extensions thereto hereafter acquired or constructed for the System from any sources whatsoever.

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

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 neuter gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary/Treasurer shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary/Treasurer.

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of $1,253,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 1999 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

## ARTICLE III

## AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of the Bond Legislation, the Series 1999 A Bonds of the Issuer, to be known as "Water Revenue Bonds, Series 1999 A (United States Department of Agriculture)", are hereby authorized to be issued in the principal amount of $360,000, for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 1999 A Bonds shall be issued in single form, numbered AR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Series 1999 A Bonds shall bear interest from the date of delivery, payable monthly at the rate of 4.5% per annum, and shall be sold for the par value thereof.

The Series 1999 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the respective Bond forms hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 1999 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 1999 A Bonds, and the right to principal of and stated interest on the Series 1999 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 1999 A 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 1999 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, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 1999 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 1999 A Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Series 1999 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 1999 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 1999 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 1999 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Purchaser, 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 Series 1999 A 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 Series 1999 A 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, 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. Execution of Bonds. The Series 1999 A Bonds shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary/Treasurer. In case any one or more of the officers who shall have signed or sealed the Series 1999 A Bonds shall cease to be such officer of the Issuer before the Series 1999 A 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. The Series 1999 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such 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 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 1999 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 1999 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 1999 A Bonds shall have

matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1999 A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, on a parity with the Prior Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 1999 A Bonds and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 1999 A Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bond. Subject to the provisions hereof, the text of the Series 1999 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

WATER REVENUE BONDS, SERIES 1999 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$360,000

No. AR-1 Date: _____

FOR VALUE RECEIVED, McDOWELL COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of THREE HUNDRED SIXTY THOUSAND DOLLARS ($360,000), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $1,653, covering principal and interest, thereafter on said corresponding day of each month, 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 hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the 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 Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized

denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted June 16, 1999, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

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

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 BOND, SERIES 1993; (2) WATER REVENUE BOND, SERIES 1995; AND (3) WATER REVENUE BOND, SERIES 1997 A, ALL AS DESCRIBED IN THE RESOLUTION.

IN WITNESS WHEREOF, McDOWELL COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary/Treasurer, all as of the date hereinabove written.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]

_____
Chairman, Public Service Board

HC 31 Box 436J
Welch, West Virginia 24801

ATTEST:

_____
Secretary/Treasurer, Public Service Board

## RECORD OF ADVANCES

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

TOTAL $_____

## ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

## SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. 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 the Depository Bank and from each other:

(1) Revenue Fund (established by the Prior Resolutions and continued hereby);

(2) Series 1993, 1995 and 1997 A Bonds Reserve Fund (established by the Prior Resolutions as the "Reserve Fund," and continued hereby);

(3) Depreciation Reserve (established by the Prior Resolutions and continued hereby);

(4) Series 1999 A Bonds Reserve Account;

(5) Project Construction Account.

Section 4.02. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 1999 A Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Moneys in the Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Series 1999 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.02, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.03. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Series 1999 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 1999 A Bonds Reserve Account a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 1999 A Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 1999 A Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Resolutions 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 provided in the Resolutions.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of the Prior Resolutions not otherwise modified herein:

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

(2) The Issuer shall next, each month, on or before the due date of payment of each installment on the Prior Bonds and the Series 1999 A Bonds, transfer from the Revenue Fund and remit to the National Finance Office, the amounts required to pay the interest on the Prior Bonds and the Series 1999 A Bonds and to amortize the principal of the Prior Bonds and the Series 1999 A Bonds over the respective lives of

each Bond issue. All payments with respect to principal of and interest on the Prior Bonds and the Series 1999 A Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank (i) for deposit into the Series 1993, 1995 and 1997 A Bonds Reserve Account, the amount required by the Prior Resolutions; and (ii) for deposit into the Series 1999 A Bonds Reserve Account, 0.4167% of the Minimum Reserve, until the amount in the Series 1999 A Bonds Reserve Account equals the Minimum Reserve. Moneys in the Series 1999 A Bonds Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 1999 A Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 1999 A Bonds, or for mandatory prepayment of the Series 1999 A Bonds as hereinafter provided, and for no other purpose; provided, however, that when the Minimum Reserve has been accumulated in the Series 1999 A Bonds Reserve Account, all earnings of investments of moneys therein shall at least annually be transferred to and deposited in the Revenue Fund.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Depreciation Reserve, (i) the amount required by the Prior Resolutions; and (ii) 0.4167% of the Minimum Reserve, until the amount in the Series 1999 A Bonds Reserve Account equals the Minimum Reserve, and thereafter, 0.8334% of the Minimum Reserve, so long as the Series 1999 A Bonds are outstanding; provided; however, that in the event Revenues are insufficient to fund the Series 1999 A Bonds Reserve Account in

accordance with Section 4.03B(3)(ii) above, or a withdrawal of funds from the Series 1999 A Bonds Reserve Account is made, payment of Revenues into the Depreciation Reserve as provided in this Section 4.03B(4)(ii) shall not be made, but instead Revenues shall be applied to the replenishment of the Series 1999 A Bonds Reserve Account until such deficiency is cured, at which time payments into the Depreciation Reserve as provided in this Section 4.03B(4)(ii) shall resume. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of interest on and principal of the Prior Bonds and the Series 1999 A Bonds as the same become due, and next to restore to the Series 1993, 1995 and 1997 A Bonds Reserve Account and the Series 1999 A Bonds Reserve Account any sum or sums transferred therefrom, all on a pro rata basis. Thereafter, and provided that payments are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for replacements, repairs, improvements or extensions to the System.

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

Whenever the money in the Reserve Fund shall be sufficient to prepay the Series 1999 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 1999 A Bonds at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Reserve Fund and the Depreciation Reserve as herein provided, and all amounts required for the Reserve Fund and the Depreciation Reserve will

be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund, the Reserve Fund and the Depreciation Reserve shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 1999 A Bonds and the interest thereon.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 1999 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

Subject to the Prior Resolutions, the Depository Bank, at the direction of the Issuer, shall keep the moneys in the Reserve Fund and the Depreciation Reserve invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Investment Management. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from moneys in the Reserve Fund,so long as the Minimum Reserve is on deposit and

maintained therein, shall be paid annually into the Revenue Fund by the Depository Bank.

C. CHANGE OF DEPOSITORY BANK. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 1999 A Bonds, provide evidence that there will be at least 157 bona fide users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The moneys in excess of the sum insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia.

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

H. GROSS REVENUES. The Gross Revenues of the System shall only be used for purposes of the System.

Section 4.04. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Grants and advances of principal of the Series 1999 A Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed $360,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into the credit agreement with such commercial bank or other lender. The

Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 1999 A Bonds or the Grants. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Series 1999 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 1999 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 1999 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 1999 A Bonds.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Series 1999 A Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Series 1999 A Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 1999 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or

destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 1999 A Bonds.

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

(d) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(e) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer; 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.

(f) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of $50,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 1999 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 1999 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, on a parity with the Prior Bonds, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 1999 A Bonds.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(a) Failure to make payment of any monthly amortization installment upon the Series 1999 A Bonds at the date specified for payment thereof; and

(b) Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 1999 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default, appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 5.09. Fiscal Year; Budget. While the Series 1999 A 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 the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st 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 next year preceding by more than 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 failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer on file with the Secretary/Treasurer on the date of adoption hereof, subject to permitted changes.

Section 5.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 1999 A Bonds are outstanding.

Section 5.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on June 1, 1999, Case No. 98-1044-PWD-CN, which Final Order is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

## ARTICLE VII

## MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Series 1999 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 Bond Legislation, then with respect to the Series 1999 A Bonds, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 1999 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 7.02. Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Chairman, Secretary/Treasurer of the Governing Body are hereby authorized and directed to cause the Series 1999 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 1999 A Bonds.

Section 7.05. Conflicting Provisions Repealed. The Prior Resolutions and all parts thereof not expressly hereby changed shall continue in full force and effect and this Bond Legislation shall be supplemental to the Prior Resolutions.

All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption 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 Chairman, Secretary/Treasurer 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 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted this 16th day of June, 1999.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

Jerry L. Stepp
Chairman

David Rollins
Member

Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of McDOWELL COUNTY PUBLIC SERVICE DISTRICT on the 16th day of June, 1999.

Dated: June 21, 1999.

[SEAL]

Jannie Hall
Secretary/Treasurer

03/23/99
582180/98001

CH310909.1

# McDOWELL COUNTY PUBLIC SERVICE DISTRICT

## Water Revenue Bonds, Series 1999 B and Series 1999 C (United States Department of Agriculture)

## BOND RESOLUTION

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McDOWELL COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS SYSTEM OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $870,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1999 B (UNITED STATES DEPARTMENT OF AGRICULTURE) AND NOT MORE THAN $125,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 1999 C (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority ~~for~~ This Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. McDowell County Public Service District (the "Issuer") is a public corporation and public service district and political subdivision of the State of West Virginia in McDowell County of said State, duly created pursuant to the Act by The County Commission of McDowell County.

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

A. The Issuer currently owns and operates a public waterworks system and desires to finance and acquire, construct, operate and maintain certain additional public service properties consisting of additions, improvements and extensions to such existing waterworks facilities with all appurtenant facilities, within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, improvements and extensions to the existing waterworks facilities of the Issuer, consisting of a water distribution system to serve the areas of Berwind, Cucumber, Valls Creek, Squire and Newhall, two water storage tanks and a 300 gpm water treatment plant, and all necessary appurtenant facilities in McDowell County, West Virginia (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary/Treasurer of the Public Service Board (the "Governing Body") of the Issuer. The existing waterworks facilities of the Issuer, together with the Project and any further additions, improvements or extensions thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Bonds (hereinafter defined) and all funds and accounts and other payments provided for herein.

D. The estimated maximum cost of the acquisition and construction of the Project is $6,135,000 of which $995,000 will be obtained from the proceeds of sale of the Series 1999 B and the Series 1999 C Bonds herein authorized, $1,397,600 will be obtained from grants from the Purchaser, and $3,742,400 will be obtained from funding from the West Virginia Department of Environmental Protection, Abandon Mine Land and Reclamation.

E. It is necessary for the Issuer to issue its Water Revenue Bonds, Series 1999 B (United States Department of Agriculture), in the aggregate principal amount of $870,000 (the "Series 1999 B Bonds"), and the Water Revenue Bonds, Series 1999 C (United States Department of Agriculture), in the aggregate principal amount of $125,000 (the "Series 1999 C Bonds") (collectively, the "Series 1999 B Bonds and Series 1999 C Bonds"), to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to

include, without being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 1999 B Bonds and Series 1999 C Bonds prior to, during and for six months after completion of such acquisition and construction of the improvements and extensions; engineering, fiscal agents 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 Project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the acquisition and construction of the properties and the placement of same in operation; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for costs of the Project by the Issuer shall be deemed costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 1999 B Bonds and Series 1999 C Bonds as to liens, pledge and source of and security for payment being: (i) Water Revenue Bond, Series 1993, dated June 23, 1993, issued in the original aggregate principal amount of $818,000 (the "Series 1993 Bonds"); (ii) Water Revenue Bond, Series 1995, dated September 26, 1995, issued in the original aggregate principal amount of $500,000 (the "Series 1995 Bond"); (iii) Water Revenue Bond, Series 1997 A, dated October 15, 1997, issued in the original aggregate principal amount of $350,000 (the "Series 1997 A Bond"); and (iv) Water Revenue Bonds, Series 1999 A, dated June 21, 1999, issued in the original aggregate principal amount of $360,000 (the "Series 1999 A Bonds"), all held by the Purchaser (collectively, the "Prior Bonds"). Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 1999 B Bonds and Series 1999 C Bonds as to liens, pledge and/or source of and security for payment.

The Issuer is not in default under the terms of the Prior Bonds, or the resolutions authorizing issuance of the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

H. It is in the best interest of the Issuer that the Series 1999 B and Series 1999 C Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions, dated April 4, 1996, Amendment No. 1 to Letter of Conditions, dated December 17, 1997, Amendment No. 2 to Letter of Conditions, dated May 12, 1999, and all additional amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System,

including, without limitation, the imposition of rates and charges, and the issuance of the Series 1999 B Bonds and Series 1999 C Bonds, or will have so complied prior to issuance of the Series 1999 B Bonds and Series 1999 C Bonds, including, among other things and without limitation, obtaining a certificate of public convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 1999 B Bonds and Series 1999 C Bonds by those who shall be the Registered Owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 1999 B Bonds and Series 1999 C Bonds.

Section 1.04. Definitions. In addition to capitalized terms defined elsewhere herein, the following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended.

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

"Bond Registrar" means the Issuer, which shall usually so act by its Secretary/Treasurer.

"Bonds" means, collectively, the Series 1999 B Bonds, the Series 1999 C Bonds and the Prior Bonds.

"Chairman" means the Chairman of the Governing Body.

"Consulting Engineer" means Michael Baker, Jr., Inc., Beaver, Pennsylvania, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means Ameribank, War, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

"Facilities" or "waterworks facilities" means all the tangible properties of the System and also any tangible properties which may hereafter be added to the System by

additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"FDIC" means the Federal Deposit Insurance Corporation.

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

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

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America.

"Grants" means, collectively, all grants committed for the Project.

"Herein" or "herein" means in this Bond Legislation.

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

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated April 4, 1996, Amendment No. 1 to the Letter of Conditions, dated December 17, 1997, Amendment No. 2 to the Letter of Conditions dated May 12, 1999, and all additional amendments thereto, if any.

"Minimum Reserve" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1999 B Bonds and the Series 1999 C Bonds in the then current or any succeeding year.

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

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

of Operating Expenses means also retention of not to exceed such sum as working capital; provided that, all monthly amortization payments upon the Bonds and into all funds and accounts have been made to the last monthly payment date prior to the date of such retention.

"Prior Bonds" means, collectively, the Water Revenue Bond, Series 1993, the Water Revenue Bond, Series 1995, the Water Revenue Bond, Series 1997 A and the Water Revenue Bonds, Series 1999 A, of the Issuer described in Section 1.02G hereof.

"Prior Resolutions" means, collectively, the resolutions of the Issuer, adopted June 23, 1993, September 26, 1995, October 15, 1997 and June 21, 1999, respectively, authorizing the Prior Bonds.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

"Qualified Investments" means and includes any of the following, to the extent such investments are permitted by law:

(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 (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Investment Management pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder of the Bonds" or any similar term means any person who shall be the registered owner of the Bonds.

"Resolutions" means, collectively, the Prior Resolutions and the Bond Legislation.

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

"Secretary/Treasurer" means the Secretary/Treasurer of the Governing Body.

"Series 1999 B Bonds" means the Water Revenue Bonds, Series 1999 B (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

"Series 1999 C Bonds" means the Water Revenue Bonds, Series 1999 C (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

"System" means the complete public waterworks system of the Issuer, presently existing in its entirety or any integral part thereof, and shall include the Project and any improvements and extensions thereto hereafter acquired or constructed for the System from any sources whatsoever.

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

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 neuter gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary/Treasurer shall mean that such Bonds, certificate or other document may be executed or attested by an ~~Acting~~ Chairman or Acting Secretary/Treasurer.

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of $6,135,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 1999 B Bonds and Series 1999 C Bonds hereby authorized shall be applied as provided in Article IV hereof.

## ARTICLE III

## AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of the Bond Legislation, the Series 1999 B Bonds and the Series 1999 C Bonds of the Issuer, to be known as "Water Revenue Bonds, Series 1999 B (United States Department of Agriculture)" and "Water Revenue Bonds, Series 1999 C (United States Department of Agriculture)", are hereby authorized to be issued in the respective principal amounts of $870,000 and $125,000, for a total aggregate principal amount of not exceeding $995,000, for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. A. The Series 1999 B Bonds shall be issued in single form, numbered BR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Series 1999 B Bonds shall bear interest from the date of delivery, payable monthly at the rate of 4.5% per annum, and shall be sold for the par value thereof.

B. The Series 1999 C Bonds shall be issued in single form, numbered CR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Series 1999 C Bonds shall bear interest from the date of delivery, payable monthly at the rate of 4.5% per annum, and shall be sold for the par value thereof.

The Series 1999 B Bonds and the Series 1999 C Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the respective Bond forms hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 1999 B Bonds and the Series 1999 C Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 1999 B Bonds and the Series 1999 C Bonds, and the right to principal of and stated interest on the Series 1999 B Bonds and the Series 1999 C Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 1999 B Bonds and the Series 1999 C 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 1999 B Bonds and the Series 1999 C 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, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 1999 B Bonds and Series 1999 C Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 1999 B Bonds and Series 1999 C Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Series 1999 B Bonds and Series 1999 C Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 1999 B Bonds and Series 1999 C Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 1999 B Bonds and Series 1999 C Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 1999 B Bonds and Series 1999 C Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Purchaser, 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 Series 1999 B Bonds and Series 1999 C 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 Series 1999 B Bonds and Series 1999 C 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, 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. Execution of Bonds. The Series 1999 B Bonds and Series 1999 C Bonds shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary/Treasurer. In case any one or more of the officers who shall have signed or sealed the Series 1999 B Bonds and Series 1999 C Bonds shall cease to be such officer of the Issuer before the Series 1999 B Bonds and Series 1999 C 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. The Series 1999 B Bonds and Series 1999 C 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 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 1999 B Bonds and Series 1999 C Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 1999 B Bonds and Series 1999 C Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 1999 B Bonds and Series 1999 C Bonds shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1999 B Bonds and Series 1999 C Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, on a parity with the Prior Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 1999 B Bonds and Series 1999 C Bonds and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 1999 B Bonds and Series 1999 C Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bond. Subject to the provisions hereof, the text of the Series 1999 B Bonds and Series 1999 C Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

WATER REVENUE BONDS, SERIES 1999 B
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$870,000

No. BR-1

Date: August 11, 1999

FOR VALUE RECEIVED, McDOWELL COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of EIGHT HUNDRED SEVENTY THOUSAND DOLLARS ($870,000), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $3,994, covering principal and interest, thereafter on said corresponding day of each month, 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 hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the 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 Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized

denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted August 11, 1999, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

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

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 BOND, SERIES 1993; (2) WATER REVENUE BOND, SERIES 1995; (3) WATER REVENUE BOND, SERIES 1997 A; (4) WATER REVENUE BONDS, SERIES 1999 A; AND (5) WATER REVENUE BONDS, SERIES 1999 C, ISSUED CONCURRENTLY HEREWITH, ALL AS DESCRIBED IN THE RESOLUTION.

IN WITNESS WHEREOF, McDOWELL COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary/Treasurer, all as of the date hereinabove written.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]

_____
Chairman, Public Service Board

HC 31 Box 436J
Welch, West Virginia 24801

ATTEST:

_____
Secretary/Treasurer, Public Service Board

## RECORD OF ADVANCES

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

TOTAL $

## ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

(FORM OF BOND)

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

WATER REVENUE BONDS, SERIES 1999 C
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$125,000

No. CR-1

Date: August 11, 1999

FOR VALUE RECEIVED, McDOWELL COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS ($125,000), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $574, covering principal and interest, thereafter on said corresponding day of each month, 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 hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the 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 Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and

shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of

the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted August 11, 1999, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

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

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 BOND, SERIES 1993; (2) WATER REVENUE BOND, SERIES 1995; (3) WATER REVENUE BOND, SERIES 1997 A; (4) WATER REVENUE BONDS, SERIES 1999 A; AND (5) WATER REVENUE BONDS, SERIES 1999 B, ISSUED CONCURRENTLY HEREWITH, ALL AS DESCRIBED IN THE RESOLUTION.

IN WITNESS WHEREOF, McDOWELL COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary/Treasurer, all as of the date hereinabove written.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]

_____
Chairman, Public Service Board

HC 31 Box 436J
Welch, West Virginia 24801

ATTEST:

_____
Secretary/Treasurer, Public Service Board

(Form of)

## RECORD OF ADVANCES

| AMOUNT | DATE | AMOUNT | DATE |
|---|---|---|---|
| (1) $ | | (19) $ | |
| (2) $ | | (20) $ | |
| (3) $ | | (21) $ | |
| (4) $ | | (22) $ | |
| (5) $ | | (23) $ | |
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| (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 the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

## SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. 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 the Depository Bank and from each other:

(1) Revenue Fund (established by the Prior Resolutions and continued hereby);

(2) Series 1993, 1995 and 1997 A Bonds Reserve Fund (established by the Prior Resolutions as the "Reserve Fund," and continued hereby);

(3) Depreciation Reserve (established by the Prior Resolutions and continued hereby);

(4) Series 1999 A Bonds Reserve Account;

(5) Series 1999 B Bonds and Series 1999 C Bonds Reserve Account;

(6) Project Construction Account.

Section 4.02. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 1999 B Bonds and Series 1999 C Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Moneys in the Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Series 1999 B Bonds and Series 1999 C Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.02, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.03. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Series 1999 B Bonds and Series 1999 C Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 1999 B Bonds and Series 1999 C Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 1999 B Bonds and Series 1999 C Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Resolutions 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 provided in the Resolutions.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of the Prior Resolutions not otherwise modified herein:

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

(2) The Issuer shall next, each month, on or before the due date of payment of each installment on the Prior Bonds and the Series 1999 B Bonds and the Series 1999 C Bonds, transfer from the Revenue Fund and remit to the National Finance Office, the amounts required to pay the interest on the Prior Bonds, the Series 1999 B Bonds and the Series 1999 C Bonds and to amortize the principal of the Prior Bonds, the Series 1999 B Bonds and the Series 1999 C Bonds over the respective lives of each Bond issue. All payments with respect to principal of and interest on the Prior Bonds, the Series 1999 B Bonds and the Series 1999 C Bonds shall be made on an equal pro rata basis in

accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank (i) for deposit into the Series 1993, 1995 and 1997 A Bonds Reserve Account and the Series 1999 A Bonds Reserve Account, the amounts required by the Prior Resolutions; and (ii) for deposit into the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account, 0.4167% of the Minimum Reserve, until the amount in the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account equals the Minimum Reserve. Moneys in the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 1999 B Bonds and Series 1999 C Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 1999 B Bonds and Series 1999 C Bonds, or for mandatory prepayment of the Series 1999 B Bonds and Series 1999 C Bonds as hereinafter provided, and for no other purpose; provided, however, that when the Minimum Reserve has been accumulated in the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account, all earnings of investments of moneys therein shall at least annually be transferred to and deposited in the Revenue Fund.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Depreciation Reserve, (i) the amount required by the Prior Resolutions; and (ii) 0.4167% of the Minimum Reserve, until the amount in the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account equals the Minimum Reserve, and thereafter, 0.8334% of the Minimum Reserve, so long as the Series 1999 B Bonds and Series 1999 C Bonds are outstanding; provided, however, that in the event Revenues are insufficient to fund the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account in accordance with Section 4.03B(3)(ii) above, or a withdrawal of funds from the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account is made, payment of Revenues into the Depreciation Reserve as provided in this Section 4.03B(4)(ii) shall not be made, but instead Revenues shall be applied to the replenishment of the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account

until such deficiency is cured, at which time payments into the Depreciation Reserve as provided in this Section 4.03B(4)(ii) shall resume. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of interest on and principal of the Prior Bonds and the Series 1999 B Bonds and Series 1999 C Bonds as the same become due, and next to restore to the Series 1993, 1995 and 1997 A Bonds Reserve Account, the Series 1999 A Bonds Reserve Account and the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account any sum or sums transferred therefrom, all on a pro rata basis. Thereafter, and provided that payments are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for replacements, repairs, improvements or extensions to the System.

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

Whenever the money in the Reserve Fund shall be sufficient to prepay the Series 1999 B Bonds and Series 1999 C Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 1999 B Bonds and Series 1999 C Bonds at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Reserve Fund and the Depreciation Reserve as herein provided, and all amounts required for the Reserve Fund and the Depreciation Reserve will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund, the Reserve Fund and the Depreciation Reserve shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 1999 B Bonds and Series 1999 C Bonds and the interest thereon.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent

payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

Principal, interest or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 1999 B Bonds and Series 1999 C Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

Subject to the Prior Resolutions, the Depository Bank, at the direction of the Issuer, shall keep the moneys in the Reserve Fund and the Depreciation Reserve invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Investment Management. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from moneys in the Reserve Fund, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually into the Revenue Fund by the Depository Bank.

C. CHANGE OF DEPOSITORY BANK. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 1999 B Bonds and Series 1999 C Bonds, provide evidence that there will be at least 416 bona fide users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The moneys in excess of the sum insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be

eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia.

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

H. GROSS REVENUES. The Gross Revenues of the System shall only be used for purposes of the System.

Section 4.04. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Grants and advances of principal of the Series 1999 B Bonds and Series 1999 C Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed $995,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into the credit agreement with such commercial bank or other lender. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 1999 B Bonds and Series 1999 C Bonds or the Grants. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Series 1999 B Bonds and Series 1999 C Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 1999 B Bonds and Series 1999 C Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 1999 B Bonds and Series 1999 C Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 1999 B Bonds and Series 1999 C Bonds.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Series 1999 B Bonds and Series 1999 C Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Series 1999 B Bonds and Series 1999 C Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 1999 B Bonds and Series 1999 C Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all

above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 1999 B Bonds and Series 1999 C Bonds.

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

(d) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(e) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer; 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.

(f) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of $50,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 1999 B Bonds and Series 1999 C Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 1999 B Bonds and Series 1999 C Bonds, a statutory mortgage lien upon the System is granted and created by the Act, on a parity with the Prior Bonds, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 1999 B Bonds and Series 1999 C Bonds.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(a) Failure to make payment of any monthly amortization installment upon the Series 1999 B Bonds and Series 1999 C Bonds at the date specified for payment thereof; and

(b) Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 1999 B Bonds and Series 1999 C Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default, appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 5.09. Fiscal Year; Budget. While the Series 1999 B Bonds and Series 1999 C 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 the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st 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 next year preceding by more than 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 failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the

members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer on file with the Secretary/Treasurer on the date of adoption hereof, subject to permitted changes.

Section 5.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 1999 B Bonds and Series 1999 C Bonds are outstanding.

Section 5.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on July 26, 1999, Case No. 97-0023-PWD-CN, which Final Order is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

## ARTICLE VII

## MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Series 1999 B Bonds and Series 1999 C Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1999 B Bonds and Series 1999 C Bonds, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 1999 B Bonds and Series 1999 C Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 7.02. Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Chairman, Secretary/Treasurer of the Governing Body are hereby authorized and directed to cause the Series 1999 B Bonds and Series 1999 C Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 1999 B Bonds and Series 1999 C Bonds.

Section 7.05. Conflicting Provisions Repealed. The Prior Resolutions and all parts thereof not expressly hereby changed shall continue in full force and effect and this Bond Legislation shall be supplemental to the Prior Resolutions.

All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and

shall, neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption 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 Chairman, Secretary/Treasurer 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 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted this 11th day of August, 1999.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

David Rahlen
Chairman

Terry A. Dunford
Member

Jerry L. Stepp
Member

CL523562.1

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of McDOWELL COUNTY PUBLIC SERVICE DISTRICT on the 11th day of August, 1999.

Dated: August 11, 1999.

[SEAL]

Jeannie Hall

Secretary/Treasurer

08/06/99
582180/96001

CL523562.1

# McDOWELL COUNTY PUBLIC SERVICE DISTRICT

## Water Revenue Bond, Series 1997 A

## BOND RESOLUTION

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McDOWELL COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ISSUANCE OF $550,000 WATER REVENUE BOND, SERIES 1997 A, OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT, ON A PARITY WITH THE OUTSTANDING WATER REVENUE BOND, SERIES 1993, AND WATER REVENUE BOND, SERIES 1995, OF THE DISTRICT, TO FINANCE THE COST, NOT OTHERWISE PROVIDED, OF ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS SYSTEM AND ALL APPURTENANT FACILITIES OF THE DISTRICT; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDER OF THE BOND; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. McDowell County Public Service District (the "Issuer") is a public corporation and public service district and political subdivision of the State of West Virginia in McDowell County of said State, duly created pursuant to the Act by The County Commission of McDowell County.

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

A. The Issuer currently owns and operates a public waterworks system and desires to finance and acquire, construct, operate and maintain certain additional public service properties consisting of improvements and extensions to such existing waterworks facilities with all appurtenant facilities, within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain improvements and extensions to the existing waterworks facilities of the Issuer, consisting of 8,500 linear feet of 2", 8,750 linear feet of 6" and 14,000 linear feet of 8" water mains, one 183,000 gallon water storage tank, a 200 GPM water treatment plant, two 200 GPM high service pumps, one 580 GPM filter backwash pump, one filter backwash water decant basin, one 35 GPM recycle pump, sludge drying beds, and all necessary appurtenant facilities in the communities of Bartley and English, McDowell County, West Virginia (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary/Treasurer of the Public Service Board (the "Governing Body") of the Issuer. The Issuer will purchase water from the City of Welch pursuant to a water purchase contract between the Issuer and said City. The existing waterworks facilities of the Issuer, together with the Project and any further additions, extensions or improvements thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bonds (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

D. The estimated maximum cost of the acquisition and construction of the Project is $2,453,050, of which $550,000 will be obtained from the proceeds of sale of the Bond herein authorized, $298,500 from a grant by the Purchaser (as hereinafter defined), $1,213,000 from a grant by the United States Department of Housing and Urban Development (Small Cities Block Grant through the State of West Virginia), $50,000 from a grant by the West Virginia Parkways, Economic Development and Tourism Authority, and $341,550 from a grant through the West Virginia Infrastructure Fund.

E. It is necessary for the Issuer to issue the Bond in the principal amount of $550,000 to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the acquisition of any necessary property, real or personal, or interest therein; interest on the Bond prior to, during and for six months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided that, reimbursement to the Issuer

for any amounts expended by it for the repayment of indebtedness incurred for Costs of the Project by the Issuer shall be deemed Costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Bond as to liens, pledge and source of and security for payment, being the Water Revenue Bond, Series 1995, dated September 26, 1995, issued in the original aggregate principal amount of $500,000 (the "Series 1995 Bond"), and the Water Revenue Bond, Series 1993, dated June 23, 1993, issued in the original aggregate principal amount of $818,000 (the "Series 1993 Bond"), all held by the Purchaser (collectively, the "Prior Bonds"). Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which will rank prior to or on a parity with the Bond as to lien, pledge and/or source of and security for payment.

The Issuer is not in default under the terms of the Prior Bonds, the Prior Resolutions (hereinafter defined) or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid waiver thereof.

H. It is in the best interest of the Issuer that the Bond be sold to the United States Department of Agriculture, Rural Utilities Service (the "Purchaser"), pursuant to the terms and provisions of a Letter of Conditions dated August 15, 1994, Amendment No. 1 to Letter of Conditions dated February 20, 1996, Amendment No. 2 to Letter of Conditions dated September 4, 1997, and all amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bond, or will have so complied prior to issuance of the Bond, including, among other things and without limitation, the consent and approval, pursuant to the Act and other applicable provisions of law, of the issuance of the Bond, the acquisition and construction of the Project and the imposition of rates and charges by the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bond by those who shall be the registered owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Bondholder, and the covenants and agreements set

forth herein to be performed by the Issuer shall be for the benefit, protection and security of the registered owner of the Bond.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended.

"Bond" means the Water Revenue Bond, Series 1997 A, authorized hereby.

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

"Bonds" means, collectively, the Series 1993 Bond, the Series 1995 Bond and the Bond.

"Chairman" means the Chairman of the Governing Body.

"Consulting Engineer" means Stafford Consultants, Incorporated, Princeton, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means Ameribank, War, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

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

"FDIC" means the Federal Deposit Insurance Corporation.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

"Grants" means, collectively, the grants from the Purchaser, the United States Department of Housing and Urban Development (Small Cities Block Grant through the State of West Virginia), the West Virginia Parkways, Economic Development and Tourism Authority, the West Virginia Infrastructure Fund, and any other grants committed for the Project.

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

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America.

"Herein" or "herein" means in this Bond Legislation.

"Issuer," "Borrower" or "District" means McDowell County Public Service District, in McDowell County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means the Letter of Conditions of the Purchaser dated August 15, 1994, Amendment No. 1 to Letter of Conditions dated February 20, 1996, Amendment No. 2 to Letter of Conditions dated September 4, 1997, and all amendments thereto, if any.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed 1/6th of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Bonds and into the Reserve Fund and the Depreciation Reserve have been made to the last monthly payment date prior to the date of such retention.

"Prior Bonds" means, collectively, the Series 1993 Bond and the Series 1995 Bond.

"Prior Resolutions" means, collectively, the Series 1993 Resolution and the Series 1995 Resolution.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

"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 (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are

members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder of the Bond" or any similar term means any person who shall be the registered owner of the Bond.

"Registrar" means the Issuer, which shall usually so act by its Secretary/Treasurer.

"Resolutions" means, collectively, the Series 1993 Resolution, the Series 1995 Resolution and the Bond Legislation.

"Series 1993 Bond" means the outstanding Water Revenue Bond, Series 1993, of the Issuer described in Section 1.02G hereof.

"Series 1993 Resolution" means the resolution of the Issuer adopted June 23, 1993, authorizing the Series 1993 Bond.

"Series 1995 Bond" means the outstanding Water Revenue Bond, Series 1995, of the Issuer described in Section 1.02G hereof.

"Series 1995 Resolution" means the resolution of the Issuer adopted September 26, 1995, authorizing the Series 1995 Bond.

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

"Secretary/Treasurer" means the Secretary/Treasurer of the Governing Body.

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

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

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 neuter gender shall include any other gender; and any requirement for execution or attestation of the Bond or any certificate or other document by the Chairman or Secretary/Treasurer shall mean that such Bond, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary/Treasurer.

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of $2,453,050, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bond hereby authorized shall be applied as provided in Article IV hereof.

## ARTICLE III

## AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BOND

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions of the Bond Legislation, the Bond of the Issuer, to be known as "Water Revenue Bond, Series 1997 A," is hereby authorized to be issued in the aggregate principal amount of not exceeding $550,000 for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bond. The Bond shall be issued in single form, numbered AR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Bond shall bear interest from the date of delivery, payable monthly at the rate of 4.50% per annum, and shall be sold for the par value thereof.

The Bond shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Bond shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Bond, and the right to principal of and stated interest on the Bond, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar.

Whenever the Bond 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 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, but the Issuer shall pay any other expenses incurred by the Registrar with respect to such transfer.

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

Section 3.04. Registrar. The Issuer shall be the Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Bond, and, upon presentation for such purpose, the Registrar shall, under such

reasonable regulations as it may prescribe, register the Bond initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bond as hereinbefore provided.

The Registrar shall accept the Bond for registration of transfer only if ownership thereof is to be registered in the name of the Purchaser, 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 Bond shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Bond 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 Federal Building, Room 320, 75 High Street, Morgantown, West Virginia 26505-7500, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bond. The Bond shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary/Treasurer. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed has been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Bond so surrendered shall be canceled and held for the account of the Issuer. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bond Secured by Pledge of Net Revenues. The payment of the debt service of the Bond shall be secured forthwith by a first lien on the Net Revenues derived from the System on a parity with the Prior Bonds, in addition to the statutory

mortgage lien on the System hereinafter provided for as to the Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same becomes due, all on a parity with the Prior Bonds.

Section 3.08. Form of Bond. Subject to the provisions hereof, the text of the Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

WATER REVENUE BOND, SERIES 1997 A

$550,000

No. AR-1 Date: _____

FOR VALUE RECEIVED, McDOWELL COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of FIVE HUNDRED FIFTY THOUSAND DOLLARS ($550,000), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $_____, covering principal and interest, thereafter on said corresponding day of each month, 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 hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the 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 Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any ~~con~~stitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized

denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

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

This Bond is issued on a parity as to liens, pledge and source of and security for payment, and in all other respects, with the Prior Bonds described in said Resolution.

IN WITNESS WHEREOF, McDOWELL COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary/Treasurer, all as of the date hereinabove written.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT
(Name of Borrower)

[CORPORATE SEAL]

_____
(Signature of Executive Official)

Chairman, Public Service Board
(Title of Executive Official)

P.O. Box J
(P. O. Box No. or Street Address)

Coalwood, West Virginia 24824
(City, State and Zip Code)

ATTEST:

_____
(Signature of Attesting Official)

Secretary/Treasurer, Public Service Board
(Title of Executive Official)

(Form of)

RECORD OF ADVANCES

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

TOTAL $

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

## SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created and established with (or continued if previously established by the Prior Resolutions), and shall be held by, the Depository Bank, separate, distinct and apart from all other funds or accounts of the Depository Bank and from each other:

(1) Revenue Fund (established by the Prior Resolutions and continued hereby);

(2) Reserve Fund (established by the Prior Resolutions and continued hereby);

(3) Depreciation Reserve (established by the Prior Resolutions and continued hereby); and

(4) Project Construction Account.

Section 4.02. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Bond shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Moneys in the Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Bond if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.02, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.03. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holders of the Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Resolutions 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 provided in the Resolutions.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of the Prior Resolutions not previously modified or modified herein:

(i) The Issuer shall first each month pay from the moneys in the Revenue Fund all current Operating Expenses.

(ii) The Issuer shall next, on or before the due date of payment of each installment on the Bonds, transfer from the Revenue Fund and remit to the National Finance Office designated in the Bonds (or such other place as may be provided pursuant to the Bonds), the amounts required to pay the interest on the Bonds, and to amortize the principal of the Bonds over the respective life of each Bond issue. All payments with respect to principal of and interest on the Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(iii) The Issuer shall next, on each date that payment is made as set forth in (ii) above, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Reserve Fund, 1/12th of 1/10th of the amount, as of the date of calculation, equal to the maximum aggregate amount of principal and interest which will become due on the Bonds in any year, until the amount in the Reserve Fund equals such maximum amount (the "Minimum Reserve"). After the Minimum Reserve has been accumulated in the Reserve Fund, the Issuer shall monthly deposit into the Reserve Fund such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments on the Bonds and for payment of Operating Expenses of the System, as shall be required to maintain the Minimum Reserve in the Reserve Fund. Moneys in the Reserve Fund shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Bonds to said National Finance Office (or other place provided) as the same shall become due or for prepayment of installments on the Bonds, or for mandatory prepayment of the Bonds as hereinafter provided, and for no other purpose, on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other; provided, however, that when the Minimum Reserve has been accumulated in the Reserve Fund, all earnings of investments of moneys therein shall at least annually be transferred to and deposited in the Revenue Fund.

(iv) The Issuer shall next, on each date that payment is made as set forth in (ii) above, transfer from the Revenue Fund and deposit in the Depreciation Reserve, the moneys remaining in the Revenue Fund and not permitted to be retained therein, until there has been accumulated in the Depreciation Reserve the aggregate sum of $375,000, and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of principal of and interest on the Bonds as the same become due, and next to restore to the Reserve Fund any sum or sums transferred therefrom, all on a pro rata basis. Thereafter, and provided that payments into the Reserve Fund are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for extraordinary repairs and

for replacements of equipment and improvements for the System, or any part thereof.

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

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

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Reserve Fund and the Depreciation Reserve and all amounts required for the Reserve Fund and the Depreciation Reserve will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund, the Reserve Fund and the Depreciation Reserve shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Bonds and the interest thereon, but the Depository Bank shall not be a trustee as to such funds.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

Subject to the Prior Resolutions, the Depository Bank, at the direction of the Issuer, shall keep the moneys in the Reserve Fund and the Depreciation Reserve invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia State Board of Investments. Any investment

shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Subject to the Prior Resolutions, earnings upon moneys in the Reserve Fund, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually in January into the Revenue Fund by the Depository Bank.

C. CHANGE OF FISCAL AGENT. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank and Fiscal Agent if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Bond, provide evidence that there will be at least 205 bona fide users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia.

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

H. GROSS REVENUES. The Gross Revenues of the System shall only be used for purposes of the System.

Section 4.04. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Grants and advances of principal of the Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed $2,000,000 (the "Notes"). The Notes shall be in the form of

a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into the credit agreement with such commercial bank or other lender, acceptable to the Purchaser. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Bonds or the Grants. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund a sum sufficient to prepay the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Bondholder.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Bonds and sufficient to make the payments required herein into the Reserve Fund and the Depreciation Reserve and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bond remains outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly

arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bond.

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

(d) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained ~~as~~ required by the laws of the State of West Virginia.

(e) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer; however, if the Issuer is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

(f) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of $50,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Bond is outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Bond and shall be on a parity with the statutory mortgage lien in favor of the Purchaser as Holder of the Series 1993 Bond and Series 1995 Bond.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(a) Failure to make payment of any monthly amortization installment upon the Bond at the date specified for payment thereof; and

(b) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bond or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for

the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default, appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 5.09. Fiscal Year; Budget. While the Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on 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 the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st 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 next year preceding by more than 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 failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer on file with the Secretary/Treasurer on the date of adoption hereof, subject to permitted changes.

Section 5.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Bond is outstanding.

Section 5.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on October 11, 1997, Case No. 96-1506-PWD-CN, which Final Order is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with ~~water~~ and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

## ARTICLE VII

## MISCELLANEOUS

Section 7.01. Payment of Bond. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Bond, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Bond, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Bond, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 7.02. Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Bondholder.

Section 7.03. Delivery of the Bond. The Chairman, Secretary/Treasurer and Treasurer of the Governing Body are hereby authorized and directed to cause the Bond, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bond.

Section 7.05. Prior Resolutions; Conflicting Provisions Repealed. The Prior Resolutions and all parts thereof not expressly hereby changed shall continue in full force and effect and this Bond Legislation shall be supplemental to the Prior Resolutions.

All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption 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 Chairman, Secretary/Treasurer 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 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted: October 15, 1997.

David Rahbar
Chairman of the Public Service Board

Terry A. Dunford
Member

Lola A. Jarrett
Member

## CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of McDOWELL COUNTY PUBLIC SERVICE DISTRICT on the 15th day of October, 1997.

Dated: October 15, 1997.

[SEAL]

Secretary/Treasurer, Public Service Board

10/14/97
582180/94001

# McDOWELL COUNTY PUBLIC SERVICE DISTRICT

## Water Revenue Bond, Series 1995

## BOND RESOLUTION

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McDOWELL COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ISSUANCE OF $500,000 WATER REVENUE BOND, SERIES 1995, OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT, ON A PARITY WITH THE OUTSTANDING WATER REVENUE BOND, SERIES 1993 OF THE DISTRICT, TO FINANCE THE COST, NOT OTHERWISE PROVIDED, OF ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS SYSTEM OF THE DISTRICT; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDER OF THE BOND; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. McDowell County Public Service District (the "Issuer") is a public corporation and public service district and political subdivision of the State of West Virginia in McDowell County of said State, duly created pursuant to the Act by The County Commission of McDowell County.

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

A. The Issuer currently owns and operates a public waterworks system and desires to finance and acquire, construct, operate and maintain certain additional public service properties consisting of certain improvements and extensions to such existing waterworks facilities within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain improvements to and extensions of the existing waterworks facilities of the Issuer, consisting of new water lines and a storage tank to replace the Issuer's existing water distribution systems at Hemphill-Capels, Havaco-Wilcoe and Premier, and all necessary appurtenant facilities (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The Issuer will purchase water from the City of Welch pursuant to a water purchase contract between the Issuer and said City. The existing waterworks facilities of the Issuer, together with the Project and any further additions, extensions or improvements thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bond (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

D. The estimated maximum cost of the acquisition and construction of the Project is $1,950,000, of which $500,000 will be obtained from the proceeds of sale of the Bond herein authorized, $700,000 will be obtained from a grant from the Purchaser (as hereinafter defined), and $750,000 will be obtained from a grant from the Appalachian Regional Commission.

E. It is necessary for the Issuer to issue its water revenue bond in the principal amount of $500,000 to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the acquisition of any necessary property, real or personal, or interest therein; interest on the Bond prior to, during and for six months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for Costs of the Project by the Issuer shall be deemed Costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Bond as to liens, pledge and source of and security for payment, being the Water Revenue Bond, Series 1993, dated June 23, 1993 (the "1993 Bond"), issued in the original aggregate principal amount of $818,000, held by the Purchaser. Other than the 1993 Bond, there are no other outstanding bonds or obligations of the Issuer which will rank prior to or on a parity with the Bond as to liens, pledge and/or source of and security for payment.

The Issuer is not in default under the terms of the 1993 Bond, the 1993 Resolution (hereinafter defined) or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid waiver thereof.

H. It is in the best interest of the Issuer that the Bond be sold to the United States Department of Agriculture, Rural Economic and Community Development (the "Purchaser"), pursuant to the terms and provisions of a Letter of Conditions dated March 31, 1993, and all amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bond, or will have so complied prior to issuance of the Bond, including, among other things and without limitation, the consent and approval, pursuant to the Act and other applicable provisions of law, of the issuance of the Bond, the acquisition and construction of the Project and the imposition of rates and charges by the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bond by those who shall be the registered owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Bondholder, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the registered owner of the Bond.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended.

"Bond" means the Water Revenue Bond, Series 1995, authorized hereby.

"1993 Bond" means the Water Revenue Bond, Series 1993, of the Issuer described in Section 1.02G hereof.

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

"Bonds" means, collectively, the Bond and the 1993 Bond.

"Chairman" means the Chairman of the Governing Body.

"Consulting Engineer" means Stafford Consultants, Incorporated, Princeton, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means Ameribank, Inc., Welch, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

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

"FDIC" means the Federal Deposit Insurance Corporation.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

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

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America.

"Herein" or "herein" means in this Bond Legislation.

"Issuer," "Borrower" or "District" means McDowell County Public Service District, in McDowell County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means the Letter of Conditions of the Purchaser dated March 31, 1993, and all amendments thereto, if any.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed 1/6th of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Bonds and into the Reserve Fund and the Depreciation Reserve have been made to the last monthly payment date prior to the date of such retention.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means the United States Department of Agriculture, Rural Economic and Community Development, and any successor thereof, acting for and on behalf of the United States of America.

"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 (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder of the Bond" or any similar term means any person who shall be the registered owner of the Bond.

"Registrar" means the Issuer, which shall usually so act by its Secretary.

"1993 Resolution" means the resolution of the Issuer adopted June 23, 1993, authorizing the 1993 Bond.

"Resolutions" means, collectively, the 1993 Resolution and the Bond Legislation.

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

"Secretary" means the Secretary of the Governing Body.

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

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

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; words importing the masculine, feminine or neuter gender shall include any other gender; and any requirement for execution of the Bond or any certificate or other document by the Chairman shall mean that such Bond, certificate or other document may be executed by an Acting Chairman.

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of $1,950,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bond hereby authorized shall be applied as provided in Article IV hereof.

## ARTICLE III

## AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BOND

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions of the Bond Legislation, the Bond of the Issuer, to be known as "Water Revenue Bond, Series 1995," is hereby authorized to be issued in the principal amount of not exceeding $500,000 for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bond. The Bond shall be issued as a single, fully registered Bond, numbered R-1, and shall be dated the date of delivery thereof. The Bond shall bear interest from the date of delivery, payable monthly at the rate of 4.50% per annum, and shall be sold for the par value thereof.

The Bond shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Bond shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Bond, and the right to principal of and stated interest on the Bond, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar.

Whenever the Bond 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 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, but the Issuer shall pay any other expenses incurred by the Registrar with respect to such transfer.

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

Section 3.04. Registrar. The Issuer shall be the Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Bond, and, upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register the Bond initially issued pursuant

hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bond as hereinbefore provided.

The Registrar shall accept the Bond for registration or transfer only if ownership thereof is to be registered in the name of the Purchaser, 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 Bond shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Bond 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 Federal Building, Room 320, 75 High Street, Morgantown, West Virginia 26505-7500, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bond. The Bond shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Bond so surrendered shall be canceled and held for the account of the Issuer. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bond Secured by Pledge of Net Revenues. The payment of the debt service of the Bond shall be secured forthwith by a first lien on the Net Revenues derived from the System on a parity with the 1993 Bond, in addition to the statutory mortgage lien on the System hereinafter provided for as to the Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and

interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due, all on a parity with the 1993 Bond.

Section 3.08. Form of Bond. Subject to the provisions hereof, the text of the Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

WATER REVENUE BOND, SERIES 1995

$500,000

No. R-1 Date: September 26, 1995

FOR VALUE RECEIVED, McDOWELL COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of FIVE HUNDRED THOUSAND DOLLARS ($500,000), plus interest on the unpaid principal balance at the rate of 4.50% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $2,295, covering principal and interest, thereafter on said corresponding day of each month, 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 hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the 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 Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized

denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

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

This Bond is issued on a parity as to liens, pledge and source of and security for payment, and in all other respects, with the 1993 Bond described in said Resolution.

IN WITNESS WHEREOF, McDOWELL COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, all as of the date hereinabove written.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT
(Name of Borrower)

[CORPORATE SEAL]

_____
(Signature of Executive Official)

Chairman, Public Service Board
(Title of Executive Official)

P.O. Box J
(P. O. Box No. or Street Address)

Coalwood, West Virginia 24824
(City, State and Zip Code)

ATTEST:

_____
(Signature of Attesting Official)

Secretary, Public Service Board
(Title of Executive Official)

(Form of)

RECORD OF ADVANCES

| | AMOUNT | DATE | | AMOUNT | DATE |
|---|---|---|---|---|---|
| (1) | $ | | (7) | $ | |
| (2) | $ | | (8) | $ | |
| (3) | $ | | (9) | $ | |
| (4) | $ | | (10) | $ | |
| (5) | $ | | (11) | $ | |
| (6) | $ | | (12) | $ | |

TOTAL $_____

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

## SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created and established with (or continued if previously established by the 1993 Resolution), and shall be held by the Depository Bank, separate, distinct and apart from all other funds or accounts of the Depository Bank and from each other:

(1) Revenue Fund (established by the 1993 Resolution and continued hereby);

(2) Reserve Fund (established by the 1993 Resolution and continued hereby);

(3) Depreciation Reserve (established by the 1993 Resolution and continued hereby); and

(4) Project Construction Account.

Section 4.02. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Bond shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Moneys in the Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Bond if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.02, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.03. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holders of the Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Resolutions 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 provided in the Resolutions.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of Section 4.03B of the 1993 Resolution not otherwise modified herein:

(i) The Issuer shall first each month pay from the moneys in the Revenue Fund all current Operating Expenses.

(ii) The Issuer shall next, each month, on or before the due date of payment of each installment on the Bonds, transfer from the Revenue Fund and remit to the National Finance Office designated in the Bonds (or such other place as may be provided pursuant to the Bonds), the amounts required to pay the interest on the Bonds, and to amortize the principal of the Bonds over the respective lives of each Bond issue. All payments with respect to principal of and interest on the Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(iii) The Issuer shall next, each month, on each date that payment is made as set forth in (ii) above, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Reserve Fund, 1/12th of 1/10th of the amount, as of the date

of calculation, equal to the maximum aggregate amount of principal and interest becoming due on the Bonds in any year, until the amount in the Reserve Fund equals such maximum amount (the "Minimum Reserve"). After the Minimum Reserve has been accumulated in the Reserve Fund, the Issuer shall monthly deposit into the Reserve Fund such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments on the Bonds and for payment of Operating Expenses of the System, as shall be required to maintain the Minimum Reserve in the Reserve Fund. Moneys in the Reserve Fund shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Bonds to said National Finance Office (or other place provided) as the same shall become due or for prepayment of installments on the Bonds, or for mandatory prepayment of the Bonds as hereinafter provided, and for no other purpose, on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other; provided, however, that when the Minimum Reserve has been accumulated in the Reserve Fund, all earnings of investments of moneys therein shall at least annually be transferred to and deposited in the Revenue Fund.

(iv) The Issuer shall next, each month, on each date that payment is made as set forth in (ii) above, transfer from the Revenue Fund and deposit in the Depreciation Reserve, the moneys remaining in the Revenue Fund and not permitted to be retained therein, until there has been accumulated in the Depreciation Reserve the aggregate sum of $265,500, and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of principal of and interest on the Bonds as the same become due, and next to restore to the Reserve Fund any sum or sums transferred therefrom, all on a pro rata basis. Thereafter, and provided that payments into the Reserve Fund are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve may be withdrawn by the Issuer and used for extraordinary repairs and for replacements of equipment and improvements for the System, or any part thereof.

(v) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, moneys remaining therein and not permitted to be retained therein, if any

("Surplus Revenues"), may be used to prepay installments of the Bonds, pro rata, or for any lawful purpose.

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

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Reserve Fund and the Depreciation Reserve herein provided, and all amounts required for the Reserve Fund and the Depreciation Reserve will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund, the Reserve Fund and the Depreciation Reserve shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Bonds and the interest thereon, but the Depository Bank shall not be a trustee as to such funds.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

Subject to the 1993 Resolution, the Depository Bank, at the direction of the Issuer, shall keep the moneys in the Reserve Fund and the Depreciation Reserve invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia State Board of Investments. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Subject to the 1993 Resolution, earnings upon moneys in the Reserve Fund, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually in January into the Revenue Fund by the Depository Bank.

C. CHANGE OF FISCAL AGENT. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank and Fiscal Agent if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Bond, provide evidence that there will be at least 313 bona fide full-time users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia.

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

H. GROSS REVENUES. The Gross Revenues of the System shall only be used for purposes of the System.

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund a sum sufficient to prepay the entire principal of the Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Bondholder.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Bonds and sufficient to make the payments required herein into the Reserve Fund and the Depreciation Reserve and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bond remains outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or

destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bond.

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

(d) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(e) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer; 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.

(f) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of $50,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Bond is outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Bond and shall be on a parity with the statutory mortgage lien in favor of the Holder of the 1993 Bond.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(a) Failure to make payment of any monthly amortization installment upon the Bond at the date specified for payment thereof; and

(b) Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bond or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default, appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 5.09. Fiscal Year; Budget. While the Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on 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 the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st 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 next year preceding by more than 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 failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer on file with the Secretary on the date of adoption hereof, subject to permitted changes.

Section 5.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Bond is outstanding.

Section 5.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on March 16, 1995 and deemed final on April 4, 1995 (Case No. 93-0958-PWD-CN), which Final Order is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption 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 Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted: September 26, 1995.

Herbert E. Tate
Chairman of Public Service Board

Terry A. Dunford
Member

Member

09/24/95
MCPSDJ.A3
582180/93001

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

**Water Revenue Bond, Series 1993**

**BOND RESOLUTION**

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McDOWELL COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ISSUANCE OF $818,000 WATER REVENUE BOND, SERIES 1993, OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT, TO FINANCE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS SYSTEM AND ALL APPURTENANT FACILITIES IN THE DISTRICT; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDER OF THE BOND; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for This Resolution. This Resolution is adopted pursuant to the provisions of Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. McDowell County Public Service District (the "Issuer") is a public corporation and public service district and political subdivision of the State of West Virginia in McDowell County of said State, duly created pursuant to the Act by The County Commission of McDowell County.

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

A. The Issuer now has a public waterworks system and desires to finance and acquire, construct, operate and maintain certain additional public service properties consisting of improvements and extensions to such existing waterworks facilities with all appurtenant facilities, within the boundaries of the Issuer to be owned and operated by the Issuer.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain improvements and extensions to the existing waterworks facilities of the Issuer,

consisting of approximately 34,000 lineal feet of distribution lines, a 100,000 gallon storage tank, a 115-gallon per minute production and treatment plant, valves, hydrants and meters at Coalwood, and approximately 24,750 lineal feet of distribution lines, a 100,000 gallon storage tank, an 84-gallon per minute production and treatment plant, valves, hydrants and meters at Caretta, and all necessary appurtenant facilities (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The existing waterworks facilities of the Issuer, together with the Project and any further additions, extensions or improvements thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all the costs of the operation and maintenance of the System, the principal of and interest on the Bond (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein.

D. The estimated maximum cost of the acquisition and construction of the Project is $3,365,800 of which $818,000 will be obtained from the proceeds of sale of the Bond herein authorized, $997,800 from a grant by the Purchaser (as hereinafter defined), $750,000 from a grant by the Department of Housing and Urban Development (Small Cities Block Grant through the State of West Virginia), and $800,000 from a grant by the Economic Development Authority.

E. It is necessary for the Issuer to issue its revenue bond in the principal amount of $818,000 to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project: the acquisition of any necessary property, real or personal, or interest therein; interest on the Bond prior to, during and for six months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for

Costs of the Project by the Issuer shall be deemed Costs of the Project.

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

G. There are no outstanding bonds or obligations of the Issuer which will rank prior to or on a parity with the Bond as to lien, pledge and/or source of and security for payment.

H. It is in the best interest of the Issuer that the Bond be sold to the United States Department of Agriculture, Farmers Home Administration (the "Purchaser"), pursuant to the terms and provisions of a Letter of Conditions dated April 21, 1992, and all amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bond, or will have so complied prior to issuance of the Bond, including, among other things and without limitation, the consent and approval, pursuant to the Act and other applicable provisions of law, of the issuance of the Bond, the acquisition and construction of the Project and the imposition of rates and charges by the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bond by those who shall be the registered owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Bondholder, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the registered owner of the Bond.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13A of the West Virginia Code of 1931, as amended.

"Bond" or "Bonds" means the Water Revenue Bond, Series 1993, authorized hereby.

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

"Chairman" means the Chairman of the Governing Body.

"Consulting Engineer" means Stafford Consultants, Incorporated, Princeton, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means Ameribank, N.A., War, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

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

"FDIC" means the Federal Deposit Insurance Corporation.

"Fiscal Year" means each year beginning on July 1 and ending on the succeeding June 30.

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

"Government Obligations" means direct obligations of, or obligations the principal of and interest on which are guaranteed by, the United States of America.

"Herein" or "herein" means in this Bond Legislation.

"Issuer," "Borrower" or "District" means McDowell County Public Service District, in McDowell County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated April 21, 1992, and all amendments thereto, if any.

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

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed 1/6th of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Bond and into the Reserve Fund and Depreciation Reserve have been made to the last monthly payment date prior to the date of such retention.

"Project" shall have the meaning stated in Section 1.02B above.

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

"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 (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder of the Bond" or any similar term means any person who shall be the registered owner of the Bond.

"Registrar" means the Issuer, which shall usually so act by its Secretary.

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

"Secretary" means the Secretary of the Governing Body.

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

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

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 neuter gender shall include any other gender; and any requirement for execution of the Bond or any certificate or other document by the Chairman shall mean that such Bond, certificate or other document may be executed by an Acting Chairman.

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of $3,365,800, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bond hereby authorized shall be applied as provided in Article IV hereof.

## ARTICLE III

## AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BOND

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions of the Bond Legislation, the Bond of the Issuer, to be known as "Water Revenue Bond, Series 1993," is hereby authorized to be issued in the aggregate principal amount of not exceeding $818,000 for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bond. The Bond shall be issued in single form, numbered R-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Bond shall bear interest from the date of delivery, payable monthly at the rate of 5% per annum, and shall be sold for the par value thereof.

The Bond shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Bond shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Bond, and the right to principal of and stated interest on the Bond, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bond for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Registrar.

Whenever the Bond 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 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, but the Issuer shall pay any other expenses incurred by the Registrar with respect to such transfer.

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

Section 3.04. Registrar. The Issuer shall be the Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Bond, and, upon presentation for such purpose, the Registrar shall, under such reasonable regulations as it may prescribe, register the Bond initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bond as hereinbefore provided.

The Registrar shall accept the Bond 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 Bond shall initially be fully registered as to both principal and interest in the name of the United States of America, Farmers Home Administration. So long as the Bond shall be registered in the name of the United States of America, Farmers Home Administration, the address of the United States of America, Farmers Home Administration, for registration purposes shall be Federal Building, Room 320, 75 High Street, Morgantown, West Virginia 26505-7500, or such other address as shall be stated in writing to the Issuer by the United States of America, Farmers Home Administration.

Section 3.05. Execution of Bond. The Bond shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Bond shall cease to be such officer of the Issuer before the Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and

substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Bond so surrendered shall be canceled and held for the account of the Issuer. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bond Secured by Pledge of Net Revenues. The payment of the debt service of the Bond shall be secured forthwith by a first lien on the Net Revenues derived from the System, in addition to the statutory mortgage lien on the System hereinafter provided. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due.

Section 3.08. Form of Bond. Subject to the provisions hereof, the text of the Bond and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

WATER REVENUE BOND, SERIES 1993

$818,000

No. R-1 Date: _____

FOR VALUE RECEIVED, McDOWELL COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America, Farmers Home Administration (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of EIGHT HUNDRED EIGHTEEN THOUSAND DOLLARS ($818,000), plus interest on the unpaid principal balance at the rate of 5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $4,017, covering principal and interest, thereafter on said corresponding day of each month, 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 hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the 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 Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due.

under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the

Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

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

IN WITNESS WHEREOF, McDOWELL COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, all as of the date hereinabove written.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT
(Name of Borrower)

[CORPORATE SEAL]

(Signature of Executive Official)

Chairman, Public Service Board
(Title of Executive Official)

P.O. Box 8
(P. O. Box No. or Street Address)

War, West Virginia 24892
(City, State and Zip Code)

ATTEST:

(Signature of Attesting Official)

Secretary, Public Service Board
(Title of Executive Official)

(Form of)

RECORD OF ADVANCES

| | AMOUNT | DATE | | AMOUNT | DATE |
|---|---|---|---|---|---|
| (1) | $ | | (6) | $ | |
| (2) | $ | | (7) | $ | |
| (3) | $ | | (8) | $ | |
| (4) | $ | | (9) | $ | |
| (5) | $ | | (10) | $ | |
| | | TOTAL | | $ | |

[Form of Assignment]

ASSIGNMENT

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

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

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

## SYSTEM REVENUES AND APPLICATION THEREOF; DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created and established with, and shall be held by, the Depository Bank, separate, distinct and apart from all other funds or accounts of the Depository Bank and from each other:

(1) Revenue Fund;

(2) Reserve Fund;

(3) Depreciation Reserve; and

(4) Project Construction Account.

Section 4.02. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Bond shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Moneys in the Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to ~~the~~ Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Bond if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.02, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such

payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.03. Covenants of the Issuer as to System Revenues and Funds. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the holder of the Bond as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided herein and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided herein.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority:

(i) The Issuer shall first each month pay from the moneys in the Revenue Fund all current Operating Expenses.

(ii) The Issuer shall next, on or before the due date of payment of each installment on the Bond, transfer from the Revenue Fund and remit to the National Finance Office designated in the Bond (or such other place as may be provided pursuant to the Bond), the amount required to pay the interest on the Bond, and to amortize the principal of the Bond over the life of the Bond issue.

(iii) The Issuer shall next, on each date that payment is made as set forth in (ii) above, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Reserve Fund, 1/12th of 1/10th of the amount, as of the date of calculation, equal to the maximum amount of principal and interest which will become due on the Bond in any year, until the amount in the Reserve Fund equals such maximum amount (the

"Minimum Reserve"). After the Minimum Reserve has been accumulated in the Reserve Fund, the Issuer shall monthly deposit into the Reserve Fund such part of the moneys remaining in the Revenue Fund, after such provision for payment of monthly installments on the Bond and for payment of Operating Expenses of the System, as shall be required to maintain the Minimum Reserve in the Reserve Fund. Moneys in the Reserve Fund shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Bond to said National Finance Office (or other place provided) as the same shall become due or for prepayment of installments on the Bond, or for mandatory prepayment of the Bond as hereinafter provided, and for no other purpose; provided, however, that when the Minimum Reserve has been accumulated in the Reserve Fund, all earnings of investments of moneys therein shall at least annually be transferred to and deposited in the Revenue Fund and used for prepayment of the principal of the Bond.

(iv) The Issuer shall next, on each date that payment is made as set forth in (ii) above, transfer from the Revenue Fund and deposit in the Depreciation Reserve, the moneys remaining in the Revenue Fund and not permitted to be retained therein, until there has been accumulated in the Depreciation Reserve the aggregate sum of $168,000, and thereafter such sums as shall be required to maintain such amount therein. Moneys in the Depreciation Reserve shall be used first to make up any deficiencies for monthly payments of principal of and interest on the Bond as the same become due, and next to restore to the Reserve Fund any sum or sums transferred therefrom. Thereafter, and provided that payments into the Reserve Fund are current and in accordance with the foregoing provisions, moneys in the Depreciation Reserve, may be withdrawn by the Issuer and used for extraordinary repairs and for replacements of equipment and improvements for the System, or any part thereof.

(v) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, moneys remaining therein and not

permitted to be retained therein, if any ("Surplus Revenues"), may be used to prepay installments of the Bond or for any lawful purpose.

Whenever the money in the Reserve Fund shall be sufficient to prepay the Bond in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Bond at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Reserve Fund and the Depreciation Reserve herein provided, and all amounts required for the Reserve Fund and the Depreciation Reserve will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund, the Reserve Fund and the Depreciation Reserve shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Bond and the interest thereon, but the Depository Bank shall not be a trustee as to such funds.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates.

The Depository Bank, at the direction of the Issuer, shall keep the moneys in the Reserve Fund and the Depreciation Reserve invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia State Board of Investments. Any investment shall be held in and at all

times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings upon moneys in the Reserve Fund, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually in January into the Revenue Fund by the Depository Bank and used for prepayment of the principal of the Bond.

C. CHANGE OF FISCAL AGENT. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank and Fiscal Agent if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Bond, provide evidence that there will be at least 412 bona fide users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State of West Virginia.

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

H. GROSS REVENUES. The Gross Revenues of the System shall only be used for purposes of the System.

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the Reserve Fund a sum sufficient to prepay the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Bondholder.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Bond and sufficient to make the payments required herein into the Reserve Fund and the Depreciation Reserve and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Bond is outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No additional parity bonds or obligations payable out of any of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bond remains outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or

stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bond.

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

(d) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as

required by the laws of the State of West Virginia.

(e) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer; provided 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.

(f) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of $50,000 upon the treasurer, provided, however, that no bond shall be required insofar as custody of the Project Construction Account is concerned so long as checks thereon require the signature of a representative of the Purchaser.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Bond is outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Bond.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

(a) Failure to make payment of any monthly amortization installment upon the Bond at the date specified for payment thereof; and

(b) Failure duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Bond or herein, or violation of or failure to observe any provision of any pertinent law.

Section 5.08. Enforcement. Upon the happening of any Event of Default specified above, then, and in every such case, the Purchaser may proceed to protect and enforce its rights by an appropriate action in any court of competent jurisdiction, either for the specific performance of any covenant or agreement, or execution of any power, or for the enforcement of any proper legal or equitable remedy as shall be deemed most effectual to protect and enforce such rights.

Upon application by the Purchaser, such court may, upon proof of such default appoint a receiver for the affairs of the Issuer and the System. The receiver so appointed shall administer the System on behalf of the Issuer, shall exercise all the rights and powers of the Issuer with respect to the System, shall proceed under the direction of the court to obtain authorization to increase rates and charges of the System, and shall have the power to collect and receive all revenues and apply the same in such manner as the court may direct.

Section 5.09. Fiscal Year; Budget. While the Bond is outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on 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 the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st 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 next year preceding by more than 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 failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such

Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Compensation of Members of Governing Body. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is default in the performance of or compliance with any covenant or provision hereof.

Section 5.11. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer on file with the Secretary on the date of adoption hereof, subject to permitted changes.

Section 5.12. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Bond is outstanding.

Section 5.14. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on January 13, 1993, Case No. 92-0490-PWD-CN, which Final Order is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be liens on the premises served of equal degree, rank and priority with the lien on such premises of state, county, school and municipal taxes, as provided in the Act. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other Revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer, to the extent permitted by law, will not accept payment of any water bill from a customer served with water and sewer services by the Issuer without payment at the same time of a sewer bill owed by such customer for the same premises.

## ARTICLE VII

## MISCELLANEOUS

Section 7.01. Payment of Bond. If the Issuer shall pay, or there shall otherwise be paid, to the Holder of the Bond, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Bond, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Bond, shall thereupon cease, terminate and become void and be discharged and satisfied.

Section 7.02. Modification or Amendment. The Bond Legislation may not be modified or amended after final passage without the prior written consent of the Bondholder.

Section 7.03. Delivery of Bond No. R-1. The Chairman, Secretary and Treasurer of the Governing Body are hereby authorized and directed to cause Bond No. R-1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Bond.

Section 7.05. Conflicting Provisions Repealed. All resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in

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

Section 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted: June 23, 1993.

Acting Chairman of Public Service Board

Member

Member

06/17/93
MCDJ.A3
58218/91001

USDA

United States
Department of
Agriculture

Rural Development

Federal Building, Room 320
75 High Street
Morgantown, WV 26505-7500
Tel: (304) 284-4888
Fax: (304) 284-4892
TTY/TDD: (304) 284-4836

February 23, 2001

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

TO WHOM IT MAY CONCERN:

The undersigned duly authorized representative of the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture, the present holder of the entire outstanding aggregate principal amounts of the Prior Bonds, as hereinafter defined and described, hereby (i) consents to the issuance of the Water Revenue Bonds, Series 2000 A (the "Series 2000 A Bonds"), by McDowell County Public Service District (the "Issuer"), in the original aggregate principal amount of $145,000, under the terms of the bond resolution authorizing the Series 2000 A Bonds (the "Series 2000 A Resolution"), on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding Water Revenue Bonds, Series 1999 C, dated August 11, 1999, Water Revenue Bonds, Series 1999 B, dated August 11, 1999, Water Revenue Bonds, Series 1999 A, dated June 21, 1999, Water Revenue Bond, Series 1997 A, dated October 15, 1997, Water Revenue Bond, Series 1995, dated September 26, 1995, and Water Revenue Bond, Series 1993, dated June 23, 1993 (collectively, the "Prior Bonds"); (ii) waives any requirements imposed by the Prior Bonds and the resolutions authorizing the Prior Bonds (collectively, the "Prior Resolutions"), regarding the issuance of parity bonds which are not met by the Series 2001 A Bonds and the Series 2001 A Resolution; and (iii) consents to any amendments made to the Prior Resolutions by the Series 2001 A Resolution.

Dianne Goff Crysler
Acting State Director

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**PUBLIC SERVICE COMMISSION**
**OF WEST VIRGINIA**
**CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 2nd day of February, 2001.

CASE NO. 99-1857-PWD-CN [REOPENED]

MCDOWELL COUNTY PUBLIC SERVICE DISTRICT,
a public utility.

Application for a certificate of convenience and necessity for the construction and installation of public utility properties identified by the District as the Bartley/Caretta Connector Project in McDowell County.

## COMMISSION ORDER

This case is before the Commission on the McDowell County Public Service District's (District's) request that the case be reopened for the Commission to approve additional funding the District has received for its Bartley/Caretta connector project. As will be explained below, the Commission will reopen the case and will approve the additional funding.

### Background

On January 20, 2000, the District filed an application for a certificate of convenience and necessity for the construction and installation of public utility properties identified by the District as the Bartley/Caretta connector project in McDowell County. The District explained in its application that because the water treatment plant that was then serving Caretta was unable to remove the high level of sodium coming from its raw water source, which was an abandoned coal mine, the District proposed to close the Caretta water

treatment plant and construct a six-inch connector line of approximately three miles between the Caretta water treatment plant and the water treatment plant at Bartley. The District stated that by doing this it could then provide potable water from the plant at Bartley to the 133 customers who were receiving water with unacceptable levels of sodium from the Caretta water treatment plant. The District proposed to fund the project, that was estimated to cost $515,000, through a Rural Utilities Service loan of $145,000 and a Rural Utilities Service grant in the amount of $370,000.

In a Recommended Decision entered on April 24, 2000, and final on May 7, 2000, the District was granted a certificate of convenience and necessity to proceed with the project as proposed.

On January 5, 2001, the District filed a petition to open the case seeking approval of additional funding in the form a $38,000 grant from the West Virginia Infrastructure and Jobs Development Council and an additional $129,000 grant from the Rural Utilities Service. Thus, the District is seeking approval of a total of $167,000 in additional monies. This additional funding will bring the total project cost to $682,000.

As noted by Technical Staff, the additional grant monies have been secured by the District and no additional borrowing will be required. Thus, Technical Staff recommended that the Commission approve the additional funding.

Likewise, Legal Staff recommended that the additional funding be approved as it will have no impact on rates. Legal Staff noted that the District had informed it via telephone that the District's project construction bids expire on February 3, 2001, and that a tentative closing date has been set for February 21, 2001. Thus, the District requested expedited treatment (the District also requested expedited treatment in its petition to reopen filed on January 5, 2001).

## DISCUSSION

Upon review, the Commission concludes that it is fair and reasonable to grant the District's petition to reopen the case and to approve the additional funding for the Bartley/Caretta water connector project. More specifically, the Commission approves the $38,000 grant from the West Virginia Infrastructure and Jobs Development Council and the $129,000 grant from the Rural Utilities Service. The Recommended Decision entered on April 24, 2000, and final on May 7, 2000, will remain in full force and effect as modified by this order.



Public Service Commission
of West Virginia
Charleston

## FINDINGS OF FACT

1. In a Recommended Decision entered on April 24, 2000, and final on May 7, 2000, the District was granted a certificate of convenience and necessity to proceed with the Bartley/Caretta water connector project as proposed. The Recommended Decision specifically approved the District funding the project through a Rural Utilities Service loan of $145,000 and a Rural Utilities Service grant in the amount of $370,000. See Recommended Decision entered on April 24, 2000, and final on May 7, 2000.

2. On January 5, 2001, the District filed a petition to open the case seeking approval of additional funding in the form a $38,000 grant from the West Virginia Infrastructure and Jobs Development Council and an additional $129,000 grant from the Rural Utilities Service. Thus, the District is seeking approval of a total of $167,000 in additional monies. This additional funding will bring the total project cost to $682,000. The District requested expedited treatment since its project construction bids expire on February 3, 2001. See District's letter and attachments filed January 5, 2001.

3. Technical Staff recommended that the Commission approve the additional funding. See Initial and Final Internal Memorandum filed with Initial and Final Joint Staff Memorandum on January 26, 2001.

4. Legal Staff recommended that the additional funding be approved as it will have no impact on rates. See Initial and Final Joint Staff Memorandum filed January 26, 2001.

## CONCLUSIONS OF LAW

1. The Commission will reopen this case.

2. The Commission approves the following additional funding obtained by the District: A $38,000 grant from the West Virginia Infrastructure and Jobs Development Council and an additional $129,000 grant from the Rural Utilities Service.

## ORDER

IT IS THEREFORE ORDERED that this case be reopened.

IT IS FURTHER ORDERED that the following additional funding obtained by the District is approved: A $38,000 grant from the West Virginia Infrastructure and Jobs Development Council and an additional $129,000 grant from the Rural Utilities Service.



Public Service Commission
of West Virginia
Charleston

IT IS FURTHER ORDERED that the Recommended Decision entered on April 24, 2000, and final on May 7, 2000, remain in full force and effect except as modified by this order.

IT IS FURTHER ORDERED that if there are any other changes in the plans, scope, terms or financing of the project, then the District must obtain Commission approval of these changes prior to commencing construction.

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

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

LJA/ljm
991857ca.wpd

**A True Copy, Teste:**

Sandra Squire

**Sandra Squire**
**Executive Secretary**



Public Service Commission
of West Virginia
Charleston

# West Virginia Infrastructure & Jobs Development Counci

Public Members:
James D. Williams, Chairman
St. Albans
William J. Harman, PE, Vice Chairman
Grafton
Dwight Calhoun
Petersburg
William P. Stafford, II, Esq.
Princeton

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Katy Mallory, PE
Executive Secretary

KMallory@ezwv.com

January 3, 2001

Mr. David Robbins, Chairman
McDowell County Public Service District
HC 31, Box 436 J
Welch, West Virginia 24801

Re: Binding Commitment Letter
Water System Project
Project 2000W-568

Dear Mr. Robbins:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the McDowell County Public Service District's (the "District") preliminary application regarding its Bartley, Caretta water systems connector project. (Project)

Based on the findings of the Water Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The District should carefully review the enclosed comments of the Water Technical Review Committee as the District may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the preliminary application, the Infrastructure Council provides this binding offer of a grant of approximately $37,098 (the "Grant") to the District for the Project. The Grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The Grant agreement will be between the District and the West Virginia Water Development Authority (Authority), acting on behalf of the Infrastructure Council.

The Authority will enter into a Grant agreement with the District following receipt of the completed Schedule B, a final, nonappealable order from the Public Service Commission authorizing construction of the Project, evidence of binding commitments for other funding; evidence of all permits; evidence of acceptable bids; and any other documents requested by the Infrastructure Council.

No statements or representations made before or after the issuance of this contingent Grant commitment by any person, member of the Infrastructure Council, or agent or employee of the Authority shall be construed as approval to alter or amend this Grant commitment, as all such amendments or alterations shall only be made in writing after approval of the Infrastructure Council.

If the District has any questions regarding this Grant commitment, please contact Katy Mallory at the above-referenced telephone number.

Sincerely,

James D. Williams

JDW/km
Attachment

cc: Region 1 Planning & Development
Randy Bolton, Stafford Consultants
Rosemary Christian, RUS

NOTE: This letter is sent in triplicate. Please acknowledge receipt on two copies and immediately return one to the Authority at 180 Association Drive, Charleston, WV 25311-1571, and one to the Infrastructure Council.

McDowell County Public Service District

By:_____

Its: _____

Date:_____

## WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL

McDowell County Public Service District
Water Project
Project 2000W-568
January 3, 2001

### SCHEDULE A

A. Approximate Amount: $37,098 Grant

B. Grant: $37,098

1. Grant Advancement Date(s): Monthly, upon receipt of proper requisition

2. Special Conditions: None

C. Other Funding Sources:

| | |
|---|---|
| Rural Utilities Service loan: | $ 145,000 |
| Rural Utilities Service grant: | $ 370,000 |
| Rural Utilities Service Supplemental grant | $129,000 |

D. Total Project Cost $ 681,098

E. User Rates: $40.76 / 4500 gallons

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2001 A
(United States Department of Agriculture)

RECEIPT FOR BOND AND TRANSCRIPTS

The undersigned, authorized representative of the United States Department of Agriculture, Rural Utilities Service, for and on behalf of the United States of America (the "Purchaser"), hereby certifies as follows:

1. On the 23rd day of February, 2001, at Coalwood, West Virginia, the undersigned received for the Purchaser the single, fully registered McDowell County Public Service District Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), No. AR-1, in the principal amount of $145,000 (the "Bonds"), dated the date hereof, bearing interest at the rate of 4.5% per annum, payable in monthly installments as stated in the Bonds. The Bonds represent the entire above-captioned Bond issue.

2. At the time of such receipt, the Bonds have been executed and sealed by the designated officials of the Public Service Board of McDowell County Public Service District (the "Issuer").

3. At the time of such receipt, there was paid to the Issuer the sum of $35,402.00, being a portion of the principal amount of the Bonds. Further advances of the balance of the principal amount of the Bonds will be paid to the Issuer as acquisition and construction of the Project progresses.

4. At the time of such receipt, the undersigned also received three sets of bond transcript documents.

WITNESS my signature on this 23rd day of February, 2001.

Rose Mary Christian
Authorized Representative

02/20/01
582180/98002

CL612584.1

# SPECIMEN

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

WATER REVENUE BONDS, SERIES 2001 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$145,000

No. AR-1 Date: February 23, 2001

FOR VALUE RECEIVED, McDOWELL COUNTY PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE HUNDRED FORTY FIVE THOUSAND DOLLARS ($145,000), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $666, covering principal and interest, thereafter on said corresponding day of each month, 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 hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the 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 Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

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

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

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of additions, extensions and improvements to the waterworks system (the "System") of the Borrower, is payable solely from the revenues to be derived from the operation of the System after there have been first paid from such revenues the reasonable current costs of operation and maintenance of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of the Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Resolution and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions 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, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted February 21, 2001, authorizing issuance of this Bond (the "Resolution").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

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

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 BOND, SERIES 1993; (2) WATER REVENUE BOND, SERIES 1995; (3) WATER REVENUE BOND, SERIES 1997 A; (4) WATER REVENUE BONDS, SERIES 1999 A; (5) WATER REVENUE BONDS, SERIES 1999 B; AND (6) WATER REVENUE BONDS, SERIES 1999 C, ALL AS DESCRIBED IN THE RESOLUTION.

**[Remainder of Page Intentionally Left Blank]**

IN WITNESS WHEREOF, McDOWELL COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be executed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary/Treasurer, all as of the date hereinabove written.

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

[CORPORATE SEAL]

Chairman, Public Service Board

HC 31 Box 45
Welch, West Virginia 24801

ATTEST:

Secretary/Treasurer

SPECIMEN

SPECIMEN

## RECORD OF ADVANCES

| | AMOUNT | DATE | | AMOUNT | DATE |
|---|---|---|---|---|---|
| (1) | $35,402 | 02/23/01 | (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 the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

02/20/01
582180/98002

[RESERVED]

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW
Clarksburg Charleston Morgantown Martinsburg Wheeling Parkersburg

Bank One Center, Sixth Floor
P.O. Box 2190
Clarksburg, WV 26302-2190
(304) 624-8000 (304) 624-8183 Fax
www.steptoelaw.com

Writer's Contact Information

February 23, 2001

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

McDowell County Public Service District
Coalwood, West Virginia

United States Department of Agriculture
Morgantown, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by McDowell County Public Service District in McDowell County, West Virginia (the "Issuer"), of its $145,000 Water Revenue Bonds, Series 2001 A, dated the date hereof (the "Bonds"), pursuant to Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and a resolution of the Issuer duly adopted February 21, 2001 (the "Resolution"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the Resolution and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is duly created and validly existing as a public service district and as a public corporation and a political subdivision of the State of West Virginia with corporate power to adopt the Resolution, perform the agreements on its part contained therein and issue the Bonds.

2. The Resolution has been duly adopted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable upon the Issuer.

3. Pursuant to the Act, the Resolution creates a valid lien on the funds pledged by the Resolution for the security of the Bonds on a parity with the Issuer's Water Revenue Bond, Series 1993, dated June 23, 1993, Water Revenue Bond, Series 1995, dated September 26, 1995, Water Revenue Bond,



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Series 1997 A, dated October 15, 1997, Water Revenue Bonds, Series 1999 A, dated June 21, 1999, Water Revenue Bonds, Series 1999 B, dated August 11, 1999, and Water Revenue Bonds, Series 1999 C, dated August 11, 1999, subject to no prior lien granted under the Act.

The Issuer's Waterworks System Design Notes, Series 2000 A, dated August 1, 2000 (the "Prior Notes") are not secured by the net Revenues of the System. The Issuer has obtained the written consent of the holder of the Prior Notes to the issuance of the Bonds.

4. The Bonds have been duly authorized, executed and delivered by the Issuer and are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the Resolution.

5. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

6. The Bonds are, under the Act, exempt from taxation by the State of West Virginia, and the other taxing bodies of said State, and interest on the Bonds is exempt from personal income taxes and corporate net income taxes imposed directly thereon by the State of West Virginia.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the Resolution and the liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

STEPTOE & JOHNSON PLLC

02/20/01
582180/98002

CL612600.1

LAW OFFICES
WILLIAM S. WINFREY, II
1608 MAIN STREET WEST
POST OFFICE BOX 1159
PRINCETON, W.VA. 24740

TELEPHONE
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TELECOPIER
304-425-7340

FILE NO.

February 23, 2001

99-069

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

McDowell County Public Service District
Coalwood, West Virginia

United States Department of Agriculture
Morgantown, West Virginia

Steptoe & Johnson
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to McDowell County Public Service District, a public service district in McDowell County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson, as bond counsel, a resolution of the Issuer duly adopted February 21, 2001 (the "Resolution"), other documents and papers relating to the Issuer and the above-captioned Bonds of the Issuer (the "Bonds") and documents and orders of The County Commission of McDowell County relating to the creation of the Issuer and the appointment of members of the Public Service Board of the Issuer. All capitalized terms used in the Resolution and not otherwise defined herein shall have the same meanings as defined in the Resolution when used herein.

I am of the opinion that:

1. The Issuer is duly created and validly existing as a public service district and as a public corporation and political subdivision of the State of West Virginia.

2. The members and officers of the Public Service Board of the Issuer have been duly, lawfully and properly appointed and elected, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

3. The Resolution has been duly adopted by the Issuer and is in full force and effect.

4. The execution and delivery of the Bonds and the consummation of the transactions contemplated by the Bonds and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

5. All permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations necessary 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 have been entered and/or received, including, without limitation, all requisite orders, certificates, consents and approvals from The County Commission of McDowell County and the Public Service Commission of West Virginia, and the Issuer has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has duly published a notice of the acquisition and construction of the Project, the issuance of the Bonds and related matters, as required under Chapter 16, Article 13A, Section 25 of the West Virginia Code of 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 or the Resolution, the acquisition and construction of the Project, the operation of the System, or the validity of the Bonds, or the collection or pledge of the Net Revenues therefor.

Very truly yours,

WILLIAM S. WINFREY, II

02/20/01
582180/98002

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2001 A
(United States Department of Agriculture)

COMBINED CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. AUTHORIZATION AND AWARD OF BONDS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES, ETC.
6. CERTIFICATION OF COPIES OF DOCUMENTS
7. INCUMBENCY AND OFFICIAL NAME, ETC.
8. DELIVERY AND PAYMENT AND USE OF PROCEEDS
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.
11. CONTRACTORS' INSURANCE, ETC.
12. CONNECTIONS, ETC.
13. MANAGEMENT
14. GRANTS
15. CONFLICT OF INTEREST
16. EXECUTION OF COUNTERPARTS

We, the undersigned CHAIRMAN and the undersigned SECRETARY/TREASURER of the Public Service Board of McDowell County Public Service District in McDowell County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, acting for the Issuer and in its name, hereby state and certify in connection with the McDowell County Public Service District Water Revenue Bonds, Series 2001 A (United States Department of Agriculture), No. AR-1, dated the date hereof, fully registered, in the principal amount of $145,000 and bearing interest at the rate of 4.5% per annum (the "Bonds" or the "Series 2001 A Bonds"), as follows:

1. AUTHORIZATION AND AWARD OF BONDS: The undersigned are authorized to execute this certificate on behalf of the Issuer and are knowledgeable with respect to the matters set forth herein. The entire issue of the Bonds has been duly awarded to the United States of America, acting by the United States Department of Agriculture, Rural Utilities Service (the "Purchaser"), pursuant to a Letter of Conditions of the Purchaser, dated July 7, 1998, and all amendments thereto, and as appears in Section 7.03 of the Resolution of the Issuer duly adopted February 21, 2001, authorizing issuance of the Bonds (the "Resolution" or "Bond Resolution"). All capitalized terms used herein and not otherwise defined herein shall have the same meaning as defined in the Resolution when used herein.

The Bonds are being issued on this date to finance a portion of the cost of the acquisition and construction of the Project located within the boundaries of the Issuer.

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 and delivery of the Bonds or receipt of any grant moneys committed for the System; nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bonds; nor in any way questioning or affecting the validity of the grants committed for the System or the Bonds, or any provisions made or authorized for the payment thereof, including, without limitation, the pledge or application of any moneys or security therefor; nor questioning the existence, powers or proceedings of the Issuer or its Public Service Board (the "Governing Body") or the title of the members and officers thereof to their respective offices; nor questioning the operation of the System or the acquisition and construction of the Project, a portion of the cost of which is being financed out of the proceeds of sale of the Bonds; nor questioning the rates and charges provided for services of the System.

3. GOVERNMENTAL APPROVALS: All applicable and necessary approvals, permits, authorizations, registrations, exemptions, consents and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bonds, have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project were solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

The Issuer has received the Final Order and Commission Order of the Public Service Commission of West Virginia dated May 7, 2000, and February 2, 2001, respectively, in Case No. 99-1857-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 Final Order has expired prior to the date hereof. The time for appeal of such Commission Order has not expired prior to the date hereof, however, such Commission Order may only be appealed by the parties thereto. The Issuer hereby states, and the other parties thereto have stated, that they shall not appeal such Commission Order.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval by the Purchaser of a loan to assist in acquisition and construction of the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2001 A Bonds as to liens, pledge and source of and security for payment being: (i) Water Revenue Bond, Series 1993, dated June 23, 1993, issued in the original aggregate principal amount of $818,000 (the "Series 1993 Bond"); (ii) Water Revenue Bond, Series 1995, dated September 26, 1995, issued in the original aggregate principal amount of $500,000 (the "Series 1995 Bond"); (iii) Water Revenue Bond, Series 1997 A, dated

October 15, 1997, issued in the original aggregate principal amount of $350,000 (the "Series 1997 A Bond") (iv) Water Revenue Bonds, Series 1999 A, dated June 21, 1999, issued in the original aggregate principal amount of $360,000 (the "Series 1999 A Bonds"); (v) Water Revenue Bonds, Series 1999 B, dated August 11, 1999, issued in the original aggregate principal amount of $870,000 (the "Series 1999 B Bonds"); and (vi) Water Revenue Bonds, Series 1999 C, dated August 11, 1999, issued in the original aggregate principal amount of $125,000 (the "Series 1999 C Bonds"), all held by the Purchaser (collectively, the "Prior Bonds"). Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2001 A Bonds as to liens, pledge and/or source of and security for payment.

There are also outstanding obligations of the Issuer which are not secured by the net revenues of the System being the Waterworks System Design Notes, Series 2000 A, dated August 1, 2000, issued in the original aggregate principal amount of $20,000 (the "Prior Notes"). The Issuer has received the consent of the holder of the Prior Notes to the issuance of the Series 2001 A Bonds.

The Issuer is not in default under the terms of the Prior Bonds, or the resolutions authorizing issuance of the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

5. SIGNATURES, ETC.: The undersigned Chairman and Secretary/Treasurer did, for the Issuer on the date of delivery of the Bonds on the date hereof, officially execute and seal the Bonds with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and said officers are the duly elected, appointed, qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer.

6. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended, supplemented or changed in any way unless modification appears from later documents also listed below:

Bond Resolution

Supplemental Resolution Amending Prior Resolutions

1993 Bond Resolution

1995 Bond Resolution

1997 A Bond Resolution

1999 A Bond Resolution

1999 B and 1999 C Bond Resolution

Rural Utilities Service Consent to Issuance of Parity Bonds

Public Service Commission Order

Approval of the West Virginia Infrastructure and Jobs Development Council

County Commission Orders and Affidavit of Publication Regarding Creation of the District

County Commission Orders of Appointment and Oaths of Office of Current Boardmembers

Rules of Procedure

Affidavit of Publication on Borrowing

Minutes of Current Year Organizational Meeting

Minutes on Adoption of Bond Resolution

United States Department of Agriculture Letter of Conditions and Closing Instructions

United States Department of Agriculture Grant Agreements

Evidence of Infrastructure Fund Grant

Consent of Prior Notes Holder

The undersigned Chairman hereby covenants that he has or will file tariffs pursuant to final order of the Public Service Commission when the completion date of the Project is definitely known, or has caused or will cause such tariffs to be filed in accordance with said order.

7. INCUMBENCY AND OFFICIAL NAME, ETC.: The proper corporate title of the Issuer is "McDowell County Public Service District" and its principal office and place of business are in McDowell County, West Virginia. The Issuer is a public service district and public corporation and political subdivision of the State of West Virginia. The governing body of the Issuer is its Public Service Board consisting of three duly appointed,

qualified and acting members, whose names and dates of commencement and termination of current terms of office are as follows:

| Name | Date of Commencement of Office | Date of Termination of Office |
|---|---|---|
| Mr. David M. Robbins | March 27, 1996 | March 27, 2002 |
| Ms. Terry A. Dunford | May 25, 2000 | May 25, 2006 |
| Mr. Jerry Stepp | December 7, 1998 | March 27, 2004 |

The names of the duly elected, appointed, qualified and acting officers of said Public Service Board of said Issuer for the calendar year 2001 are as follows:

| | | |
|---|---|---|
| Chairman | - | David M. Robbins |
| Secretary-Treasurer | - | Jeannie Hall |

The duly appointed and acting Attorney for the Issuer is William S. Winfrey, II, of Princeton, West Virginia.

8. DELIVERY AND PAYMENT AND USE OF PROCEEDS: On the date hereof, the Bonds were delivered to the Purchaser at Coalwood, West Virginia, by the undersigned Chairman for the purposes set forth herein, and 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 Bond Resolution.

At the time of delivery of the Bonds, the amount of $35,402 was received by the undersigned Chairman, being a portion of the principal amount of the Bonds. Further advances of the balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

The Bonds are dated the date hereof, and interest on advances of the principal thereof at the rate of 4.5% per annum is payable from the date of each such advance.

The Bonds and the entire proceeds thereof will be used for the purposes herein set forth and for no other purposes.

9. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition, construction, operation and maintenance of the Project and the System have been acquired or can and will be acquired by purchase, or if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired

by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

10. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.: All actions, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the acquisition, construction, operation and financing of the Project and the System were authorized or adopted at meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly appointed, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. CONTRACTORS' INSURANCE, ETC.: All contractors will be required to maintain Workers' Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Letter of Conditions of the Purchaser, as amended, and the Bond Resolution.

12. CONNECTIONS, ETC.: The Issuer will serve at least 133 bona fide full-time users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

13. MANAGEMENT: The Issuer has heretofore delivered to the Purchaser a plan concerning operation and management of the System, which plan was found to be acceptable by such Purchaser.

14. GRANTS: As of the date hereof, the grant from the Purchaser in the amount of $370,000, the supplemental grant from the Purchaser in the amount of $129,000 and the grant from the West Virginia Infrastructure and Jobs Development Council in the amount of $38,000 are committed and in full force and effect.

15. CONFLICT OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Bond Resolution and/or the Project, including, without limitation, with respect to the Depository Bank, as defined in the Bond Resolution. 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.

16. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

WITNESS our signatures and the official seal of McDOWELL COUNTY PUBLIC SERVICE DISTRICT on this 21st day of February, 2001.

[CORPORATE SEAL]

| SIGNATURE | OFFICIAL TITLE |
| --- | --- |
| Terry A. Kenford | Chairman |
| Janice Hall | Secretary/Treasurer |
| | Attorney for Issuer |

02/20/01
582180/98002

McDOWELL COUNTY PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2001 A
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

We, Jack D. Stafford, Registered Professional Engineer, West Virginia License No. 6753, and James R. Bolton, Registered Professional Engineer, West Virginia License No. 8940, of Stafford Consultants Incorporated, Princeton, West Virginia, hereby certify that our firm is the engineer for the acquisition and construction of certain additions, improvements and extensions (the "Project") (namely the Bartley/Caretta Water Connector Project, as further outlined in documents approved by the West Virginia Office of Environment Health Services Permit No. 14,192) to the existing waterworks system (the "System") of McDowell County Public Service District (the "Issuer"), to be acquired and constructed in McDowell County, West Virginia, which acquisition and construction are being financed in whole or in part by the above-captioned bonds of the Issuer.

We further certify that the Project will, to the best of our knowledge, within the limits and in accordance with the applicable and governing contractual requirements related to the Project, be constructed in general accordance with plans and specifications prepared by our firm and that the System and the Project are situate wholly or chiefly within the boundaries of the Issuer.

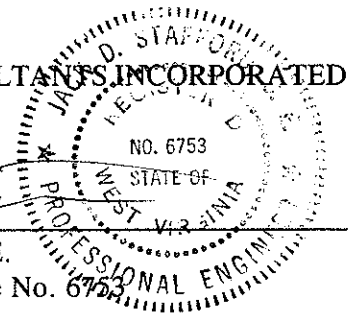
We further certify that the Project is adequate for the purpose for which it was designed and that the following necessary governmental approvals, consents, authorizations, certificates and permits for the acquisition and construction thereof have been obtained or can and will be obtained:

1. West Virginia Office of Environment Health Services,
2. Construction Permit No. 14,192.
3. Norfolk Southern Railway Crossing Permit No. 1028913 and 1028914
4. West Virginia Public Land Corporation License Agreement No. P-99-IV/27-1068
5. West Virginia Division of Highways Permit No. 0-99-0381
6. Corps of Engineers Permit
7. West Virginia Division of Environmental Protection Storm Water Management Permit No. WV0115100

Stafford Consultants Incorporated has not reviewed the potential applicability of the National Environmental Policy Act to the acquisition and construction of the Project or operation of the System.

WITNESS our signatures on this 23rd day of February, 2001.

STAFFORD CONSULTANTS, INCORPORATED




Jack D. Stafford, P. E.
West Virginia License No. 6753

James R. Bolton, P.E.
West Virginia License No. 8940

02/15/01
582180/98002

CL612620.1

the Clerk's Office take the necessary steps to remove the matter from the Agenda of the County Commission.

A Committee Hearing for Pearl Blankenship, Incompecent, was set for February 14, 1990, at 4:00 p.m. Ann Mitchell filed the pecition for the appointment of Committee. However, services had not be returned on this instance. Therefore, it was upon motion of G. Mike Corcellesi, Commissioner, duly seconded by Robert D. Lewis, President Pro-tem, voted on as follows:

| | |
|---|---|
| G. Mike Corcellesi | Yes |
| Jerry K. Horne | Absent |
| Robert D. Lewis | Yes |

it is hereby ORDERED that said Hearing be continued until March 14, 1990.

A Notice of the Creation of the McDowell County Public Service District was presented to the Commission. This was reviewed by the Commission. Thereupon, it was upon motion of Robert D. Lewis, President Pro-tem, duly seconded by G. Mike Corcellesi, Commissioner, voted on as follows:

| | |
|---|---|
| G. Mike Corcellesi | Yes |
| Jerry K. Horne | Absent |
| Robert D. Lewis | Yes |

it is hereby ORDERED that said Notice be published in the Welch Daily News.

Also presented to the Commission was an Order of Creation of the McDowell County Public Service District. Thereupon, it was upon motion of G. Mike Corcellesi, Commissioner, duly seconded by Robert D. Lewis, President Pro-tem, voted on as follows:

| | |
|---|---|
| G. Mike Corcellesi | Yes |
| Jerry K. Horne | Absent |
| Robert D. Lewis | Yes |

it is hereby ORDERED that said Order be ACKNOWLEDGED and ACCEPTED.

It was upon motion of Robert D. Lewis, President Pro-tem, duly seconded by G. Mike Corcellesi, Commissioner, voted on as follows:

| | |
|---|---|
| G. Mike Corcellesi | Yes |
| Jerry K. Horne | Absent |
| Robert D. Lewis | Yes |

SECOND AFFIDAVIT

AFFIDAVIT OF PUBLICATION:

State of West Virginia
County of McDowell, to wit:

I, Irene Wooten, being first duly sworn upon my oath, do depose and say that I am the Legal Editor of the Welch Daily News, Inc., a corporation, publisher of the newspaper entitled The Welch Daily News, a Republican newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily except weekends and holidays, for at least fifty weeks during the calendar year, in the Municipality of Welch, McDowell 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 McDowell County, West Virginia; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements, and other notices; that the annexed notice of PUBLIC SERVICE DIST.

MCDOWELL COUNTY COMMISSION

DRAWER E

WELCH, WV 24801

was duly published in said newspaper once a week for 2 successive weeks, (Class II), commencing with the issue of the 26 day of FEB. 19 90, and ending with the issue of the 5 day of MARCH, 19 90 [and was posted at the (if required)

_____

_____ on the _____

day of _____, 19____]; that said annexed notice was

published on the following dates: _____

_____ and that the cost of publishing

said annexed notice as aforesaid was $ PAID.

Irene Wooten, Legal Editor
The Welch Daily News

Taken subscribed and sworn to before me in my said county this 2

day of JUNE, 19 93

My Commission expires

Notary Public, State of West Virginia

OFFICIAL SEAL
STATE OF WEST VIRGINIA
TAMMY E. HOPKINS
P. O. Box 773
Gary, W.Va. 24836
My Commission Expires June 1, 1997

# LEGAL NOTICE

## LEGAL NOTICE ON CREATION OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT

Notice is hereby given that the County Commission of McDowell County, West Virginia, upon its own motion is to consider the creation of the McDOWELL COUNTY PUBLIC SERVICE DISTRICT for the purpose of construction, acquisition by purchase or otherwise acquiring and the subsequent operation, maintenance, improvement and extension of public service properties to supply water service within the service areas of said district, and to the extent permitted by law, outside the said service area) such service areas being the current areas served by the franchised McDowell County Water Company and having the following locations and boundaries:

1. Cashwood Area

Beginning at a point near the Center of State Route 16, said point having a latitude of north 37 degrees 23'34" and longitude of west 81 degrees 27'32", thence due south 6.81 miles; thence S 68 degrees 00' W 5.61 miles; thence due west 6.36 miles; thence due north 8.37 miles; thence N 68 degrees 00' 1.76 miles; thence due north 6.89 miles; thence N 68 degrees 00' E 1.36 miles; thence due east 6.48 miles; thence S 36 degrees 00' E 1.36 miles to the point of beginning and containing an area of 2.76 square miles.

2. Caretta Area

Beginning at a point near where Privett Branch goes under the Norfolk and Western Railroad, said point having a latitude of north 37 degrees 19'00" and a longitude of west 81 degrees 42'32"; thence due west 6.17 miles to a point; thence due north 6.53 miles to a point; thence due east 6.38 miles to a point; thence N 36 degrees 00' E 1.43 miles to a point; thence S 68 degrees 00' E 1.22 miles to a point; thence due south 6.38 miles to a point; thence S 68 degrees 00' W 1.28 miles to a point; thence due west 6.86 miles to a point; thence S 68 degrees 00' W 6.56 miles to the point of beginning and containing an area of 2.22 square miles.

3. Bartley-Eagleton Area

Beginning at a point having a latitude of north 37 degrees 20'45" and longitude of west 81 degrees 44'36"; thence due west 1.95 miles to a point; thence due south 1.02 miles to a point; thence due west 1.95 miles to a point, thence due north 1.02 miles to the point of beginning and containing an area of 1.99 square miles.

4. Bayhall Area

Beginning at a point near the center of State Route 52, said point having a latitude of north 37 degrees 20'22" and longitude of west 81 degrees 47'07"; thence N 45 degrees 00' E 6.47 miles to a point; thence S 45 degrees 00' E 6.34 miles to a point; thence due south 6.79 miles to a point; thence due west 6.34 miles to a point; thence due north 6.45 miles to a point; thence N 45 degrees 00' W 6.93 miles to the point of beginning and containing an area of 6.65 square miles.

5. Berwind-Vallscreek Area

Beginning at a point having a latitude of north 37 degrees 16'36" and longitude of west 81 degrees 48'32"; thence due east 6.86 miles to a point; thence S 36 degrees 00' E 2.51 miles to a point; thence due south 6.96 miles to a point; thence due west 6.46 miles to a point; thence due north 1.27 miles to a point; thence north 45 degrees 00' W 2.61 miles to a point; thence due north 6.48 miles to the point of beginning and containing an area of 2.46 square miles.

6. Hemphill Area

Beginning at a corner point in the Welch corporation lines, said point having a latitude of north 37 degrees 26'22" and a longitude of west 81 degrees 36'06"; thence N 45 degrees 00' W 6.17 miles to a point; thence N 5 degrees 00' W 1.06 miles to a point; thence N 70 degrees 00' E 6.36 miles to a point; thence S 45 degrees 00' E 6.43 miles to a point; thence S 6 degrees 00' W 6.36 miles to a point in the Welch corporation line; thence following the corporation line to the point of beginning.

7. Princeton Area

Beginning at a point near the center of U. S. Route 52, said point having a latitude of north 37 degrees 25'06" and longitude of west 81 degrees 36'06"; thence due north 6.5 miles to a point; thence due west 1.8 miles to a point; thence due south 6.5 miles to a point; thence due east 1.8 miles to the point of beginning and containing an area of 6.5 square miles.

8. Jesuithall Area

Beginning at a point having a latitude of north 37 degrees 16'47" and longitude of west 81 degrees 37'46"; thence S 75 degrees 00' E 6.49 miles to a point; thence due south 6.57 miles to a point; thence due west 6.98 miles to a point; thence due south 6.65 miles to a point; thence due west 6.95 miles to a point; thence due north 1.13 W 6.42 miles to a point; thence due north 6.25 miles to a point; thence N 75 degrees 00' W 6.25 miles to a point; thence N 15 degrees 00' E 6.89 miles to the point of beginning and containing an area of 1.19 square miles.

The above described boundaries are all located within McDowell County, West Virginia and specifically exclude any present Public Service District or Municipal Water Systems.

All persons residing in, or owning, or having any interest in property in said proposed district as herein described are hereby NOTIFIED that the County Commission of McDowell County will conduct a public hearing on Wednesday, March 10, 1993 at 1:00 o'clock in the Commissioner Hearing Room, located in the Commissioner's offices, 7 Wyoming Street, Welch, West Virginia, at which time and place all interested persons may be heard before the County Commission and what

THE COUNTY COMMISSION OF McDOWELL COUNTY, W. VA.

First Term 14th Day of March 1990

ORDER CREATING McDOWELL COUNTY PUBLIC SERVICE DISTRICT

AT A REGULAR SESSION OF THE COUNTY COMMISSION OF McDOWELL COUNTY, WEST VIRGINIA, HELD AT THE McDOWELL COUNTY COMMISSION BUILDING, WELCH, WEST VIRGINIA, ON THURSDAY, MARCH 14, 1990, THE FOLLOWING ORDER WAS MADE AND ENTERED:

SUBJECT: AN ORDER CREATING THE "McDOWELL COUNTY PUBLIC SERVICE DISTRICT"

Whereas, the County Commission of McDowell County, West Virginia, did heretofore by Order adopted the 22nd day of February, 1990, fix a date for a public hearing on the creation of the proposed "McDowell County Public Service District" and in and by said Order provide that all persons residing in or having an interest in property in the proposed McDowell County Public Service District could appear before the County Commission at this said meeting on March 14, 1990, at 4:00 o'clock p.m. in the Commission Hearing Room located in the Commission's Offices, 7 Wyoming Street, Welch, West Virginia, and have the opportunity to be heard for and against the creation of said District; and

Whereas, notice of this hearing was duly made and given in the time, manner and form prescribed in said Order and by the provisions of Section 16-13A-2 of the Code of West Virginia, 1931, as amended, and all interested persons were afforded full and free opportunity to appear and be heard for and against the creation of said proposed District, and a number of interested persons did appear and voice strong support for the creation of same but no protests or objections of any kind were made before, during or after the hearing and the Commission determined that the proposal for creation of said District has widespread, unanimous support in the affected communities and areas in which said District is to be created; and

Whereas, the County Commission has given due consideration to all matters for which said hearing was offered and otherwise given full and mature consideration to the need, desirability and feasibility of creation of said District; and

Whereas, the Commission finds that this proposal for creation of said District upon its own motion and substantial compliance with the provisions of said Section 16-13A-2 has been duly made and accomplished; and

Whereas, the Commission determines that no incorporated cities, towns or villages or other municipal corporations within McDowell County will be affected in any way by the creation of said District; and

Whereas, the Commission finds that in Civil Action No. 89-C-693 in the Circuit Court of McDowell County, West Virginia, in the case of State of West Virginia ex rel. The Public Service Commission of West Virginia vs. McDowell County Water Company, a public utility, a Court Order was entered on November 13, 1989, declaring the areas and communities served by the McDowell County Water Company to be dire emergency need of water services and that said Company was unable to provide adequate service to its customers in said communities and areas, was grossly and wilfully inefficient, and irresponsible and unresponsive to the needs of its customers in said locations and, thereupon, as a temporary emergency measure said Court appointed this McDowell County Commission as receiver of said Water Company as the only immediate reasonable means of protecting the public health, safety and welfare of said customers; and

Whereas, the Commission finds that contemporaneous therewith the McDowell County Water Company in Case No. 89-20876 in the United States Bankruptcy Court for the Southern District of West Virginia in the case of McDowell County Water Company, Debtor, filed a Chapter 11 Bankruptcy Petition but a Court Order was entered therein on February 16, 1990, declaring this Commission as the lawful receiver for said Water Company under the "public health and safety" exception provisions of Federal Bankruptcy Law and allowed same as a permissible valid exercise of the State's police power to protect the public health, safety and welfare in the areas and communities in this proposed Public Service District; and

to manage said Water Company as receiver on a long-term basis; and

Whereas, the Commission finds there is unanimous support in the communities and areas to be served by this proposed District for its immediate creation in order to provide all the people there with an adequate supply of safe water, which they are presently having to do without and being deprived of, which very adversely affects the public health, safety and welfare in said communities and areas; and

Whereas, the Commission finds that by Order of Publication published in the Welch Daily News, a newspaper of general circulation in McDowell County, which newspaper is distributed in all areas and communities to be served by this proposed District, proper Class I legal advertisement of this public hearing was duly given at least ten days prior to such public hearing and also different private individuals posted in at least five conspicuous places in the areas to be covered by said proposed District notices of such public hearing and also notice of such public hearing was given to persons affected thereby by widespread public comment among concerned individuals in said area and by newspaper articles and radio spots; and

Whereas, the Commission finds that the public hearing upon the proposal has been held not less than twenty days nor more than forty days from the date of the Commission's February 22, 1990, Order setting same; and

Whereas, the Commission has considered and determined the feasibility of the creation of said District and finds that same is feasible and determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of the aforesaid public service properties served by the McDowell County Water Company on all dates relevant to this proposal, including the dates of Orders and notices and this hearing, by the proposed Public Service District are absolutely essential for and will be conducive to the preservation of public health, safety, welfare, comfort and convenience in the unincorporated communities and areas heretofore served by said Water Company and is in the best interests of the general public and customers affected thereby; and

Whereas, the Commission now finds it to be necessary, proper and desirable and absolutely clearly in the best interests of the public for creation of said District;

NOW, THEREUPON, IT IS HEREBY ORDERED BY THE COUNTY COMMISSION OF McDOWELL COUNTY, WEST VIRGINIA, as follow:

(1) There is hereby created a Public Service District within McDowell County, West Virginia, to be known as the "McDOWELL COUNTY PUBLIC SERVICE DISTRICT", which said District shall be maintained, operated, managed and otherwise conducted in all respects in the manner prescribed by Article 13A, Chapter 16 of the Code of West Virginia, 1931, as amended, and other applicable law.

(2) Said District shall be operated and managed by a Public Service Board in strict compliance and full conformity with the provisions of said Article 13A of Chapter 16 and this Commission shall appoint not less than three persons to serve as members on said Public Service Board in conformity with Section 16-13A-3 of the West Virginia Code and other applicable law within thirty days from the date of the filing of this Order with the Clerk of this Commission.

(3) The creation of said District is conditioned upon the final approval of the West Virginia Public Service Commission therefor in time, manner and form prescribed by law.

(4) Said District and its Public Service Board shall have all powers, duties and responsibilities for any and all undertakings as permitted by West Virginia law.

(5) The area and territory to be included within and served by said District shall be all unincorporated communities and areas within McDowell County, West Virginia, heretofore and on this date, to-wit, March 14, 1990, served by the McDowell County Water Company, a public utility, and includes the following communities: Caretta, Berwind, Canebrake, Vallscreek, Newhall, Coalwood, Buchanan, English, Bartley, Raysal, [illegible] Hemphill and Capels; all as shown on the three pages of maps

The area and territory to be included within and served by said District has the following description, as given by the hereinafter-given metes and bounds and hereinafter-referenced maps, which said maps are hereby incorporated by reference herein and made a part hereof and labelled Maps A thru I, inclusive, to-wit:

COALWOOD AREA

(MAP A)

BEGINNING AT A POINT NEAR THE CENTER OF STATE ROUTE 16, SAID POINT HAVING A LATITUDE OF NORTH 37° 22'54" AND LONGITUDE OF WEST 81° 37'52"; THENCE DUE SOUTH 0.81 MILES; THENCE S 60° 00' W 0.61 MILES; THENCE DUE WEST 0.26 MILES; THENCE DUE NORTH 0.67 MILES; THENCE N 60° 00' W 1.70 MILES; THENCE DUE NORTH 0.09 MILES; THENCE N 60° 00' E 1.36 MILES; THENCE DUE EAST 0.40 MILES; THENCE S 30° 00' E 1.36 MILES TO THE POINT OF BEGINNING AS SHOWN ON THE ATTACHED MAP AND CONTAINING AN AREA OF 2.70 SQUARE MILES.

CARETTA AREA

(MAP B)

BEGINNING AT A POINT NEAR WHERE PRUETT BRANCH GOES UNDER THE NORFOLK AND WESTERN RAILROAD, SAID POINT HAVING A LATITUDE OF NORTH 37° 19'08" AND A LONGITUDE OF WEST 81° 42'22"; THENCE DUE WEST 0.17 MILES TO A POINT; THENCE DUE NORTH 0.53 MILES TO A POINT; THENCE DUE EAST 0.59 MILES TO A POINT; THENCE N 30° 00' E 1.63 MILES TO A POINT; THENCE S 60° 00' E 1.32 MILES TO A POINT; THENCE DUE SOUTH 0.38 MILES TO A POINT; THENCE S 60° 00' W 1.25 MILES TO A POINT; THENCE DUE WEST 0.85 MILES TO A POINT; THENCE S 60° 00' W 0.55 MILES TO THE POINT OF BEGINNING AS SHOWN ON THE ATTACHED MAP AND CONTAINING AN AREA OF 2.23 SQUARE MILES.

BARTLEY-ENGLISH AREA

(MAP C)

BEGINNING AT A POINT HAVING A LATITUDE OF NORTH 37° 20'46" AND LONGITUDE OF WEST 81° 44'50"; THENCE DUE EAST 1.95 MILES TO A POINT; THENCE DUE SOUTH 1.02 MILES TO A POINT; THENCE DUE WEST 1.95 MILES TO A POINT, THENCE DUE NORTH 1.02 MILES TO THE POINT OF BEGINNING AS SHOWN ON THE ATTACHED MAP AND CONTAINING AN AREA OF 1.99 SQUARE MILES.

RAYSAL AREA

(MAP D)

BEGINNING AT A POINT NEAR THE CENTER OF STATE ROUTE 83, SAID POINT HAVING A LATITUDE OF NORTH 37° 20'37" AND LONGITUDE OF WEST 81° 47'07"; THENCE N 45° 00' E 0.47 MILES TO A POINT; THENCE S 45° 00' E 0.94 MILES TO A POINT; THENCE DUE SOUTH 0.79 MILES TO A POINT; THENCE DUE WEST 0.34 MILES TO A POINT; THENCE DUE NORTH 0.45 MILES TO A POINT; THENCE N 45° 00' W 0.93 MILES TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 0.65 SQUARE MILES.

BERWIND-VALLSCREEK AREA

(MAP E)

BEGINNING AT A POINT HAVING A LATITUDE OF NORTH 37° 16'28" AND LONGITUDE OF WEST 81° 40'23"; THENCE DUE EAST 0.85 MILES TO A POINT; THENCE S 30° 00' E 2.51 MILES TO A POINT; THENCE DUE SOUTH 0.96 MILES TO A POINT; THENCE DUE WEST 0.68 MILES TO A POINT; THENCE DUE NORTH 1.27 MILES TO A POINT; THENCE NORTH 45° 00' W 2.01 MILES TO A POINT; THENCE DUE NORTH 0.45 MILES TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 2.45 SQUARE MILES.

HAVACO AREA

(MAP F)

BEGINNING AT A CORNER POINT IN THE WELCH CORPORATION LINE, SAID POINT HAVING A LATITUDE OF NORTH 37° 24'54" AND LONGITUDE OF WEST 81° 34'52"; THENCE N 45° 00' E 0.21 MILES TO A POINT; THENCE S 30° 00' E 2.20 MILES TO A POINT; THENCE S 30° 00' W 0.44 MILES TO A POINT; THENCE N 60° 00' W 0.44 MILES TO A POINT; THENCE N 30° 00' W 1.87 MILES TO A POINT; THENCE N 45° 00' E 0.42 MILES TO THE POINT OF BEGINNING AS SHOWN ON THE ATTACHED MAP AND CONTAINING AN AREA OF 1.33 SQUARE MILES.

HEMPHILL AREA

(MAP G)

BEGINNING AT A CORNER POINT IN THE WELCH CORPORATION LINE, SAID POINT HAVING A LATITUDE OF NORTH 37° 26'22" AND A LONGITUDE OF WEST 81° 36'00; THENCE N 63° 00' W 0.17 MILES TO A POINT; THENCE N 5° 00' W 1.06 MILES TO A POINT; THENCE N 70° 00' E 0.36 MILES TO A POINT; THENCE S 48° 00' E 0.42 MILES TO A POINT; THENCE S 6° 00' W 0.68 MILES TO A POINT IN THE WELCH CORPORATION LINE; THENCE FOLLOWING THE CORPORATION LINE TO THE POINT OF BEGINNING AS SHOWN ON THE ATTACHED MAP.

PREMIER AREA

(MAP H)

BEGINNING AT A POINT NEAR THE CENTER OF U.S. ROUTE 52, SAID POINT HAVING A LATITUDE OF NORTH 37° 25'05" AND LONGITUDE OF WEST 81° 38''00"; THENCE DUE NORTH 0.5 MILES TO A POINT; THENCE DUE WEST 1.0 MILES TO A POINT; THENCE DUE SOUTH 0.5 MILES TO A POINT; THENCE DUE EAST 1.0 MILES TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 0.5 SQUARE MILES.

NEWHALL AREA

(MAP I)

BEGINNING AT A POINT HAVING A LATITUDE OF NORTH 37° 16'47" AND LONGITUDE OF WEST 81° 37'45"; THENCE S 75° 00' E 0.49 MILES TO A POINT; THENCE DUE SOUTH 0.57 MILES TO A POINT; THENCE DUE EAST 0.98 MILES TO A POINT; THENCE DUE SOUTH 0.85 MILES TO A POINT; THENCE DUE WEST 0.95 MILES TO A POINT; THENCE N 45° 00' W 0.42 MILES TO A POINT; THENCE DUE NORTH 1.12 MILES TO A POINT; THENCE N 75° 00' W 0.25 MILES TO A POINT; THENCE N 15° 00' E 0.09 MILES TO THE POINT OF BEGINNING AS SHOWN ON THE ATTACHED MAP AND CONTAINING AN AREA OF 1.19 SQUARE MILES.

(6) The purpose and function of said District shall be to supply adequate and sanitary water to the aforesaid territory and areas and to do any and all acts and undertakings necessary, convenient or incidental thereto permitted by applicable law in general and Article 13A, Chapter 16 of the West Virginia Code in particular.

(7) The Clerk of this Commission shall forthwith transmit a certified copy of this Order to the West Virginia Public Service Commission, along with such other papers and documentation related thereto as the staff of the Public Service Commission may request or direct.

The adoption of the foregoing Order having been duly made and seconded, the vote thereon was as follows:

BOBBY LEWIS, COMMISSIONER--AYE

JERRY HORNE, COMMISSIONER--AYE

MIKE CORTELLESI, COMMISSIONER--AYE

SO ORDERED TO BE EFFECTIVE AS AND FOR MARCH 14, 1990; WITNESS:

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

I, H. C. "KIT" LEWIS, JR., Clerk of the County Commission of McDowell County, do hereby certify that the foregoing is a true and exact copy of the records found in my office in Minute Book 99, Pages 69-75.

Given under my hand this the 27th day of May, 1993.

H. C. "KIT" LEWIS, JR.

H. C. "KIT" LEWIS, JR., CLERK

BY: Frieda A. Meade
DEPUTY

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 1st day of May, 1990.

CASE NO. 90-192-PWD-PC

McDOWELL COUNTY COMMISSION
Request for approval of
creation of McDowell County
Public Service District.

## COMMISSION ORDER APPROVING OF CREATION OF PUBLIC SERVICE DISTRICT

On March 23, 1990, the McDowell County Commission (County Commission), a public corporation, McDowell County, adopted an order to create the McDowell County Public Service District (Public Service District) pursuant to the provisions of West Virginia Code §16-13A-2.

Pursuant to West Virginia Code §16-13A-2 the Public Service Commission of West Virginia (Commission) scheduled a hearing for April 23, 1990, in Welch, McDowell County, for the purpose of taking evidence to determine if the order of the County Commission creating the Public Service District was in the public interest.

The hearing was held as scheduled. Appearing on behalf of the Commission Staff (Staff) was Tom Trent, Esq., Staff Attorney, Legal Division. Appearing on behalf of the Consumer Advocate Division (CAD) of the Commission was Patricia McGinley, Esq.

At the hearing on April 23, 1990, various persons were called by Staff to testify. Mr. Herbert Tate and Mrs. Francis Patton, two of the three appointees to the proposed Public Service District (the third appointee will be Mr. Fred Bailey), testified that they felt the Public Service District would help solve the water problem in McDowell County and that the Public Service District was supported by the customers of the old McDowell County Water Company. The next Staff witness, Mr. Byron G. Smith, Administrative Assistant to the County Commission, introduced Staff Exhibit No. 1, the March 23, 1990, order of the County Commission which created the Public Service District and testified as to public support for the Public Service District. Staff's final witness was Amy L. Swann, Director, Public Service District Division. Ms. Swann introduced Staff Exhibit No. 2, an internal memorandum from William Nelson, Utility Financial Analyst, Public Service District Division, which had been prepared under Ms. Swann's direction. Ms. Swann testified that the Public Service District was a positive step in solving the water problems in the McDowell County area and recommended approval of the Public Service District. Staff then rested its case.

On its own initiative the Commission incorporated by reference Civil Action No. 89-C-693 of the Circuit Court of McDowell County, West Virginia, in the case of State of West Virginia ex rel. The Public Service Commission of West Virginia vs. McDowell County Water Company, a public utility; the record in Case No. 89-20876 of the United States Bankruptcy Court for the Southern District of West Virginia, in the case of McDowell County Water Company, debtor; and, all Commission cases over the last twenty to twenty-five (20-25) years which involved the McDowell County Water Company. The case was then submitted for decision.

## FINDINGS OF FACT

1. On March 23, 1990, the McDowell County Commission, a public corporation, McDowell County, adopted an order to create the McDowell County Public Service District pursuant to the provisions of West Virginia Code §16-13A-2.

2. The Commission Staff reviewed the March 23, 1990, County Commission order and recommended approval of the Public Service District.

3. By order entered March 27, 1990, a hearing was scheduled in the McDowell County Commissioner's meeting room, McDowell County Courthouse, Welch, West Virginia, on April 23, 1990.

4. At the above hearing, no one appeared to make protest to the creation of the Public Service District, thus allowing this case to be treated as an unprotested case.

## CONCLUSION OF LAW

The Commission is of the opinion that since the County Commission was in compliance with the required statutory provisions as set forth in West Virginia Code §16-13A-2 and since no parties appeared in protest to the creation of the District at the public hearing held on April 23, 1990, approval of the creation of said District shall be granted.

## ORDER

IT IS, THEREFORE, ORDERED that petition of the McDowell County Commission, a public corporation, McDowell County, to create the McDowell County Public Service District be, and hereby is, approved.

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

ARC
JJW:sn

A True Copy, Teste:

Howard M. Cunningham
Executive Secretary

522

# OATH OF OFFICE

***STATE OF WEST VIGRINIA, COUNTY OF MCDOWELL, to-wit:***

I do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia and that I will faithfully discharge the duties of the office of Minister of the Gospel to perform marriages in the State of West Virginia.

McDowell County, West Virginia, to the best of my skill and judgment: SO HELP ME GOD:

Roger G. Sparks
ROGER G. SPARKS

Subscribed and sworn to before me, the undersigned authority, this 7th day of June, 2000

BY: Frieda J. Meade
Deputy

Donald L. Hicks
Donald L. Hicks, Clerk

Foregoing is a true copy of the original oath filed in this office.
Teste: Donald L. Hicks
Clerk.
By: Jennifer Hopkins Winans
Deputy

# OATH OF OFFICE

***STATE OF WEST VIGRINIA, COUNTY OF MCDOWELL, to-wit:***

I do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia and that I will faithfully discharge the duties of the office of Terry A. Dunford to work at the will and pleasure of the P.S.D. Board (Re-appointed)

McDowell County, West Virginia, to the best of my skill and judgment: SO HELP ME GOD:

Terry A. Dunford
Terry A. Dunford

Subscribed and sworn to before me, the undersigned authority, this 8th day of June 2000

BY: Jennifer Wimmer
Deputy

Donald L. Hicks, Clerk

Foregoing is a true copy of the original oath filed/lp this office.

Teste: Donald L. Hicks
Clerk.

BY: Jennifer Hopkins Wimmer
Deputy

MINUTE BOOK No. 131

# THE COUNTY COMMISSION OF McDOWELL COUNTY WEST VIRGINIA

Second Term 25th Day of May 20 00



(1) Correspondence dated April 26, 2000, in reference to an application for a Phase 1 Backfilling and Regrading Release for Beartown Mine No. 1;

(2) Correspondence dated April 26, 2000, in reference to an application for a Phase 1 Backfilling and Regrading Release--Airshafts and Haulroad;

Thereupon, it was upon motion of Gordon O. Lambert, President, duly seconded by William B. Laxton, Commissioner, voted on as follows:

| | |
|---|---|
| Gordon O. Lambert | Yes |
| Carl W. Urps | Yes |
| William B. Laxton | Yes |

it is hereby ORDERED that said correspondence be ACKNOWLEDGED.

Recieved from the McDowell County Public Service District was correspondence dated May 12, 2000, regarding the term of Terry Dunford which has expired. Thereupon, it was upon motion Gordon O. Lambert, President, duly seconded by Carl W. Urps, Commissioner, voted on as follows:

| | |
|---|---|
| Gordon O. Lambert | Yes |
| Carl W. Urps | Yes |
| William B. Laxton | Yes |

it is hereby ORDERED that said Terry Dunford be reappointed.

Received by the Commission was correspondence dated May 12, 2000, addressed to Nick J. Rahall, II from Region I in reference to the U. S. Army Corps of Engineers Project Funding for the Pageton Water Project. Mr. Kirkham allerted Mr. Rahall that the completion of the project depends on additional Congressional appropriations from the 2000--2001 being available. Thereupon, it was upon motion of Gordon O. Lambert, President, duly seconded by William B. Laxton, Commissioner, voted on as follows:

| | |
|---|---|
| Gordon O. Lambert | Yes |
| Carl W. Urps | Yes |
| William B. Laxton | Yes |

it is hereby ORDERED that said correspondence be ACKNOWLEDGED.

G. Mike Cortellesi Yes
Gordon O. Lambert Yes
Carl W. Urps Yes

it is hereby ORDERED that David Robbins be reappointed to the McDowell County Public Service District board.

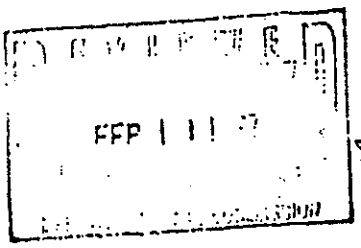
It was upon motion of Gordon O. Lambert, President, duly seconded by G. Mike Cortellesi, Commissioner, voted on as follows:

G. Mike Cortellesi Yes
Gordon O. Lambert Yes
Carl W. Urps Yes

it hereby ORDERED that the Meeting recess to the call of the President, with the concurrence of at least one other Commissioner.

ORDER:

ENTER:



G. MIKE CORTELLESI, COMMISSIONER

GORDON O. LAMBERT, PRESIDENT

CARL W. URPS, COMMISSIONER

m
10/97 FRIEDA J. MEADE

# OATH OF OFFICE

**State of West Virginia, County of McDowell, to-wit:**

I do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Board Member of the McDowell County Public Service District for a six year term to end March 27, 2001.

McDowell County, West Virginia, to the best of my skill and judgment: SO HELP ME GOD:

David Robbins
DAVID M. ROBBINS

Subscribed and sworn to before me, the undersigned authority, this 9th day of July, 19 97

[illegible]
Clerk, McDowell County Commission

By [illegible] Deputy

Supplier Welcr JC1915-1

McDowell County Commission Minute Book

# MINUTE BOOK No. 128

## THE COUNTY COMMISSION OF McDOWELL COUNTY WEST VIRGINIA

Fourth Term 18th Day of November 19 98



It was upon motion of Carl W. Urps, Commissioner, duly seconded by Gordon O. Lambert, President, voted on as follows:

| | |
|---|---|
| G. Mike Cortellesi | Absent |
| Gordon O. Lambert | Yes |
| Carl W. Urps | Yes |

it is hereby ORDERED that Jerry Stepp be appointed to the McDowell Public Service District to replace Lola Jarrett. It is FURTHER ORDERED that Ms. Jarrett be sent a letter thanking her for her service on the Board.

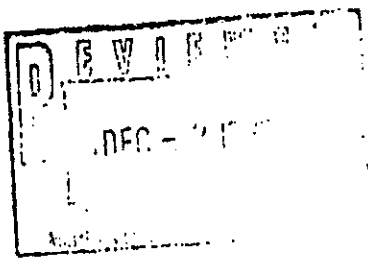
It was upon motion of Gordon O. Lambert, President, duly seconded by Carl W. Urps, Commissioner, voted on as follows:

| | |
|---|---|
| G. Mike Cortellesi | Absent |
| Gordon O. Lambert | Yes |
| Carl W. Urps | Yes |

it is hereby ORDERED that said Meeting recess to the call of the President, with the concurrence of at least one other Commissioner, or until the next regularly-scheduled Meeting.

ORDER:

ENTER:




(ABSENT)
G. MIKE CORTELLESI, COMMISSIONER

Gordon O. Lambert
GORDON O. LAMBERT, PRESIDENT

Carl Urps
CARL W. URPS, COMMISSIONER

bjm
11/18/98

FRIEDA J. MEADE

# OATH OF OFFICE

**State of West Virginia, County of McDowell, to-wit:**

I do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Board Member of the McDowell County Public Service District for a six-year term to end March 27, 2004.

McDowell County, West Virginia, to the best of my skill and judgment: SO HELP ME GOD:

Jerry Stepp
JERRY STEPP

Subscribed and sworn to before me, the undersigned authority, this 7th day of December, 19 98

H. C. "KIT" LEWIS, JR.
Clerk, McDowell County Commission

Superior-Welch X2812-1

By Frieda J. Mende Deputy

# OATH OF OFFICE

**State of West Virginia, County of McDowell, to-wit:**

I do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Administratrix of the estate of Maxine Smith, deceased, who died intestate on the 14th day of November, 1998, in Princeton, Mercer County, but who was a resident of the County of McDowell, State of West Va., at time of death.

McDowell County, West Virginia, to the best of my skill and judgment: SO HELP ME GOD:

[illegible]

RULES OF PROCEDURE

MCDOWELL COUNTY PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

Section 1. Name: MCDOWELL COUNTY PUBLIC SERVICE DISTRICT.

Section 2. The principal office of this Public Service District will be located on Route 16, Coalwood, West Virginia.

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

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

ARTICLE II

PURPOSE

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

## ARTICLE III

## MEMBERSHIP

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

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

## ARTICLE IV

## MEETINGS OF THE PUBLIC SERVICE BOARD

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

Section 2. At any meeting of the Public Service Board of the District, 3 members shall constitute a quorum. Each member of the Public Service Board shall have one vote at any membership meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

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

## PUBLIC NOTICE OF MEETINGS

Section 4. Pursuant to Section 3, Article 9A, Chapter 6 of the West Virginia Code of 1931, as amended (1999 Revision), notice of the date, time, place and agenda of all regularly scheduled meetings of such Public Service Board, and the date, time, place and purpose of all special meetings of such Public Service Board, shall be made available, in advance, to the public and news media (except in the event of an emergency requiring immediate action) as follows:

A. Regular Meetings. A notice shall be posted and maintained by the Secretary of the Public Service Board of the Public Service District at the front door or bulletin board of the McDowell County Courthouse and at the front door or bulletin board of the place fixed for regular meetings of the Public Service Board of the date, time and place fixed and entered of record by the Public Service Board for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same locations by the Secretary of the Public Service Board not less than 48 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the same locations as soon as feasible after such cancellation or postponement has been determined.

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

## ARTICLE V

## OFFICERS

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

Section 2. The officers of the Public Service Board shall be elected each year by the members at the first meeting held in such year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy

occurring among the officers shall be filled by the members of the Public Service Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following January meeting of the Board when their successors shall be elected hereinabove provided.

## ARTICLE VI

## DUTIES OF OFFICERS

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

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

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

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

## ARTICLE VII

## AMENDMENTS TO RULES OF PROCEDURE

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

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

Adopted this 26th day of July, 2000.

07/19/00
582180/99002

[RESERVED]

[RESERVED]

MCDOWELL 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, SECRETARY/TREASURER of the Public Service Board of McDowell County Public Service District, hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

*** *** ***

The Public Service Board of McDowell County Public Service District met in special session, pursuant to notice duly posted, on the 21st day of February, 2001, in Coalwood, McDowell County, West Virginia, at the hour of 12:00 p.m.

PRESENT: Mr. David M. Robbins - Chairman and Member
Ms. Terry A. Dunford - Member
Mr. Jerry Stepp - Member

ABSENT: None

Mr. David M. Robbins, Chairman, presided, and Ms. Jeannie Hall acted as Secretary.

The Chairman announced that a quorum of members was present and that the meeting was open for any business properly before it.

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

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING WATERWORKS SYSTEM OF McDOWELL COUNTY PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE

PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $145,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2001 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

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

The Chairman then presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING FOR TRANSFER OF RESERVE ACCOUNTS FOR SERIES 1993 BOND, SERIES 1995 BOND, SERIES 1997 A BONDS, SERIES 1999 A BONDS, SERIES 1999 B BONDS AND SERIES 1999 C BONDS AND AMENDMENT OF PRIOR RESOLUTIONS TO EFFECT SUCH TRANSFER

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

Thereupon, the Chairman presented a revised contract for services with Steptoe & Johnson. Thereupon, a motion duly made and seconded, it was unanimously ordered that the said Contract be approved.

*** *** ***

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

Terry A. Bumford
Chairman

CERTIFICATION

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

WITNESS my signature on this 23rd day of February, 2001.

Secretary

02/20/01
610170/00001

CH433719.1

WV MUNICIPAL BOND COMMISSION
8 Capitol Street
Terminal Building, Suite 500
Charleston, West Virginia 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: February 23, 2001

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

ADDRESS: HC 31, Box 436J, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE: New Money: X
Refunding: _____ REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: February 23, 2001 CLOSING DATE: February 23, 2001

ISSUE AMOUNT: $145,000 RATE: 4.5%

1ST DEBT SERVICE DUE: N/A 1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC
Contact Person: Vincent A. Collins, Esquire
Phone: (304) 624-8161

UNDERWRITERS COUNSEL: _____
Contact Person: _____
Phone: _____

CLOSING BANK: _____
Contact Person: _____
Phone: _____

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ms. Jeannie Hall
Position: Secretary/Treasurer
Phone: (304) 297-2622

OTHER: United States Department of Agriculture
Contact Person: Rose Mary Christian
Function: Rural Development Specialist
Phone: (304)252-8644

DEPOSITS TO MBC AT CLOSE:
By: _____ Wire _____ Check

| | | |
|---|---|---|
| ____ | Accrued Interest: | $_____ |
| ____ | Capitalized Interest: | $_____ |
| ____ | Reserve Account: | $_____ |
| ____ | Other: _____ | $_____ |

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: _____ Wire _____ Check _____ IGT

| | | |
|---|---|---|
| ____ | To Escrow Trustee: | $_____ |
| ____ | To Issuer | $_____ |
| ____ | To Cons. Invest. Fund | $_____ |
| ____ | To Other: _____ | $_____ |

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office. The Municipal Bond Commission will only hold the Series 2001 A Reserve Account. The first payment into the Reserve Account is due March 23, 2003.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

CL612640.1

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

WV MUNICIPAL BOND COMMISSION
8 Capitol Street
Terminal Building, Suite 500
Charleston, West Virginia 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: February 23, 2001

ISSUE: McDowell County Public Service District, Water Revenue Bond, Series 1993 (United States Department of Agriculture)

ADDRESS: HC 31, Box 436J, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE: New Money: X
Refunding: _____ REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: June 23, 1993 CLOSING DATE: June 23, 1993

ISSUE AMOUNT: $818,000 RATE: N/A

1ST DEBT SERVICE DUE: N/A 1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC
Contact Person: Vincent A. Collins, Esquire
Phone: (304) 624-8161

UNDERWRITERS COUNSEL: _____
Contact Person: _____
Phone: _____

CLOSING BANK: _____
Contact Person: _____
Phone: _____

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ms. Jeannie Hall
Position: Secretary/Treasurer
Phone: (304) 297-2622

OTHER: United States Department of Agriculture
Contact Person: Rose Mary Christian
Function: Rural Development Specialist
Phone: (304)252-8644

DEPOSITS TO MBC AT CLOSE:
By: ____ Wire ____ Accrued Interest: $_____
__X__ Check ____ Capitalized Interest: $_____
__X__ Reserve Account: $ 34,815.33
____ Other: _____ $_____

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

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office. The Municipal Bond Commission will only hold the Series 1993 Series Bonds Reserve Account.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

CH443998.1

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

02/23/01
582180/98002

WV MUNICIPAL BOND COMMISSION
8 Capitol Street
Terminal Building, Suite 500
Charleston, West Virginia 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: February 23, 2001

ISSUE: McDowell County Public Service District, Water Revenue Bond, Series 1995 (United States Department of Agriculture)

ADDRESS: HC 31, Box 436J, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE: New Money: X
Refunding: ____

REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: September 26, 1995

CLOSING DATE: September 26, 1995

ISSUE AMOUNT: $500,000

RATE: N/A

1ST DEBT SERVICE DUE: N/A

1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A

PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC
Contact Person: Vincent A. Collins, Esquire
Phone: (304) 624-8161

UNDERWRITERS COUNSEL: ____
Contact Person: ____
Phone: ____

CLOSING BANK: ____
Contact Person: ____
Phone: ____

ESCROW TRUSTEE: ____
Contact Person: ____
Phone: ____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ms. Jeannie Hall
Position: Secretary/Treasurer
Phone: (304) 297-2622

OTHER: United States Department of Agriculture
Contact Person: Rose Mary Christian
Function: Rural Development Specialist
Phone: (304)252-8644

DEPOSITS TO MBC AT CLOSE:
By: ____ Wire
X Check

____ Accrued Interest: $____
____ Capitalized Interest: $____
X Reserve Account: $12,416.75
____ Other: ____ $____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire
____ Check
____ IGT

____ To Escrow Trustee: $____
____ To Issuer $____
____ To Cons. Invest. Fund $____
____ To Other: ____ $____

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office. The Municipal Bond Commission will only hold the Series 1995 Bonds Reserve Account.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ____
TRANSFERS REQUIRED: ____

CH444017.1

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

02/23/01
582180/98002

WV MUNICIPAL BOND COMMISSION
8 Capitol Street
Terminal Building, Suite 500
Charleston, West Virginia 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: February 23, 2001

ISSUE: McDowell County Public Service District, Water Revenue Bonds, Series 1999 A (United States Department of Agriculture)

ADDRESS: HC 31, Box 436J, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE: New Money: X
Refunding: ____

REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: June 21, 1999

CLOSING DATE: June 21, 1999

ISSUE AMOUNT: $360,000

RATE: N/A

1ST DEBT SERVICE DUE: N/A

1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A

PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC
Contact Person: Vincent A. Collins, Esquire
Phone: (304) 624-8161

UNDERWRITERS COUNSEL: ____
Contact Person: ____
Phone: ____

CLOSING BANK: ____
Contact Person: ____
Phone: ____

ESCROW TRUSTEE: ____
Contact Person: ____
Phone: ____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ms. Jeannie Hall
Position: Secretary/Treasurer
Phone: (304) 297-2622

OTHER: United States Department of Agriculture
Contact Person: Rose Mary Christian
Function: Rural Development Specialist
Phone: (304)252-8644

DEPOSITS TO MBC AT CLOSE:
By: ____ Wire
____ Check

____ Accrued Interest: $____
____ Capitalized Interest: $____
____ Reserve Account: $____
____ Other: ____ $____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire
____ Check
____ IGT

____ To Escrow Trustee: $____
____ To Issuer $____
____ To Cons. Invest. Fund $____
____ To Other: ____ $____

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office. The Municipal Bond Commission will only hold the Series 1999 A Bonds Reserve Account. The first payment into the Reserve Account is due July 21, 2001.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ____
TRANSFERS REQUIRED: ____

CH444069.1

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

04/17/01
5812180/98002

WV MUNICIPAL BOND COMMISSION
8 Capitol Street
Terminal Building, Suite 500
Charleston, West Virginia 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: February 23, 2001

ISSUE: McDowell County Public Service District, Water Revenue Bonds, Series 1999 B (United States Department of Agriculture)

ADDRESS: HC 31, Box 436J, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE: New Money: X
Refunding: ____

REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: August 11, 1999

CLOSING DATE: August 11, 1999

ISSUE AMOUNT: $870,000

RATE: N/A

1ST DEBT SERVICE DUE: N/A

1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A

PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC
Contact Person: Vincent A. Collins, Esquire
Phone: (304) 624-8161

UNDERWRITERS COUNSEL: ____
Contact Person: ____
Phone: ____

CLOSING BANK: ____
Contact Person: ____
Phone: ____

ESCROW TRUSTEE: ____
Contact Person: ____
Phone: ____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ms. Jeannie Hall
Position: Secretary/Treasurer
Phone: (304) 297-2622

OTHER: United States Department of Agriculture
Contact Person: Rose Mary Christian
Function: Rural Development Specialist
Phone: (304)252-8644

DEPOSITS TO MBC AT CLOSE:
By: ____ Wire ____ Check

____ Accrued Interest: $____
____ Capitalized Interest: $____
____ Reserve Account: $____
____ Other: ____ $____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire ____ Check ____ IGT

____ To Escrow Trustee: $____
____ To Issuer $____
____ To Cons. Invest. Fund $____
____ To Other: ____ $____

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office. The Municipal Bond Commission will only hold the Series 1999 B Bonds Reserve Account. The first payment into the Reserve Account is due September 11, 2001.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ____
TRANSFERS REQUIRED: ____

CH444067.1

24E

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

04/17/01
582180/98002

WV MUNICIPAL BOND COMMISSION
8 Capitol Street
Terminal Building, Suite 500
Charleston, West Virginia 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: February 23, 2001

ISSUE: McDowell County Public Service District, Water Revenue Bonds, Series 1999 C (United States Department of Agriculture)

ADDRESS: HC 31, Box 436J, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE: New Money: X
Refunding: ____

REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: August 11, 1999

CLOSING DATE: August 11, 1999

ISSUE AMOUNT: $125,000

RATE: N/A

1ST DEBT SERVICE DUE: N/A

1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A

PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC
Contact Person: Vincent A. Collins, Esquire
Phone: (304) 624-8161

UNDERWRITERS COUNSEL: ____
Contact Person: ____
Phone: ____

CLOSING BANK: ____
Contact Person: ____
Phone: ____

ESCROW TRUSTEE: ____
Contact Person: ____
Phone: ____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ms. Jeannie Hall
Position: Secretary/Treasurer
Phone: (304) 297-2622

OTHER: United States Department of Agriculture
Contact Person: Rose Mary Christian
Function: Rural Development Specialist
Phone: (304)252-8644

DEPOSITS TO MBC AT CLOSE:
By: ____ Wire
____ Check

____ Accrued Interest: $____
____ Capitalized Interest: $____
____ Reserve Account: $____
____ Other: ____ $____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire
____ Check
____ IGT

____ To Escrow Trustee: $____
____ To Issuer $____
____ To Cons. Invest. Fund $____
____ To Other: ____ $____

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office. The Municipal Bond Commission will only hold the Series 1999 C Bonds Reserve Account. The first payment into the Reserve Account is due September 11, 2001.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ____
TRANSFERS REQUIRED: ____

CH444071.1

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

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2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

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If you should have any questions concerning this form, please call the Commission.

04/17/01
582180/98002

WV MUNICIPAL BOND COMMISSION
8 Capitol Street
Terminal Building, Suite 500
Charleston, West Virginia 25301
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: February 23, 2001

ISSUE: McDowell County Public Service District, Water Revenue Bond, Series 1997 A (United States Department of Agriculture)

ADDRESS: HC 31, Box 436J, Welch, WV 24801 COUNTY: McDowell

PURPOSE OF ISSUE: New Money: X
Refunding: _____ REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: October 15, 1997 CLOSING DATE: October 15, 1997

ISSUE AMOUNT: $550,000 RATE: N/A

1ST DEBT SERVICE DUE: N/A 1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC
Contact Person: Vincent A. Collins, Esquire
Phone: (304) 624-8161

UNDERWRITERS COUNSEL: _____
Contact Person: _____
Phone: _____

CLOSING BANK: _____
Contact Person: _____
Phone: _____

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ms. Jeannie Hall
Position: Secretary/Treasurer
Phone: (304) 297-2622

OTHER: United States Department of Agriculture
Contact Person: Rose Mary Christian
Function: Rural Development Specialist
Phone: (304)252-8644

DEPOSITS TO MBC AT CLOSE:
By: _____ Wire
X Check

____ Accrued Interest: $_____
____ Capitalized Interest: $_____
X Reserve Account: $ 5,148.77
____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: _____ Wire
_____ Check
_____ IGT

____ To Escrow Trustee: $_____
____ To Issuer $_____
____ To Cons. Invest. Fund $_____
____ To Other: _____ $_____

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office. The Municipal Bond Commission will only hold the Series 1997 A Bonds Reserve Account.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

CH444027.1

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

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If you should have any questions concerning this form, please call the Commission.

United States
Department of
Agriculture

Rural Development

Federal Building, Room 320
5 High Street
Morgantown, WV 26505
Tel: (304) 291-4796
Fax: (304) 291-4159

July 7, 1998

FILE COPY

David Robbins, Chairman
McDowell County Public Service District
P. O. Box 460
War, WV 24892

Dear Mr. Robbins:

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

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

This letter is not to be considered as loan and grant 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 $145,000 and an RUS grant in the amount of $370,000, for a total project cost of $515,000.

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:

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

PRINTED WITH SOY INK

Attachment No. 1 - Project Construction Budget (All Copies)
Attachment No. 2 - Loan and Grant Docket Table of Contents (All Copies)
Attachment No. 3 - RUS Instruction 1780, Subparts A and B (Applicant Copy)
Attachment No. 4 - RUS Instruction 1780, Subpart C (Engineer Copy)
Attachment No. 5 - RUS Instruction 1780, Subpart D (Attorney and Bond Counsel Copies)
Attachment No. 6 - Agreement (RUS Bulletin 1780-13) (Engineer Copy)
Attachment No. 7 - Supplemental General Conditions (RUS Bulletin 1780-14) (Engineer Copy)
Attachment No. 8 - Government Auditing Standards (Revision 1994) (Accountant Copy)
Attachment No. 9 - Labor Standards Provisions
Attachment No. 10 - Various other RD Forms as identified on Attachment No. 2

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

The conditions referred to above are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 4.5% interest rate and a monthly amortization factor of .00459, which provides for a monthly payment of $666. 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 on parity with McDowell County Public Service District's outstanding bond indebtedness, 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 Form RD 1942-47 which are mentioned later.

3. Users - This conditional commitment is based upon you providing evidence that there will be at least 133 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of a certification from you that identifies and attests to the number of users that are actually connected to the District's existing water system which is to be partially replaced by the new system, at the time you request authorization to advertise the project for construction bids.

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

4. Bond Counsel - The services of a recognized bond counsel are required. The bond counsel will prepare the form of resolution to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.

5. Engineering Services - It will be necessary for you to obtain the services of an engineer. For your convenience, Form RD 1942-19, "Agreement for Engineering Services," or EJCDC No. 1910-1, "Standard Form of Agreement between Owner and Engineer for Professional Services" may be used to obtain the services of an engineer and are enclosed for your use.

6. Legal Services - You must obtain the services of a local attorney. For your convenience RUS Bulletin 1780-7, "Legal Services Agreement" is enclosed for your use.

7. Accounting Services - You must obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:

N/A 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.

N/A 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 District. 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 audit 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 District 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 District'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 District has already acquired real property(s) (land or facilities), the District'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 (Attachment No. 6) or other agreement approved by RUS.

(2) "Supplemental General Conditions" (RUS Bulletin 1780-14). One copy of this item is attached hereto (Attachment No. 7). Additional copies must be reproduced by the engineer.

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 District 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 District, 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 District 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. 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"
Form RD 1942-47 - "Loan Resolution (Public Bodies)"
Form RD 400-1 - "Equal Opportunity Agreement"
Form RD 400-4 - "Assurance Agreement"
Form AD 1047 - "Certification Regarding Debarment - Primary"
Form AD 1049 - "Certification Regarding Drug-Free Workplace"
Form RD 1910-11 - "Applicant Certification, Federal Collection Policies"
FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"

15. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan and grant docket when it is forwarded to the USDA - Rural Development State Office with a request for loan closing instructions to be issued.

16. Upon receipt of the loan and grant 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 opining 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 RUS project funds will be considered to be RUS grant funds and refunded to RUS. If the amount of unused RUS project funds exceeds the RUS 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

Rural Development Specialist
Beckley, WV

Jeffrey S. Feamster, CPA
P. O. Box 121
Lewisburg, WV 24901

Attorney

Bond Counsel

Engineer

Attachment No. 1 to Letter of Condit
Dated: July 7, 1998
For: McDowell County Public Service District
(Caretta/Bartley Water Connector Project)

## PROJECT CONSTRUCTION BUDGET

| Project Costs | RUS Grant | RUS Loan | TOTAL |
|---|---|---|---|
| Construction | 268,000 | 93,500 | 361,500 |
| Construction Contg | 28,500 | 10,000 | 38,500 |
| Land and Rights | 1,500 | 500 | 2,000 |
| Legal and Admin. Fees | 2,800 | 1,000 | 3,800 |
| Engineering Fees | 49,700 | 17,300 | 67,000 |
| Basic 34,000 | | | |
| Insp. 30,000 | | | |
| Spec. 3,000 | | | |
| Bond Counsel | 6,000 | 2,000 | 8,000 |
| Interest | | 16,000 | 16,000 |
| Proj. Contg. | 13,500 | 4,700 | 18,200 |
| TOTALS | 370,000 | 145,000 | 515,000 |

---

**Rates**

Available for general domestic commercial, and industrial service.

**Minimum Charge**

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

| | | | | | |
|---|---|---|---|---|---|
| First | 3,000 | gals. @ $ 9.30 | per M gals. | 5/8" x 3/4" meter $ | 27.90 per month |
| Over | 3,000 | gals. @ $ 8.57 | per M gals. | 3/4" meter $ | 41.85 per month |
| Next | _____ | gals. @ $_____ | per M gals. | 1" meter $ | 69.75 per month |
| Next | _____ | gals. @ $_____ | per M gals. | 1 1/2" meter $ | 139.50 per month |
| Next | _____ | gals. @ $_____ | per M gals. | 2" meter $ | 223.20 per month |
| Next | _____ | gals. @ $_____ | per M gals. | 3" meter $ | 418.50 per month |
| Next | _____ | gals. @ $_____ | per M gals. | 4" meter $ | 697.50 per month |
| Next | _____ | gals. @ $_____ | per M gals. | 6" meter $ | 1,395.00 per month |
| Next | _____ | gals. @ $_____ | per M gals. | 8" meter $ | 2,232.00 per month |

(Minimum Monthly Bill $ 27.90 for 3,000 gallons)

Delayed Payment Penalty

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

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

Connection Charge

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

$25.00

Use and Income Analysis

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 71 | users @ | 3,000 | gallons @ $ | 27.90 | per user = | 1,980.90 | monthly |
| 37 | users @ | 4,000 | gallons @ $ | 36.47 | per user = | 1,349.39 | monthly |
| 18 | users @ | 5,000 | gallons @ $ | 45.04 | per user = | 810.72 | monthly |
| 7 | users @ | 6,000 | gallons @ $ | 53.61 | per user = | 375.27 | monthly |

133 Total Users

$ 4,516.28 Monthly Revenue x 12 = $ 54,195 Annual Revenue

Budget

| | |
|---|---|
| Existing System | $ 561,248 |
| Proposed Berwind Project | 195,864 |
| Proposed Atwell/Raysal Project | 100,724 |
| Income | $ 857,836 |

| | | |
|---|---|---|
| Expenses | | |
| O & M | $638,105 | |
| *Debt Service | 188,688 | |
| **Reserve | 18,868 | |
| DEP Reserve | 12,000 | $ 857,661 |
| Balance and Depreciation | | $ 175 |

Operating and Maintenance Expenses

| | |
|---|---|
| Existing System Without Caretta | $ 443,485 |
| Proposed Berwind Project | 129,600 |
| Proposed Atwell/Raysal Project | 40,000 |
| Source of Supply | 700 |
| Pumping | 1,350 |
| Water Treatment | 3,950 |
| Transmission and Distribution | 500 |
| Administration and General | 18,520 |
| TOTAL | $ 638,105 |

| | |
|---|---|
| *Existing Debt Service | $ 106,044 |
| Proposed Debt Service | |
| Berwind | 54,816 |
| Atwell/Raysal | 19,836 |
| Caretta | 7,992 |
| Total Debt Service | $ 188,688 |

| | |
|---|---|
| ** Existing Debt Service Reserve | $ 10,604 |
| Proposed Debt Service Reserve | |
| Berwind | 5,482 |
| Atwell/Raysal | 1,983 |
| Caretta | 799 |
| Total Debt Service Reserve | $ 18,868 |

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

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| SF 424.2 | Application for Federal Assistance | 3 | 1780.33(b) | App. | | Have | 3 |
| | Public Notice of Intent to File App. / Environ. Notice | 1 | 1780.19(a) 1940-G | App. | | Have | 3 |
| | Regional Planning & Development Council Review | 2 | 1780.33(b) | App. | | Have | 3 |
| | State Clearing-house Review or IJDC Review | 2 | 1780.33(b) | App. | | Have | 3 |
| Bulletins 1780-2 1780-3 | Preliminary Engineering Report | 2 | 1780.33(c) | Eng. | | Have | 6 |
| | Audit for last year of operation | 1 | 1780.33(e) | App./Acct. | | Have (annual reports) | 1 |
| AD 1049 | Certification Regarding Drug-Free Workplace | 1 | 1780.33(h) | App. | | Have | 5 |
| | Minutes Adopting Drug-Free Workplace Program | 1 | LOC | App. | | Have | 5 |
| RD 1940-20 | Request for Env. Info/ Attachments | 2 | 1780.33(f) | App./Eng. | | Have | 3 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Bulletin 1780-22 | Applicant Eligibility Certification/ Other Credit Certification | 1 | 1780.33(d) | App. | Have | 3 |
| Exhibit A / A-1 | Certifications Regarding Lobbying | 2 | 1780.33(h) | App. | Have | 2 |
| | Env. Assess-ment for Class II Actions (Exhibit H, 1940-G) | 2 | 1940-G | RUS/Eng. | Have | 3 |
| | Site Visit | | S.I. 1780-2 | RUS | Have | 3 |
| | Statement from Historical Preservation Office | 2 | Exhibit H 1940-G | App. | Have | 3 |
| | Comments from Dept. of Commerce, Labor & Environ. Resources (DEP) | 2 | Exhibit H 1940-G | App. | Have | 3 |
| | Comments from U.S. Fish and Wildlife Service (Endangered Species) | 2 | Exhibit H 1940-G | App. | Have | 3 |
| | Comments from U.S. Forest Service (Wild & Scenic Rivers) | 2 | Exhibit H 1940-G | App. | N/A | 3 |
| | Farmland Conversion Impact Rating | 1 | Exhibit H 1940-G | RUS/ NRCS | Have | 3 |
| | FONSI / Evidence of Publication | 1 | Exhibit 1 RD 1940-G News Ad | RUS/App. | Have | 3 |

| | | | | | | |
|---|---|---|---|---|---|---|
| | Copy of Existing Rate Tariff | 2 | 1780.33 | App. | | 8 |
| | 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 |
| | Statement reporting the total number of potential users | | 1780.33(c) | App./Eng. | | 8 |
| RD 1942-19 or other approved | Agreement between Owner & Engineer | 3 | 1780.39(b) | App./Eng. | | 6 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Bulletin 1780-7 or other approved | Legal Services Agreement with Local Attorney | 3 | 1780.39 (b)(2) | App./Att. | Have | 5 |
| | Legal Services Agreement with Bond Counsel | 1 | 1780.39 (b)(3) | App./ Bond Counsel | Have | 5 |
| | Agreement for Accounting Services | 1 | 1780.39 (b)(2) | App./Acct. | N/A | 5 |
| | Documentation on Service Area | 1 | 1780.11 | RUS | Have | 3 |
| | Relationships/ Associations with Agency Employees | 1 | 1780.1(f) | | Have | 3 |
| Auto. Form | Grant Determination | 3 | 1780.35(b) | RUS | Have | |
| RD 1942-45 | Project Summary | 3 | 1780.41(a) | RUS | Have | 1 |
| RD 442-7 | Operating Budget | 3 | 1780.33(h) | App. | Have | 3 |
| RD 1942-14 | Project Fund Analysis | 3 | 1780.41(a) | RUS | Have | 2 |
| Bulletin 1780-1 | Project Selection Criteria | 2 | 1780.17 | RUS | Have | 1 |
| | Letter of Conditions | 7 | 1780.41 (a)(5) | RUS | Have | 3 |
| RD 1942-46 | Letter of Intent to Meet Conditions | 2 | 1780.41 (a)(6) | App. | Have | 3 |
| RD 1940-1 | Request for Obligation of Funds | 4 | 1780.41(a) | RUS/App. | Have | 2 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Bulletin 1780-12 | Association Water or Sewer System Grant Agreement | 2 | 1780.45(c) | RUS/App. | Have | 2 |
| AD 1047 | Certification Regarding Debarment (Primary) | 1 | 1780.33(h) | App. | Have | 5 |
| AD 1048 | Certification Regarding Debarment (Contractor) | 1 ea. | 1780.33(h) | All Appropriate Vendors | | 5 |
| RD 1910-11 | Applicant Certification, Federal Collection Policies | 1 | 1780.33(h) | App. | Have | 3 |
| | Evidence of Users: | | | | | |
| | Certification of Existing Users | 1 | LOC | App. | Have | 5 |
| | Positive Program to Encourage Connections when Completed | 1 | 1780.39 (c)(5) | App. | | 5 |
| | Verification of Users | 1 | 1780.44(b) | RUS | N/A | 3 |
| | Preliminary Bond Transcript Documents w/o Defeasance Provisions | 2 | 1780.83 | Bond Counsel | Have | 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. | None | 5 |
| RD 1927-10 | Final Title Opinion | 1 | 1780.44 (g)(2) | App./Att. | | 5 |
| | Narrative Opinion from Attorney | 1 | 1780.44(g) | Att. | None | 5 |
| | Waiver of Title Defects Letter | 1 | 1780.44 (g)(2)(ii) | RUS | | |
| | Exception for Metering Devices | 1 | 1780.57(m) | App./RUS | | |
| RD 442-22 | Opinion of Counsel Relative to R/Ways | | 1780.44 (g)(1) | Att. | None | 5 |
| RD 1942-47 | Loan Resolution | 1 | 1780.45 (a)(2) | App. | None | 5 |
| | Copy of PSC Rule 42 Exhibit | 1 | State | Att./Acct. | N/A | 3 |
| | Agreement with Accountant | 1 | 1780.39 (b)(2) | App./Acct. | N/A | 6 |
| RD 400-1 | Equal Opportunity Agreement | 1 | 1901-E | App. | None | 6 |
| RD 400-4 | Assurance Agreement | 1 | 1901-E | App. | None | 3 |
| | Bond Transcript Documents w/o Defeasance Provisions | 3 | 1780.83 | Bond Counsel | None | Sep. File |
| | OGC Closing Instructions | 1 | 1780.44(h) | RUS | None | 5 |

| | | | | | | |
|---|---|---|---|---|---|---|
| | S/O Closing Instructions | 1 | 1780.44(h) | RUS | Have | 5 |
| | DOH Permit | 1 | 1780.15(d) | App. | Have | 6 |
| | Railroad Permits | 1 | 1780.15(d) | App. | Have | 6 |
| | Public Land Corp. Permit | 1 | 1780.15(d) | App. | Have | 6 |
| | Corps of Engineers Permit | 1 | 1780.15(d) | App. | Have | 6 |
| | Contract Documents, Plans and Specifications | 2 | | Eng. | Have (Copy sent to Dave) | Sep. File |
| | Dept. of Health Approval | 1 | 1780.15(d) | Eng. | Have | 6 |
| | Dept. of Environmental Protection Permit | 1 | | Eng. | Have | 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. | Have | 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 |

USDA

United States
Department of
Agriculture

Rural Development

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

January 10, 2001

David Robbins, Chairman
McDowell County Public Service District
HC 31, Box 436J
Welch, WV 24801

RE: Amendment No. 1 to
Letter of Conditions

Dear Mr. Robbins:

This letter, with Attachment No. 1 amends the letter of conditions dated July 7, 1998 and further establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. 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 USDA, Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an initial RUS loan in the amount of $145,000, an initial RUS grant in the amount of $370,000, a subsequent RUS grant in the amount of $129,000, and other funding in the amount of $38,000 for a total project cost of $682,000.

Subject to the requirements noted herein, all of the conditions of the July 7, 1998 letter of conditions remain in effect and must be satisfied prior to loan and grant 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)

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

PRINTED WITH SOY INK

The conditions referred to above are as follows:

1. Public Service Commission Approval - You must obtain PSC approval of the project's proposed financing and user rates as may result from this amendment to the letter of conditions.

2. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided (you must also provide us with a copy of the minutes showing the adoption of the forms associated with the original letter of conditions):

| | |
|---|---|
| RUS Bulletin 1780-12 - | "Water or Waste System Grant Agreement" |
| Form RD 442-7 - | "Initial Operating Budget" |
| Form RD 1940-1 - | "Request for Obligation of Funds" |
| Form RD 1942-46 - | "Letter of Intent to Meet Conditions" |

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

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 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 PSD 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,

BOBBY LEWIS
State Director

Enclosures

cc: See Page 3

cc: RUS Rural Development Specialist
Beckley, WV

Jeffrey S. Feamster
Certified Public Accountant
Lewisburg, WV

William S. Winfrey II
Attorney at Law
Princeton, WV

John C. Stump
Steptoe and Johnson
Attorneys at Law
Charleston, WV

James R. Bolton, P.E.
Stafford Consultants, Inc.
Princeton, WV

Attachment No. 1 to Amended Letter of Conditions
For: McDo[redacted] County PSD
Date: January 10, 2001

## Project Construction Budget

| Project Cost | Other Grant | RUS Grant | RUS Sub. Grant | RUS Loan | Total |
|---|---|---|---|---|---|
| Construction | $ 38,000 | $ 252,700 | $ 129,000 | $ 88,100 | $ 507,800 |
| Construction Contg. | | 37,100 | | 12,900 | 50,000 |
| Land and Rights | | 1,500 | | 500 | 2,000 |
| Legal Fees | | 2,800 | | 1,000 | 3,800 |
| Engineering Fees | | 55,900 | | 19,500 | 75,400 |
| Basic $40,000 | | | | | |
| Inspection $30,800 | | | | | |
| Special $4,600 | | | | | |
| Bond Counsel | | 6,000 | | 2,000 | 8,000 |
| Interest | | | | 16,000 | 16,000 |
| Permits | | 5,800 | | 2,000 | 7,800 |
| Project Contg. | | 8,200 | | 3,000 | 11,200 |
| Totals | $ 38,000 | $ 370,000 | $ 129,000 | $145,000 | $ 682,000 |

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

First 3,000 gals. @ 9.30 per M gals.
Over 3,000 gals. @ 8.57 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 - | $27.90 per month |
| 3/4" meter - | $41.85 per month |
| 1" meter - | $69.75 per month |
| 1 1/2" meter - | $139.50 per month |
| 2" meter - | $223.20 per month |
| 3" meter - | $418.50 per month |
| 4" meter - | $697.50 per month |
| 6" meter - | $1,395.00 per month |
| 8" meter - | $2,232.00 per month |

(Minimum Monthly Bill $27.90 for 3,000 gallons)

Delayed Payment Penalty

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

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

Connection Charge

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

$25.00

Use and Income Analysis

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 79 | users @ | 3,000 | gallons @ | $ 27.90 | per user = | $2,204.10 | monthly |
| 37 | users @ | 4,000 | gallons @ | $ 36.47 | per user = | $1,349.39 | monthly |
| 18 | users @ | 5,000 | gallons @ | $ 45.04 | per user = | $810.72 | monthly |
| 7 | users @ | 6,000 | gallons @ | $ 53.61 | per user = | $375.27 | monthly |

141 Total Users

$4,739.48 Monthly Revenue x 12 = $56,873.76 Annual Revenue

Budget

| | | |
|---|---|---|
| Income | | |
| Existing System | $561,248 | |
| Proposed Berwind Project | 195,864 | |
| Proposed Atwell/Raysal Project | 103,402 | |
| | | $860,514 |
| Expenses | | |
| O & M | $638,105 | |
| *Debt Service | 188,688 | |
| **Debt Service Reserve | 18,868 | |
| Depreciation Reserve | 12,000 | |
| | | $857,661 |
| Balance and Depreciation | | $ 2,853 |

Operating and Maintenance Expenses

| | |
|---|---|
| Existing System without Caretta | $443,485 |
| Proposed Berwind Project | 129,600 |
| Proposed Atwell/Raysal Project | 40,000 |
| Source of Supply | 700 |
| Pumping | 1,350 |
| Water Treatment | 3,950 |
| Transmission and Distribution | 500 |
| Administration and General | 18,520 |
| TOTAL | $638,105 |

| | |
|---|---|
| *Existing Debt Service - | $106,044 |
| Proposed Debt Service - | |
| Berwind | 54,816 |
| Atwell/Raysal | 19,836 |
| Caretta | 7,992 |
| Total Debt Service - | $188,688 |

| | |
|---|---|
| ** Existing Debt Service Reserve - | $ 10,604 |
| Proposed Debt Service Reserve - | |
| Berwind | 5,482 |
| Atwell/Raysal | 1,983 |
| Caretta | 799 |
| Total Debt Service Reserve | $ 18,868 |

UNITED STATES
DEPARTMENT OF
AGRICULTURE

RURAL
DEVELOPMENT

481 RAGLAND ROAD
BECKLEY, WV 25801
PHONE (304) 252-8644
FAX (304) 252-5809
TTY/TDD (304) 284-4836

February 1, 2001

David Robbins, Chairman
McDowell County PSD
HC 31, Box 436J
Welch, WV 24801

Dear Mr. Robbins:

The pre-closing date for the PSD's water project has been established as February 21, 2001. The pre-closing will begin at 12:00 p.m. at the PSD office followed by the preconstruction conference at 1:00 p.m..

Reference is made to our Letter of Conditions dated July 7, 1998 and the amended Letter of Conditions dated January 20, 2001. All of the requirements of those letters must be met.

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

1. The PSD's attorney will need to provide Form FmHA 442-22, "Opinion of Counsel Relative to Rights of Way," showing no exceptions. This form should be dated February 23, 2001.

2. The PSD's attorney must furnish a Form FmHA 1927-10, "Final Title Opinion," on all land(s) being acquired. In addition, the attorney must provide a separate final title opinion(s) covering all existing property owned by the PSD. The opinion(s) should be dated February 23, 2001.

3. The PSD's engineer must provide a resume of the proposed inspector(s).

4. The PSD must provide a letter accepting the proposed inspector(s).

5. The permit from the West Virginia Department of Highways must be on hand at the closing. The PSD should proceed to obtain necessary bond and forward same to the WVDOH requesting the permit be issued.

USDA, Rural Development is an Equal Opportunity Lender, Provider and Employer. Complaints of discrimination should be sent to: USDA, Director, of Civil Rights, Washington, D.C. 20250-9410

6. A certificate from the PSD's accountant that the accounts and records required by the bond resolution and the PSC have been established and are operational. The chart of accounts and record keeping books must be available for review at loan closing.

7. The PSD must provide evidence that it has acquired insurance and bond coverage in accordance with item 11 of the Letter of Conditions.

8. The PSD must furnish evidence that it provides State Workman's Compensation Insurance.

9. Public Service Commission Final Order.

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

Sincerely,

Rose Mary Christian
Rural Development Specialist

Enclosures

cc: State Director, Rural Development, Morgantown, WV
William S. Winfrey, II, Attorney at Law, Princeton, WV
John Stump, Steptoe & Johnson, Bond Counsel, Charleston, WV
Jeffrey S. Feamster, CPA, Lewisburg, WV
Randy Bolton, Stafford Consultants, Inc., Princeton WV

RUS Bulletin 1780-12
(Automated 11-97)

# WATER OR WASTE SYSTEM GRANT AGREEMENT

## UNITED STATES DEPARTMENT OF AGRICULTURE

## RURAL UTILITIES SERVICE

THIS AGREEMENT dated January 10, 2001 between
**McDowell 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) (sewer) system to serve the area under jurisdiction at an estimated cost of **$ 682,000.00** and has duly authorized the undertaking of such project.

Grantee is able to finance not more than **$ 183,000.00** of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of **$ 183,000.00** has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed **$ 499,000.00** or 75 percent of said 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 the purpose only of defraying a part not to exceed **73.2%** percent of the 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.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges,* ~~whether for one or more classes of service, adopted by resolution dated~~ xxxxxxxxxxxxxxxxxxxxx, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

* as approved by the West Virginia Public Service Commission,

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 Caretta to Bartley connector project includes approximately 14,000 LF of six-inch water transmission line, a booster station and other necessary appurtenances for the operation and maintenance of the system.**

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.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than $5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of $5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds, for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need need for the equipment.

(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 an 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.

IC-2
(4/04/00)

# GRANT AGREEMENT

This Grant Agreement entered into between the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and the McDowell County Public Service District (the "Governmental Agency").

## RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed $37,098 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Authority and the Governmental Agency hereby agree as follows:

## TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Council and the Authority.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

6. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

7. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

8. This Grant Agreement shall be governed by the laws of the State of West Virginia.

Exhibit A

Project Description

The Project consists of taking Carretta water treatment plant off line and install a transmission line, which consists of approximately 15, 200 lf 6 inch and 1,700 lf 2 inch pipe, from the new Bartley / English system to the present Caretta system. The project also consists of one booster tank to pump water into the existing Caretta tank.

LAW OFFICES
WILLIAM S. WINFREY, II
1608 MAIN STREET WEST
POST OFFICE BOX 1159
PRINCETON, W.VA. 24740

TELEPHONE
304-487-1887
TELECOPIER
304-425-7340

FILE NO.

23
February 20, 2001

Katy Mallory, P.E., Executive Secretary
West Virginia Infrastructure and Jobs Development Center
980 One Valley Square
Charleston, WV 25301

RE: McDowell County Public Service District
Bartley Caretta Connector Project Grant

Dear Katy :

This firm represents McDowell County Public Service District with regard to a proposed project to construct a connector line with appurtenant fixtures between the District's facilities in Bartley and Caretta in McDowell County (the "Project"), and provides this final title opinion on behalf of McDowell County Public Service District to satisfy the requirements of the West Virginia Infrastructure and Jobs Development Council (the "Council") with regard to the Infrastructure Fund financing proposed for the Project. Please be advised of the following:

1. That I am of the opinion that the McDowell County Public Service District is duly created and existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia and has the full power and authority to construct, operate and maintain the Project as approved by the Bureau for Public Health.

2. That the McDowell County Public Service District has obtained approval for all necessary permits and approvals for the construction of the Project.

3. That I have investigated and ascertained the location of an am familiar with the legal description of the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Stafford Consultants, the consulting engineers for the Project.

4. That I have examined the records on file in the Office(s) of the Clerk of the County Commission of McDowell, West Virginia, the county(ies) in which the Project is to be located, and, in my opinion, the McDowell County Public Service District has acquired legal title or such other estate or interests in the necessary site components for the Project sufficient to assure undisturbed use and possession for the purpose of

construction, operation and maintenance for the estimate life of the facilities to be constructed, except and subject to the following :

The following listed properties are being acquired by eminent domain and the necessary filings will be made in the Office(s) of the Clerk of the County Commission of McDowell County, West Virginia to permit the McDowell County Public Service District a right-of-entry for the purpose of construction, operation and maintenance of the subject facilities on the subject properties. The McDowell County Public Service District's title thereto is defeasible in the event the McDowell County Public Service District does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said properties, and our certification is subject to the pending litigation:

Raymond C. Payne, 6-6, 7-2, 3-1
Frances M. Ward, 7-4
Allen E. Morgan, 3-4
Joseph Hindsley, 6-1
Donald R. Hagerman, 6-7, 6-8
Nina Grizzle, 3-3

These easements will be obtained within 30 days, or condemnation proceedings will be instituted to perfect title. The contractor is not to be on site for 60 days.

5. That all deeds or other documents which have been acquired to date by the McDowell County Public Service District have been duly recorded in the aforesaid Clerk's Office(s) in order to protect the legal title to and interest of the McDowell County Public Service District.

Sincerely,

William S. Winfrey, II

WSW,II/gmt
cc: McDowell County Public Service District
USDA Rural Development
Steptoe and Johnson
Samme Gee

**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**

February 23, 2001

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

TO WHOM IT MAY CONCERN:

The undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the entire outstanding principal amount of the Prior Notes, as hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds, Series 2001 A (the "Series 2001 A Bonds"), by McDowell County Public Service District (the "Issuer"), in the original aggregate principal amount of $145,000, under the terms of the bond resolution authorizing the Series 2001 A Bonds (the "Series 2001 A Resolution"), without the repayment of the outstanding principal of and administrative fee for the Issuer's Waterworks System Design Notes, Series 2000 A, issued August 1, 2000, in the original aggregate principal amount of $20,000. This consent is given based upon the representations of the Issuer that the project to be financed with the proceeds of the Series 2001 A Bonds does not involve the Iaeger area of McDowell County.

Authorized Representative

ACKNOWLEDGED:

West Virginia Infrastructure and Jobs
Development Council