

**TOWN OF NEWBURG**

**Sewer Revenue Bonds, Series 2002  
(United States Department of Agriculture)**

**Date of Closing: May 3, 2002**

**BOND TRANSCRIPT**

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**TOWN OF NEWBURG**

**Sewer Revenue Bonds, Series 2002  
(United States Department of Agriculture)**

**BOND ORDINANCE**

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TOWN OF NEWBURG

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF NEW PUBLIC SEWERAGE FACILITIES OF THE TOWN OF NEWBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$110,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2002 (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 ORDINANCE SHALL TAKE EFFECT

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE TOWN OF NEWBURG:

ARTICLE I

STATUTORY AUTHORITY,  
FINDINGS AND DEFINITIONS

Section 1.01.      Authority for this Ordinance. This Ordinance is adopted and enacted pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. The Town of Newburg (the "Issuer") is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia in Preston County of said State.

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

A.      The Issuer does not currently own or operate a public sewerage system, but desires to acquire, construct and operate public sewerage collection and treatment facilities. The inhabitants of the Issuer and surrounding area urgently require that a public sewerage system be acquired and constructed as herein provided.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered that there be acquired and constructed certain new sewerage facilities of the Issuer, consisting of collection and treatment facilities, with 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 Recorder of the Issuer. The Project and any further additions, extensions and 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 the 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 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 \$2,291,461, of which \$110,000 will be obtained from the proceeds of sale of the Series 2002 Bonds herein authorized, \$1,805,461 will be obtained from a grant by the United States Environmental Protection Agency and \$376,000 will be obtained from a grant by the Purchaser.

E. It is necessary for the Issuer to issue its Sewer Revenue Bonds, Series 2002 (United States Department of Agriculture), in the aggregate principal amount of \$110,000, (the "Bonds"), to finance a portion of the cost of acquisition and construction of the Project. Said costs shall be deemed to include, without being limited to, the construction or acquisition of the Project; the acquisition of any property rights, easements and franchises, deemed necessary or convenient therefor; interest on the Series 2002 Bonds prior to and during acquisition and construction and for a period not exceeding six months after completion of such acquisition or construction of the Project; 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 allowable costs prior to the issuance of the Series 2002 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project.

F. The period of usefulness of the System, as herein defined, 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 Series 2002 Bonds as to liens, pledge and source of and security for payment.

H. It is in the best interest of the Issuer that the Series 2002 Bonds be sold to the Purchaser, pursuant to the terms and provisions of a Letter of Conditions dated February 17, 1998, and any amendments thereto (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to 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 2002 Bonds, or will have so complied prior to issuance of the Series 2002 Bonds, including among other things and without limitation, obtaining a certificate of 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. Ordinance to Constitute Contract. In consideration of the acceptance of the Series 2002 Bonds by those who shall be the Registered Owner of the same from time to time, this Ordinance (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 Series 2002 Bonds.

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

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

"Bond Legislation" or "Ordinance" means this Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

"Bond Registrar" or "Registrar" means the Issuer, which shall usually so act by its Recorder.

"Bonds" means, the Sewer Revenue Bonds, Series 2002 (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

"Closing Date" means the date upon which there is an exchange of the Series 2002 Bonds for the proceeds, or at least a de minimus portion, thereof representing the purchase price of the Series 2002 Bonds from the Purchaser.

"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 Thrasher Engineering, Inc., Clarksburg, 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 Branch Banking and Trust Company, Reedsville, West Virginia, a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns.

"Facilities" or "sewerage 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" or "Council" means the Council 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 monies received by the Issuer on account of any Grant for the Project.

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

"Issuer" or "Borrower" means the Town of Newburg, a municipal corporation and political subdivision of the State of West Virginia, in Preston County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated February 17, 1998, and any amendments thereto.

"Mayor" means the Mayor of the Issuer.

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

"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 Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, materials and supplies, pumping costs, 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 Series 2002 Bonds and into the respective Reserve Accounts and the Depreciation Reserve have been made to the last monthly date prior to the date of such retention.

"Ordinance" means the Bond Legislation.

"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 Investment Management Board pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is 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.

"Recorder" means the Recorder of the Issuer.

"Registered Owner," "Bondholder," "Holder of the Bonds" or any similar term means any person who shall be the registered owner of the Series 2002 Bonds.

"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.

"State" means the State of West Virginia.

"System" means the complete sewerage system of the Issuer and all sewerage 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 sewerage system, including the Project, and any and all additions, betterments, improvements, properties or other facilities at any time acquired or constructed for the sewerage system after completion of the Project.

"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 neutral gender shall include any other gender; and any requirement for execution or attestation of the Series 2002 Bonds or any certificate or other document by the Mayor or the Recorder shall mean that such Series 2002 Bonds, certificate or other document may be executed or attested by an Acting Mayor or Acting Recorder.

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 \$2,291,461, 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 2002 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 Bonds of the Issuer, to be known as "Sewer Revenue Bonds, Series 2002 (United States Department of Agriculture)" are hereby authorized to be issued in the aggregate principal amount of \$110,000 for the purpose of permanently financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bond. The Series 2002 Bonds shall be issued in single form, numbered R-1, only as a fully registered Bond, and shall be dated on the date of delivery thereof. The Series 2002 Bonds shall bear interest from date of delivery, payable monthly at the rate of 4.50% per annum, and shall be sold for the par value thereof.

The Series 2002 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 Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2002 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 2002 Bonds, and the right to principal of and stated interest on the Series 2002 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 2002 Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2002 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 2002 Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2002 Bonds.

Section 3.04.      Bond Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept, at its office, sufficient books for the registration and transfer of the Series 2002 Bonds, and, upon presentation for such purpose, the Bond 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, on such books, the transfer of the Series 2002 Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2002 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 2002 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 2002 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 2002 Bonds shall be executed in the name of the Issuer by the Mayor and the seal of the Issuer shall be affixed thereto and attested by the Recorder. 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 Series 2002 Bonds so signed and sealed have been actually sold and delivered, such Series 2002 Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2002 Bonds had not ceased to hold such office. The Series 2002 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 2002 Bonds shall hold the proper office in the Issuer, although at the date of such Series 2002 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 2002 Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver new Series 2002 Bonds of like tenor as the Series 2002 Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Series 2002 Bonds or in lieu of and substitution for the Series 2002 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 2002 Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2002 Bonds shall have matured or be about to mature, instead of issuing

substitute Series 2002 Bonds the Issuer may pay the same, and, if such Series 2002 Bonds 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 2002 Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, in addition to the statutory mortgage lien on the System hereinafter provided for as to the Series 2002 Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 2002 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 2002 Bonds as the same become due.

Section 3.08.      Form of Bonds. Subject to the provisions hereof, the text of the Series 2002 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 ordinance enacted after the date of enactment hereof and prior to the issuance thereof:

(FORM OF SERIES 2002 BOND)

TOWN OF NEWBURG

SEWER REVENUE BONDS, SERIES 2002  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$110,000

No. R-1

Date: \_\_\_\_\_

FOR VALUE RECEIVED, the TOWN OF NEWBURG (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 TEN THOUSAND DOLLARS (\$110,000), 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 this Bond and continuing on the corresponding day of each month for the first twenty-four months after the date hereof, and \$532, 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 acquisition and construction of additions, betterments and improvements to the sewerage system (the "System") of the Borrower, is payable solely from and secured by the revenues to be derived from the operation 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, nor shall the Borrower be obligated to pay the same or the interest thereon except from the special fund so provided.

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 said 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 Ordinance, 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 13 of the West Virginia Code, as amended (the "Act"), and an Ordinance of the Borrower duly enacted on \_\_\_\_\_, 2002, authorizing issuance of this Bond (the "Ordinance").

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.

IN WITNESS WHEREOF, the TOWN OF NEWBURG has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, all as of the date hereinabove written.

TOWN OF NEWBURG  
(Name of Borrower)

[CORPORATE SEAL]

\_\_\_\_\_  
(Signature of Executive Official)

Mayor  
(Title of Executive Official)

P. O. Box 4  
(P. O. Box No. or Street Address)

Newburg, West Virginia 26410  
(Town, State and Zip Code)

ATTEST:

\_\_\_\_\_  
(Signature of Attesting Official)

Recorder  
(Title of Attesting Official)

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		\$	<u>                    </u>

(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 with 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;
- (2) Renewal and Replacement Fund; and
- (3) Project Construction Account.

Section 4.02. Establishment of Funds and Account with Commission. The following special funds or accounts are hereby created with 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 2002 Bonds Reserve Account.

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 2002 Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The monies 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. Monies in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

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 installment payments on the Series 2002 Bonds if there are not sufficient Net Revenues to make such monthly payment.

Monies 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.

Pending application as provided in this Section 4.02, monies 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 Revenues and Funds. So long as any of the Series 2002 Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2002 Bonds Reserve Account, sums sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2002 Bonds remaining unpaid, together with interest accrued to the date of such payment, 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 in the Ordinances 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 Ordinances.

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:

(1) The Issuer shall first, each month, pay from the monies in the Revenue Fund all current Operating Expenses.

(2) The Issuer shall next, each month, beginning on the 12th monthly anniversary of the Closing Date, transfer from the Revenue Fund and remit to the National Finance Office, the amounts required to pay the interest on the Series 2002 Bonds. Beginning on the 24th monthly anniversary of the Closing Date and continuing on each monthly anniversary of the Closing Date thereafter, the Issuer shall transfer from the Revenue Fund and remit to the National Finance Office the amounts required to amortize the interest on and principal of the Series 2002 Bonds over the life of the Bond issue.

(3) The Issuer shall next, each month, beginning on the date specified by the Purchaser, but in any event not later than the 24th monthly anniversary of the Closing Date and continuing on

each monthly anniversary of the Closing Date thereafter, transfer from the Revenue Fund and remit to the Commission for deposit into the Series 2002 Bonds Reserve Account, an amount equal to 1/120th of the Series 2002 Bonds Reserve Requirement, until the amount in the Series 2002 Bonds Reserve Account equals the Series 2002 Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2002 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2002 Bonds Reserve Requirement. Monies in the Series 2002 Bonds Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 2002 Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 2002 Bonds, or for mandatory prepayment of the Series 2002 Bonds as hereinafter provided, and for no other purpose; provided, however, earnings from monies in the Series 2002 Bond Reserve Account, so long as the Series 2002 Bonds Reserve Requirement 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.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund an amount equal to 2 1/2% of the Gross Revenues each month, exclusive of any payment for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in Qualified Investments. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(5) After all the foregoing provisions for use of monies in the Revenue Fund have been fully complied with, any monies remaining therein and not permitted to be retained therein may be

used to prepay installments of the Bonds, pro rata, or for any lawful purpose.

Whenever the monies in the Series 2002 Bonds Reserve Account shall be sufficient to prepay the Series 2002 Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2002 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 2002 Bonds Reserve Account as herein provided, and all amounts required for said account shall be remitted to the Commission from the Revenue Fund by the Issuer 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 Renewal and Replacement Fund as herein provided, and all amounts required for the Renewal and Replacement Fund 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 2002 Bonds Reserve Account and the Renewal and Replacement Fund 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 2002 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.

The Commission and the Depository Bank, at the direction of the Issuer, shall keep the monies in the Series 2002 Bonds Reserve Account and the Renewal and Replacement Fund 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 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 monies 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 monies in the Series 2002 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 AND 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 Series 2002 Bonds, provide evidence that there will be at least 106 bona fide users upon the Project, 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 monies 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, in a lawful manner for securing 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.

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 2002 Bonds, the Issuer may issue and sell its interim construction notes

in an aggregate principal amount not to exceed \$110,000 (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 a credit agreement, with such 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 2002 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

Section 5.01.      General Statement. So long as the Series 2002 Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2002 Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2002 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 2002 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 maximum annual debt service on the Series 2002 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 2002 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 Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

- (1) The Bonds Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding;  
and
- (3) The Parity Bonds then proposed to be issued.

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 2002 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 actual cost thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2002 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 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 Series 2002 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 2002 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be

valid and binding and shall take effect immediately upon the delivery of the Series 2002 Bonds and shall be for the equal benefit of the Series 2002 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 on the Series 2002 Bonds at the date specified for payment thereof; or

(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 Series 2002 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 2002 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 thirty days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless 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 first day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by

more than 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. 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 and on file with the Recorder on the date of adoption hereof, subject to permitted changes.

Section 5.11. 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 5.12. 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 2002 Bonds are outstanding.

Section 5.13. 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.

Section 5.14. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Division of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of

West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

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 shall be as set forth in the Rate Ordinance of the Issuer enacted on November 6, 2001.

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 a lien on the premises served if not paid when due. 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, including, without limitation, any right and power of foreclosure under the Act and/or such other applicable provisions of law.

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 sewer bill from a customer served with 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 2002 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 2002 Bonds, the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Holder of the Series 2002 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 materially modified or amended after final passage without the prior written consent of the Purchaser.

Section 7.03.      Delivery of the Bonds. The Mayor is hereby authorized and directed to cause the Series 2002 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 separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2002 Bonds.

Section 7.05.      Conflicting Provisions Repealed. All ordinances, 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 enactment of this Ordinance 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 Mayor, Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 7.08.      Effective Time. This Bond Legislation shall take effect following public hearing hereon in accordance with the Act.

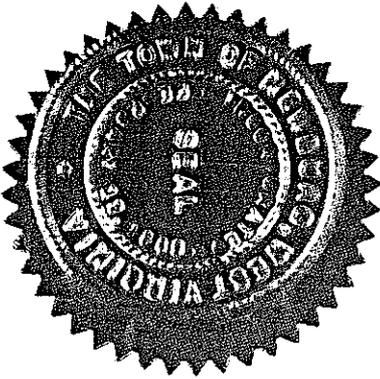
Section 7.09.      Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation, determined by the Governing Body to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in *The Preston County Journal*, a newspaper of general circulation in the Town of Newburg, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Series 2002 Bonds, and that any person interested may appear before the Council upon a date certain, not less than ten days subsequent to the date of the first publication of the said abstract and notice, and present protests, and that a certified copy of the Ordinance is on file in the office of the Recorder of the Issuer for review by interested parties during regular office hours. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

Passed on First Reading:	March 21, 2002
Passed on Second Reading:	April 2, 2002
Passed on Third Reading following public hearing:	April 16, 2002

  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the TOWN OF NEWBURG on the 16th day of April, 2002, which Ordinance has not been repealed, rescinded, modified, amended or revoked, as witness my hand and the seal of the TOWN OF NEWBURG this 3rd day of May, 2002.



*Mary Taylor*  
Recorder

04/11/02  
658210.98001





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 19<sup>th</sup> day of April, 2002.

CASE NO. 01-1443-S-CN

TOWN OF NEWBURG, P.O. Box 4,  
Newburg, Preston County.

Application for a certificate of convenience  
and necessity to construct and operate a  
sanitary sewer system in the Town of  
Newburg, Preston County.

COMMISSION ORDER WAIVING EXCEPTION PERIOD

On October 19, 2001, the Town of Newburg, a municipal corporation, filed an application, duly verified, for a certificate of convenience and necessity to construct and operate a sanitary sewer system in the Town of Newburg, Preston County.

By Recommended Decision entered April 15, 2002, Administrative Law Judge Susan A. Murensky granted the application, subject to bids not exceeding construction cost estimates.

On April 19, 2002, Ronald E. Robertson, Jr., Esq., Staff Counsel, filed a petition to waive the fifteen day exception period on the Recommended Decision.

West Virginia Code §24-1-9 provides a time period of at least twenty (20) days from the date of a recommended order until it become effective. According to West Virginia Code §24-1-9(c), at least fifteen (15) days must be afforded the parties within which to file exceptions. In addition, §24-1-9(e) provides that when no exceptions are filed within the specified time period, the Commission shall have an additional five (5) days within which to stay or postpone the order.

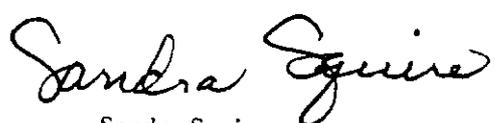
The Commission is therefore of the opinion and belief that the said petition for waiver received by the Commission on April 19, 2002, should be granted.

IT IS, THEREFORE, ORDERED that the requested waiver be, and the same hereby is, granted.

IT IS FURTHER ORDERED that the Administrative Law Judge's Recommended Decision in this matter become final (5) days after the date of this order.

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

A True Copy, Teste:

  
Sandra Squire  
Executive Secretary

SS/ft  
011443sa.wpd

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

011443alj041502.wpd

Entered: April 15, 2002

FINAL

04-24-02  
By Commission Order

CASE NO. 01-1443-S-CN

TOWN OF NEWBURG, P.O. Box 4,  
Newburg, West Virginia.

Application for a certificate of convenience  
and necessity to construct and operate a  
sanitary sewer system in the Town of Newburg,  
Preston County.

RECOMMENDED DECISION

On October 19, 2001, the Town of Newburg (Town), a municipal corporation, filed an application, duly verified, for a certificate of convenience and necessity to construct and operate a sanitary sewer system in the Town of Newburg, in Preston County.

The Town estimated construction costs to be approximately \$2,291,461. The project is to be financed by an Environmental Protection Agency grant in the amount of \$1,805,461; a Rural Utilities Service grant in the amount of \$376,000; and a Rural Utilities Service loan in the amount of \$110,000, at an interest rate not to exceed 4.875% for a period not to exceed forty (40) years. The Town also proposed sewer rates for its customers. The Town attached additional documentation with the application.

On October 19, 2001, Staff filed an Internal Memorandum indicating that the Town's tariff needed to include provisions for unmetered charges; a delayed payment penalty; a connection charge; a charge for checks returned for insufficient funds; and an incremental cost of wastewater treated.

By Order entered October 19, 2001, the Town was directed to give notice of the application by publishing a copy of the October 19, 2001 Order, once, in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Preston County, making due return to the Commission of proper certification of publication immediately after publication. The Order provided that anyone desiring to protest or intervene in the matter should file a written protest or Notice of Intervention within thirty (30) days following the date of the publication unless otherwise modified by Commission Order. The Notice

further provided that failure to timely protest or intervene could affect the person's right to protest or participate in the matter.

On November 30, 2001, Staff filed its Initial Joint Staff Memorandum indicating that it intended to meet with the Town's representatives and obtain additional information regarding the project. Staff recommended that the matter be referred to the Division of Administrative Law Judges.

By Order issued on December 6, 2001, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered on or before May 17, 2002.

On December 7, 2001, additional information was filed regarding the Town's WV-NPDES Permit Number and its Discharge Monitoring Report.

By Procedural Order issued January 24, 2002, the Town was advised that the Affidavit of Publication indicating that the Notice of Filing had been published in Preston County had not been filed with the Commission. The Order advised the Applicant that failure to file the Affidavit of Publication by January 30, 2002, would result in the dismissal of this application. The Town was directed to file, no later than January 30, 2002, an affidavit of publication indicating that the Notice of Filing was published in a newspaper, duly qualified by the Secretary of State, in Preston County. Staff was directed to file its substantive recommendation in this matter no later than January 30, 2002. Any response to Staff's substantive recommendation was to be filed no later than February 11, 2002.

On January 28, 2002, the Town filed a copy of an affidavit of publication indicating that it had published its rate ordinance in The Preston County Journal, on October 24 and 31, 2001. It also filed an affidavit of publication indicating that its application for a West Virginia National Pollutant Discharge Elimination System Water Pollution Control Permit was published in The Preston County Journal on October 17, 2001.

On January 30, 2001, Staff filed a Further Joint Staff Memorandum indicating that it was reviewing the Town's application for a certificate of convenience and necessity.

On February 6, 2002, the Town advised the Commission that it had received the deeds of easement on one hundred and forty-four parcels of property required for the construction of the project.

By Procedural Order issued February 28, 2002, the Town of Newburg was directed to publish a copy of the attached Amended Notice of Filing, in a newspaper duly qualified by the Secretary of State, published and of general circulation in Preston County, no later than March 9, 2002, since it had not published the original Notice of Filing. The Town was also directed to file an affidavit of publication indicating proper certification of publication no later than March 29, 2002. The Order

advised the Town that if it wished to proceed to hearing in this matter, it must request an extension of the Administrative Law Judge's decision due date in order to accommodate the hearing process. The parties were provided notice that the 270<sup>th</sup> day in this matter is July 15, 2002, and that a recommended decision in this matter must be issued no later than June 25, 2002. If no protests are received to the Town's application, an extension of the Administrative Law Judge's decision due date may provide the Applicant with the opportunity to reach a settlement with Staff regarding its review of the application. The Order advised the Applicant that if it was unable to file the necessary information in order for this application to proceed or protests to the application are received, the matter may have to be dismissed.

Also on February 28, 2002, Staff filed its Final Joint Staff Memorandum recommending that the application be approved, contingent upon the Town providing notice to its customers of the filing of the application for the certificate and protest not being received to the application. Technical Staff believes the project is needed to eliminate raw sewage flowing into Racoon Creek and Little Racoon Creek. The Town presently does not have a formal collection and treatment system. The Town is under a consent decree with the Division of Environmental Protection to correct the situation. Staff advised that the Town has been issued an NPDES permit by the Division of Environmental Protection for the project. Staff's review of the plans and specifications did not reveal any conflicts with the Commission's Rules and Regulations. The financing for the project has been confirmed. The Town has passed a rate ordinance in accordance with West Virginia Code §24-2-4b. Staff believes the project is financially feasible. Staff recommended that the Town notify the Commission and request that the case be reopened if there is any change in the plans, scope or financing of the project, or if bids exceed the estimated construction cost.

On March 26, 2002, the Commission received an Affidavit of Publication indicating that, on March 6, 2002, the Amended Notice of Filing of the application was published in The Preston County Journal, a newspaper, duly qualified by the Secretary of State, published and of general circulation in Preston County. The 30-day protest period expired on April 5, 2002. No protests were received to the application either by that date or the date of this order.

#### FINDINGS OF FACT

1. On October 19, 2001, the Town of Newburg, a municipal corporation, filed an application, duly verified, for a certificate of convenience and necessity to construct and operate a sanitary sewer system in the Town of Newburg, Preston County. (See, Application).
2. The Town estimated construction costs to be approximately \$2,291,461. (See, Final Joint Staff Memorandum received February 28, 2002).

3. The project will be financed by an Environmental Protection Agency grant in the amount of \$1,805,461; a Rural Utilities Service grant in the amount of \$376,000; and a Rural Utilities service loan in the amount of \$110,000, at an interest rate not to exceed 4.875% for a period not to exceed forty (40) years. (See, Application; and Final Joint Staff Memorandum received February 28, 2002).

4. The Town passed a rate ordinance to go into effect 45 days after adoption, or December 21, 2001. Staff noted that, while the rates have become effective, the Town will not apply them until certification of substantial completion of the sewer project has been obtained. (See, Final Joint Staff Memorandum received February 28, 2002).

5. Staff believes that the amount of projected annual operating revenues is sufficient to cover the annual O&M expenses, taxes, debt service and reserves associated with the project, based upon the rates passed by the Town, which include a two-tiered flat rate of \$6.75 per 1,000 gallons, with the first tier representing the minimum usage of 3,000 gallons per month. All usage over 3,000 gallons per month is also \$6.75 per 1,000 gallons. A minimum bill of 3,000 gallons per month will result in a charge of \$20.25. A \$20.25 charge has been passed for unmetered customers. (See, Final Joint Staff Memorandum received February 28, 2002).

6. Notice of the filing of the application was published on March 6, 2002, in The Preston County News, a newspaper of general circulation in Preston County, with no protests being received to the application. (See, Affidavit of Publication received March 26, 2002; case file generally).

7. The project's plans have been accepted by the West Virginia Division of Environmental Protection as evidenced by the NPDES permit issued for the project. Staff's review of the plans and specifications did not reveal any conflicts with the Commission's rules and regulations. (See, Final Joint Staff Memorandum received February 28, 2002).

8. The project is necessary because it will eliminate the discharge of raw sewage into Racoon Creek and Little Racoon Creek. The Town currently has no formal collection and treatment system. Some combined storm and sanitary sewer lines exist which discharge into the creeks. The Town is under a Consent Decree with the Division of Environmental Protection to correct the situation. (See, Final Joint Staff Memorandum received February 28, 2002).

9. Staff recommended that the application be approved, subject to bids not exceeding the estimated construction cost. Also, if there is any change in the plans, scope or financing for the project, that the District notify the Commission and request a reopening of the certificate case for adjustments and approval. (See, Final Joint Staff Memorandum received February 28, 2002).

## CONCLUSIONS OF LAW

1. The public convenience and necessity require the issuance of a certificate of convenience and necessity to the Town of Newburg to construct a wastewater collection and treatment facility system to serve Newburg and surrounding areas in Preston County, which will consist of a 35,000 gpd package wastewater treatment plant; 4,290 feet of 4-inch gravity sewer; 10,984 feet of 6-inch gravity sewer; 8,572 feet of 6-inch gravity sewer; 160 feet of 1½ inch force main; 458 feet of 3-inch force main; and three pump stations.

2. The proposed project is adequately financed and economically feasible.

3. The rates passed by the City in its November 2001 rate ordinance are sufficient to support the project.

4. It is reasonable to approve the financing of the project, being an Environmental Protection Agency grant in the amount \$1,805,461; a Rural Utilities Service grant in the amount of \$376,000; and a Rural Utilities Service loan in the amount of \$110,000, at an interest rate not to exceed 4.875% for a period not to exceed forty (40) years.

## ORDER

IT IS, THEREFORE, ORDERED that the application filed by the Town of Newburg for a certificate of convenience and necessity to construct a wastewater collection and treatment system to serve Newburg and surrounding areas in Preston County, be, and hereby is, approved, subject to bids not exceeding construction cost estimates.

IT IS FURTHER ORDERED that the financing of the project, being an Environmental Protection Agency grant in the amount of \$1,805,461; a Rural Utilities Service grant in the amount of \$376,000; and a Rural Utilities Service loan in the amount of \$110,000, at an interest rate not to exceed 4.87% for a period not to exceed forty (40) years, be, and hereby is, approved.

IT IS FURTHER ORDERED that, if there is a change in any of the cost, scope, terms and conditions or financing of this project, the Town notify the Commission immediately and request Commission approval of said change.

IT IS FURTHER ORDERED that the Town notify the Commission within thirty days of substantial completion of the project.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Susan A. Murensky  
Administrative Law Judge

SAM:jas  
011443ab.wpd



TOWN OF NEWBURG

Sewer Revenue Bonds, Series 2002  
(United States Department of Agriculture)

RECEIPT FOR BONDS

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 3rd day of May, 2002, at Newburg, West Virginia, the undersigned received for the Purchaser the Town of Newburg Sewer Revenue Bonds, Series 2002 (United States Department of Agriculture), numbered R-1, in the principal amount of \$110,000 (the "Bonds"), issued as a single, fully registered Bond, dated the date hereof, and bearing interest at the rate of 4.50% per annum, payable in monthly installments as stated in the Bond. The Bonds represent the entire above-captioned Bond issue.

2. At the time of such receipt, the Bonds had been executed and sealed by the designated officials of the Town of Newburg (the "Issuer").

3. At the time of such receipt, there was paid to the Issuer the sum of \$12,239.47, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be paid to the Issuer as acquisition and construction of the Project progresses.

WITNESS my signature on this 3rd day of May, 2002.

  
\_\_\_\_\_  
Authorized Representative

04/16/02  
658210/98001



# SPECIMEN

## TOWN OF NEWBURG

SEWER REVENUE BONDS, SERIES 2002  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$110,000

No. R-1

Date: May 3, 2002

FOR VALUE RECEIVED, the TOWN OF NEWBURG (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 TEN THOUSAND DOLLARS (\$110,000), 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 this Bond and continuing on the corresponding day of each month for the first twenty-four months after the date hereof, and \$505, 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 acquisition and construction of additions, betterments and improvements to the sewerage system (the "System") of the Borrower, is payable solely from and secured by the revenues to be derived from the operation 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, nor shall the Borrower be obligated to pay the same or the interest thereon except from the special fund so provided.

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 said 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 Ordinance, 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 13 of the West Virginia Code, as amended (the "Act"), and an Ordinance of the Borrower duly enacted on April 16, 2002, authorizing issuance of this Bond (the "Ordinance").

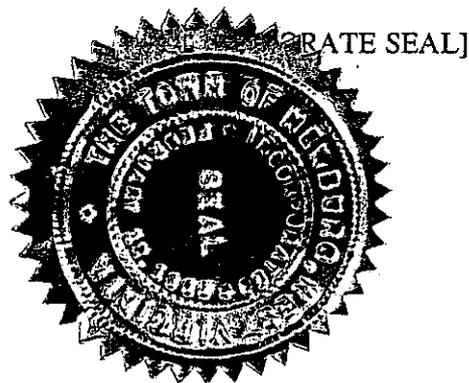
If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan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

IN WITNESS WHEREOF, the TOWN OF NEWBURG has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Recorder, all as of the date hereinabove written.

TOWN OF NEWBURG

(Name of Borrower)



*James S. [Signature]*  
(Signature of Executive Official)

Mayor

(Title of Executive Official)

P. O. Box 40

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

Newburg, West Virginia 26410

(Town, State and Zip Code)

ATTEST:

*[Signature]*  
(Signature of Attesting Official)

Recorder

(Title of Attesting Official)

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$12,239.47	May 3, 2002	(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:

04/29/02  
658210.98001





Clarksburg Charleston Morgantown Martinsburg Wheeling Parkersburg

Bank One Center, Seventh Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.steptoelaw.com

Writer's Contact Information

May 3, 2002

Town of Newburg  
Sewer Revenue Bonds, Series 2002  
(United States Department of Agriculture)

Town of Newburg  
Newburg, 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 the Town of Newburg, in Preston County, West Virginia (the "Issuer"), of its \$110,000 Sewer Revenue Bonds, Series 2002 (United States Department of Agriculture) (the "Series 2002 Bonds" or the "Bonds"), dated the date hereof, pursuant to Chapter 16, Article 13, of the West Virginia Code of 1931, as amended (the "Act"), and an ordinance of the Issuer duly enacted on April 16, 2002 (the "Ordinance"). 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 Ordinance 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 a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia with full power and authority to adopt and enact the Ordinance, perform the agreements on its part contained therein and issue and sell the Bonds, all under the provisions of the Act and other applicable provisions of law.

2. The Ordinance has been duly adopted and enacted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable upon the Issuer.

CH510087.2



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3. Pursuant to the Act, the Ordinance creates a valid lien on the funds pledged by the Ordinance for the security of the Bonds and subject to no prior lien granted under the Act.

4. The Bonds have been duly authorized, executed and delivered by the Issuer and is a valid and binding special obligation of the Issuer, payable solely from the sources provided therefor in the Ordinance.

5. The Bonds have not been issued on the basis that the interest thereon is or will be excluded from gross income 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 all taxation by the State of West Virginia, or any county, municipality or county commission, political subdivision or agency thereof, and interest on the Bonds are exempt from personal 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 Ordinance 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



# MCNEER, HIGHLAND, MCMUNN AND VARNER, L.C.



107 WEST COURT STREET  
P.O. Box 585  
KINGWOOD, WV 26537  
TELEPHONE (304) 329-0773  
FACSIMILE (304) 329-0595

Kingwood Office  
James T. Dailey, Jr.  
Melvin C. Snyder III

## OTHER LOCATIONS

CLARKSBURG OFFICE  
ONE VALLEY BANK BUILDING  
P.O. DRAWER 2040  
CLARKSBURG, WV 26302-2040  
TELEPHONE (304) 626-1100  
FACSIMILE (304) 623-3035

Martinsburg Office  
2520 Aikens Center  
P.O. Box 2509  
Martinsburg, WV 25402-2509  
Telephone (304) 264-4621  
Facsimile (304) 264-8623

Parkersburg Office  
404 Market Street, Suite 204  
P.O. Box 1507  
Parkersburg, WV 26102  
Telephone (304) 422-7193  
Facsimile (304) 422-7196

May 3, 2002

Town of Newburg  
Sewer Revenue Bonds, Series 2002  
(United States Department of Agriculture)

Town of Newburg  
Newburg, West Virginia

United States Department of Agriculture  
Morgantown, West Virginia

Steptoe & Johnson PLLC  
Clarksburg, West Virginia

Ladies and Gentlemen:

We are counsel to the Town of Newburg, a municipal corporation in Preston County, West Virginia (the "Issuer"). As such counsel, we have examined copies of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, an ordinance of the Issuer duly enacted April 16, 2002 (the "Ordinance"), other documents and papers relating to the Issuer and the above-captioned Bonds of the Issuer (the "Bonds"). All capitalized terms used in the Ordinance and not otherwise defined herein shall have the same meanings set forth in the Ordinance when used herein.

We are of the opinion that:

1. The Issuer is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia.

2. The Mayor, Recorder and members of the Council of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.

3. The Ordinance has been duly adopted and enacted by the Issuer and is in full force and effect.

4. Other than the Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

5. The execution and delivery of the Bonds and the consummation of the transactions contemplated by the Bonds and the Ordinance, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

6. All applicable and necessary permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations required by law for the issuance of the Bond, 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 Public Service Commission of West Virginia, and the Issuer has duly taken any other action required for the imposition of such rates and charges, including, without limitation, the due enactment of an ordinance prescribing such rates and charges, the time for appeal of which has expired prior to the date hereof without appeal.

7. To the best of our knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds and the Ordinance, 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,

A handwritten signature in cursive script, appearing to read "Melvin C. Snyder III".

Melvin C. Snyder III



TOWN OF NEWBURG

Sewer Revenue Bonds, Series 2002  
(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. PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE
15. RATE FILING WITH PSC
16. GRANTS
17. CONFLICT OF INTEREST
18. EXECUTION OF COUNTERPARTS

We, the undersigned MAYOR and RECORDER of the Town of Newburg, in Preston 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 Town of Newburg Sewer Revenue Bonds, Series 2002 (United States Department of Agriculture), No. R-1, dated the date hereof, fully registered, in the principal amount of \$110,000 (the "Series 2002 Bonds" or the "Bonds"), as follows:

1. AUTHORIZATION AND AWARD OF BOND: 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 from the Purchaser,

dated February 17, 1998, and as appears in Section 7.03 of the Ordinance of the Issuer duly enacted on April 16, 2002, authorizing issuance of the Series 2002 Bonds (the "Ordinance" or "Bond Ordinance"). All capitalized terms used herein and not otherwise defined herein shall have the same meaning as defined in the Bond Ordinance 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 System, herein defined and described, 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, if any, committed for the System, hereinafter defined; 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, if any, committed for the System or the validity of 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 the Council of the Issuer (the "Governing Body") or the title of the members and officers thereof to their respective offices; nor questioning the acquisition, construction or operation of the sewerage system of the Issuer (the sewerage system, as improved and expanded by the Project, herein defined, is herein called the "System") or the acquisition and construction of extensions, improvements and additions thereto (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 System were solicited in accordance with Chapter 5, Article 22, Section 1 of the Official West Virginia Code of 1931, as amended.

The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia entered on April 15, 2001, which became final by Commission Order entered on April 19, 2002, in Case No. 01-1443-S-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 without any appeal.

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 the acquisition and construction of the Project.

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.

5. SIGNATURES, ETC.: The undersigned Mayor and Recorder did, for the Issuer on the date hereof, officially execute and seal the Series 2002 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 or appointed (as applicable), 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 or changed in any way unless modification appears from later documents also listed below:

Bond Ordinance

Public Service Commission Order

Town Charter

Oaths of Office of Officers and Council members

Sewer Rate Ordinance

Affidavit of Publication of Notice of Public Hearing on Sewer Rate Ordinance

Minutes on Adoption and Enactment of Sewer Rate Ordinance

Affidavit of Publication of Abstract of Bond Ordinance and Notice of Public Hearing on Bond Ordinance

Minutes on Adoption and Enactment of Bond Ordinance

United States Department of Agriculture Letter of Conditions

United States Department of Agriculture Grant Agreement

United States EPA Grant

Evidence of Payment of Step 1 Loan

The undersigned Mayor hereby covenants that he has or will file tariffs pursuant to the Final Order of the Public Service Commission when the completion date of the Project is definitely known, or has or will cause such tariffs to be filed in accordance with said order or as otherwise required by law.

7. INCUMBENCY AND OFFICIAL NAME, ETC.: The proper corporate title of the Issuer is "Town of Newburg." The Issuer is a municipal corporation and political subdivision of the State of West Virginia, in Preston County of said State. The governing body of the Issuer is its Council, consisting of a Mayor, a Recorder and 5 council members, all duly elected or appointed (as applicable), qualified and acting, whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>		<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Lauren Goughenour	- Mayor	07/01/01	06/30/03
	- Recorder		
Kevin Curry	- Councilmember	07/01/01	06/30/03
Edgar Fortney	- Councilmember	07/01/01	06/30/03
James Haddix, Sr.	- Councilmember	07/01/01	06/30/03
Mary Alberico Taylor	- Councilmember	07/01/01	06/30/03
James Weaver	- Councilmember	07/01/01	06/30/03

The duly appointed and acting Attorney for the Issuer is McNeer, Highland, McMunn & Varner, L.C., of Kingwood, West Virginia.

8. DELIVERY AND PAYMENT AND USE OF PROCEEDS: On the date hereof, the Series 2002 Bonds were delivered to the Purchaser by the undersigned Mayor for the purposes set forth herein, and at the time of such delivery, the Series 2002 Bonds have been duly and fully executed and sealed on behalf of the Issuer in accordance with the Ordinance.

At the time of delivery of the Bonds, the undersigned Mayor received \$12,239.47, being a portion of the principal amount of the Series 2002 Bonds. Further advances of the balance of the principal amount of the Series 2002 Bonds will be paid to the Issuer as acquisition and construction of the Project progresses.

The Series 2002 Bonds are dated the date hereof, and interest on advances of the principal thereof at the rate of 4.50% per annum is payable from the date of each advance.

The Series 2002 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 Series 2002 Bonds.

10. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.: All actions, ordinances, 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 official West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed (as applicable), qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

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 and Commitment of the Purchaser, as amended, and the Ordinance.

12. CONNECTIONS, ETC.: The Issuer has provided evidence that there will be at least 106 bona fide users to be served by the System upon the completion of the Project, 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 the Purchaser.

14. **PUBLICATION AND PUBLIC HEARING ON BOND ORDINANCE:** Upon adoption of the Bond Ordinance, an abstract thereof, determined by the Governing Body to contain sufficient information as to give notice of the contents thereof, was published once each week for 2 successive weeks, with not less than 6 full days between each publication, the first such publication occurring not less than 10 days before the date stated below for the public hearing, in *The Preston County Journal*, a qualified newspaper of general circulation in the Town of Newburg together with a notice to all persons concerned, stating that the Bond Ordinance had been adopted and that the Issuer contemplated the issuance of the Series 2002 Bonds described in such Bond Ordinance, stating that any person interested may appear before the Governing Body at the public hearing held at a public meeting of Governing Body on the 16th day of April, 2002, at 7:00 p.m., at the Newburg Town Hall and present protests, and stating that a certified copy of the Bond Ordinance was on file at the office of the Recorder of the Issuer for review by interested parties during the office hours of the Issuer. At such hearing all objections and suggestions were heard by the Governing Body and the Bond Ordinance became finally adopted, enacted and effective as of the date of such public hearing, and remains in full force and effect.

15. **RATE FILING WITH PSC:** Pursuant to West Virginia Code Section 24-2-4b, the Issuer has filed the rates and rules contained in the Rate Ordinance authorizing such rates and rules with the Public Service Commission of West Virginia.

16. **GRANTS:** As of the date hereof, the grant from the Purchaser in the amount of \$376,000 and the grant from the United States Environmental Protection Agency in the amount of \$1,805,461 are committed and in full force and effect.

17. **CONFLICT OF INTEREST:** No 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 Series 2002 Bonds, the Bond Ordinance and/or the Project, including, without limitation, with respect to the Depository Bank, as defined in the Bond Ordinance. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

18. **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 corporate seal of the TOWN OF NEWBURG on this 3rd day of May, 2002.

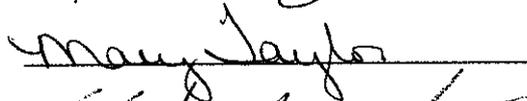
[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE



Mayor



Recorder



Attorney for Issuer

04/11/02  
68210.98001



TOWN OF NEWBURG

Sewer Revenue Bonds, Series 2002  
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

I, H. Wood Thrasher, Registered Professional Engineer, West Virginia License No. 9478, of Thrasher Engineering, Inc., Clarksburg, West Virginia, hereby certify that my firm is engineer for the acquisition and construction of the new sewerage system (the "Project") of the Town of Newburg (the "Issuer"), to be acquired and constructed in Preston County, West Virginia, which acquisition and construction are being financed in part by the above-captioned Sewer Revenue Bond of the Issuer.

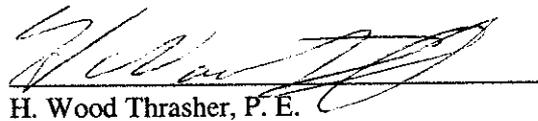
I further certify that the Project will, to the best of my knowledge, be constructed in accordance with plans and specifications prepared by my firm and that such system is situate wholly or chiefly within the boundaries of the Issuer.

I further certify that the Project is adequate for the purpose for which it was designed and that all necessary governmental approvals, consents, authorizations, certificates and permits for the acquisition and construction thereof have been obtained or will be obtained.

WITNESS my signature on this 3rd day of May, 2002.

THRASHER ENGINEERING, INC.

(SEAL)



H. Wood Thrasher, P. E.  
WV License No. 9478

03/12/02  
658210.98001



Chapter 22. - An ACT to incorporate the town of Newburg

Passed February 12, 1868

Be it enacted by the Legislature of West Virginia:

1. That the inhabitants of so much of the county of Preston as are within the bounds hereinafter described, or may hereafter reside within said bounds, shall be and they are hereby made a body politic and corporate, by the name and style of "The Town of Newburg". The corporated limits and boundaries of the town of Newburg shall be as follows: Beginning at the western end of the town, at a maple tree near Capt. W. Paul's lot; thence east six hundred and ninety-four feet, to a poplar tree on the incline; thence south eighty feet, thence east two thousand four hundred feet to the road; thence south forty degrees east to a chestnut tree near the church; thence north thirty two degrees east seven hundred and seventy six feet to a rock on the west bank of Little Raccoon creek, near Mr. Sharo's; thence north thirty three degrees west one thousand one hundred and fifty four feet; thence south forty one degrees west two hundred and seventy four feet to the south eastern corner of Mr. Shoot's orchard; thence south eighty two degrees west two thousand one hundred and sixty seven feet to a stump; thence south fifty four degrees west to a milestone on the railroad, near the cut; thence south eleven degrees west to the place of beginning.

2. The municipal authorities of said town shall be a mayor, recorder and five councilman, who together shall form a common council.

3. The mayor, recorder and councilmen, so soon as they have been elected and qualified as hereinafter provided, shall be a body politic and corporate, by the name of "The Town of Newburg", and shall have perpetual succession and a common seal, and by that name may sue and be sued, inplead and be inpleaded, may purchase and hold real estate necessary to enable them the better to discharge their duties, and needful for the good order, government and welfare of said town.

4. All the corporate powers of said corporation shall be exercised by the said council, or under their authority, except where otherwise provided.

5. There shall be a town sergeant, a treasurer and commissioner of the revenue appointed by the council, to continue in office at it's pleasure, and perform the duties respectively as hereinafter prescribed, or as may be required by the council.

6. The duties of the office of recorder, treasurer and commissioner of the revenue may be discharged by the same person, or otherwise, as the council may from time to time determine.

7. The mayor, recorder and councilmen shall be elected by the citizens of said town who may be entitled to vote under this act, and (except when elected to fill vacancies) for the term of one year, and until their successors shall have been elected and qualified, and shall be residents in said town, and entitled to vote for members of its common council.

8. The first election under this act shall be on the third Saturday in April, eighteen hundred and sixty eight, at the house of John Berry, in said town, under the supervision of a justice of Lyon township; and annually thereafter there shall be an election on the same day in each year, at such place and under such supervision, rules and regulations as the council in said town may prescribe. The person conducting the first election shall grant certificates to the persons elected, which shall be entered upon the records with the ordinances of said council, and their term of office shall commence on the first day of May next after their election.

9. All persons resident in said town, and entitled to vote for county and township officers, shall be entitled to vote for mayor, recorder and councilmen.

10. When a vacancy shall occur, from any cause, in the office of mayor, recorder, or in the council, the vacancies shall be filled by appointment by the council.

11. At all elections the vote shall be by ballot, and when two or more persons for the same office, at any election, shall receive an equal number of votes, the person or persons so conducting such an election shall decide which of said persons shall be returned elected. And all contested elections shall be heard and determined by the council for the time being.

12. The mayor, recorder, councilmen, sergeant, treasurer and commissioner of the revenue shall each, before entering upon the duties of his office, and within ten days after being furnished with a certificate of his election, take and subscribe the oath of loyalty prescribed for county and township officers, and that they will truly, faithfully and impartially discharge the duties of their said offices, respectively, to the best of their abilities, so long as they continue therein. The recorder shall take such oath or affirmation before a justice, or other officer authorized to administer oaths, and thereupon he shall administer the oaths aforesaid to the other officers and councilmen. Certificates of the said oaths or affirmations shall be filed with the recorder, and the fact of their administration be entered on the journal of the proceedings of the council.

13. When any four of the newly elected councilmen shall have been so qualified, they shall enter upon their said offices and supercede the former councilmen.

14. If any one elected mayor, recorder or councilman shall not have been eligible, or shall fail or refuse to take the oath or affirmation required under this act, within the ten days aforesaid, such office shall be declared vacant, and the vacancy filled as hereinbefore prescribed, but in all cases from among the citizens of the town eligible to such office or position under this act.



contagious diseases; to provide a revenue for the town, and appropriate the same, and to provide for the annual assessment of taxable persons and property of the town; to adopt rules for the transaction of business, and the government regulations of its own body, and protect the property, and preserve peace and good order therein; to keep a town guard, appoint such officers as they may deem proper, including a sergeant, commissioner of the revenue and treasurer; to define their powers, prescribe their duties, fix their term of service and compensation, require and take from them bonds, with such sureties, and in such penalty, as the council may determine, conditioned for the true and faithful discharge of their duties, and remove them at pleasure; (all bonds to be made payable to the town by its corporate name); to erect, or authorize or prohibit the erection of gas works or water works, in or near the town; to prevent injuries to or pollution of the same; for all which purposes named in this clause, except that of taxation, the council shall have jurisdiction for one mile beyond the borough; to regulate and provide for weighing and measuring of hay, coal, and other articles sold, or for sale, in said town, and to regulate the transportation thereof through the streets, and generally to do such things as the council shall deem necessary for the interest, prosperity, peace and good order of said town.

19. To carry into effect these enumerated powers, and all others conferred upon the said town or its council expressly, or by implication, in this or any other acts of the Legislature, the council have power to adopt and enforce all needful orders, by-laws and ordinances not contrary to the constitution and laws of this State, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment for a term not exceeding thirty days, under the judgment and order of the mayor of said town, or the person lawfully exercising his functions. The council, with the consent of the supervisors of Preston county, entered of record, may have the right to use the jail of said county for any purpose necessary in the administration of its affairs.

20. The annual levy ordered by the council may be upon all male persons within said town over twenty one years of age, dogs, hogs, and other animals, and on all real estate within said town which is not exempt from State taxation, and all such other subjects in said town as may at the time be assessed with State taxes; provided, that the tax do not exceed one dollar on every one hundred dollars of value of unimproved lots, and seventy five cents on every one hundred dollars of the value of real and personal property, or two dollars per head on each taxable person.

21. When anything for which a State license is required, is to be done within the said town, the town may require a town license to be had for doing the same, and may impose a tax thereon for the use of the town, and the council may, in any case, require from the person so licensed, a bond, with sureties in such penalty and with such conditions as it may determine.

22. The sergeant shall collect the town taxes, fines, levies and licenses, and after thirty days from the time he may receive the books of the commissioner of the revenue of said town, may distrain and sell thereof, in the manner as a sheriff may for State taxes, and shall in all respects have the same power as the sheriff to enforce the payment and collection thereof, and shall, within the corporate limits of the town, exercise all the duties that a constable can legally exercise in regard to the collection of claims, executing and levying process, and shall be entitled to the same compensation therefore, and he and his securities shall be liable to all the fines, penalties and forfeitures that a constable is legally liable to, for any failure or dereliction in said office, to be recovered in the same manner and before the same tribunals that the same are now recovered against constables.

23. There shall be a lien on real estate for the town taxes assessed thereon from the commencement of the year for which they are assessed, and the council may order and require the same to be sold or rented by the sergeant at public auction, for the arrears, with interest thereon, with such per centum as the council may

prescribe for charges and expenses thereof, and may regulate the terms upon and time within which the same may be recovered. No such sale or renting shall be ordered until such realty be returned delinquent, and the sale shall be after twenty days notice, posted at the court house door and the post office in said town.

24. The council may prohibit any theatrical or other performance, show or other exhibition, it may deem injurious to the morals or good order of the town.

25. The mayor shall be the chief executive officer of the town; shall take care that the by-laws, ordinances and orders of the council are faithfully executed; shall be ex officio, a conservator, and justice in the town, and shall, within the same, exercise all the powers and duties vested in justices, except that he shall have no jurisdiction in civil causes; shall have control of the police of the town, and may appoint special police officers; shall see that peace and good order are observed, and that persons and property are protected in the town; shall have power to issue executions for all fines and costs imposed by him, or may require the immediate payment thereof, and in default of such payment, may commit the party in default to the jail of the county, until the fine and costs be paid; but the term of imprisonment in such case shall not exceed thirty days. He shall, from time to time, recommend to the council such measures as he may deem needful to the welfare of the town, and shall receive a comensation for his services, to be paid by the council, which shall not be increased or diminished for the term which he was elected.

26. The recorder shall keep a journal of the proceedings of the council, and have charge of and preserve the records of the town; and shall receive a compensation for his services, to be fixed by the council, which shall not be increased or diminished for the term for which he was elected.

27. All moneys belonging to said town shall be paid over to the treasurer, who shall pay out the same upon the order of the mayor, countersigned by the recorder, and not otherwise; or for any default or liability upon the part of the treasurer or sergeant, the council, in the corporated name of said town, may on motion, after ten days notice, obtain judgment before the circuit court of said county, on account thereof, against them and their securities respectively, or any or either of them, or their heirs or legal representatives.

28. The said town, and taxable persons and property therein, shall be exempt from all expense or liability for the construction or repair of roads or bridges outside the corporate limits of said town.





STATE OF WEST VIRGINIA, COUNTY OF PRESTON. SS:

I, LAUREN J. Goughenour do solemnly swear that I will support

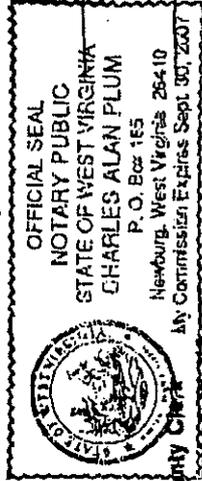
the Constitution of the United States and the Constitution of this State; and that I will faithfully discharge the duties of my office of Mayor for the Town of Newburg

of Preston County, for the 2 year term commencing on the 1st

day of July 2001 to the best of my skill and judgment. So help me God.

(Sign Here) Lauren J. Goughenour 2001

Subscribed and sworn to before me the undersigned this 22 day of June



Charles Alan Plum

Notary Public / Mayor

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Kevin M. Curry

do solemnly swear that I will support

the Constitution of the United States and the Constitution of this State; and that I will faithfully

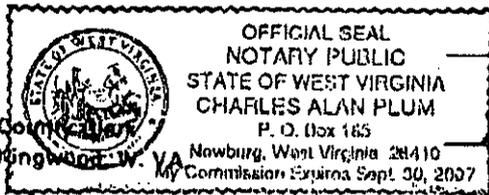
discharge the duties of my office of Council Seat

of Preston County, for the two year term commencing on the Ten First

day of July 1901 to the best of my skill and judgment. So help me God.

(Sign Here) Kevin M. Curry

Subscribed and sworn to before the undersigned this 22 day of June 1901



Charles Alan Plum  
Notary Public / Mayor

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Edgar E. Fortney do solemnly swear that I will support

the Constitution of the United States and the Constitution of this State; and that I will faithfully

discharge the duties of my office of Councilman

of Preston County, for the 2 year term commencing on the 1st

day of July 2001, to the best of my skill and judgment. So help me God.

(Sign Here) Edgar E. Fortney

Subscribed and sworn to before the undersigned this 30 day of June, 2001

OFFICIAL SEAL  
NOTARY PUBLIC  
STATE OF WEST VIRGINIA  
CHARLES ALAN PLUM  
P. O. Box 185  
Newburg, West Virginia 26410  
My Commission Expires Sept 30, 2007  
County Clerk  
Kingwood, W. VA.

Charles Alan Plum  
Notary Public

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, Mary Taylor

do solemnly swear that I will support

the Constitution of the United States and the Constitution of this State; and that I will faithfully

discharge the duties of my office of Council Member

of Preston County, for the Two year term commencing on the first

day of July 2001 to the best of my skill and judgment. So help me God.

(Sign Here) Mary Taylor

Subscribed and sworn to before the undersigned this 22<sup>nd</sup> day of June, 2001



OFFICIAL SEAL  
NOTARY PUBLIC  
STATE OF WEST VIRGINIA  
CHARLES ALAN PLUM  
P. O. BOX 1185  
Newburg, West Virginia 26410  
Commission Expires Sept. 30, 2007  
County Clerk  
KINGWOOD, W. VA.

Charles Alan Plum  
Notary Public

STATE OF WEST VIRGINIA, COUNTY OF PRESTON, SS:

I, James E. Halley Sr. do solemnly swear that I will support  
the Constitution of the United States and the Constitution of this State; and that I will faithfully  
discharge the duties of my office of Council

of Preston County, for the Council term commencing on the July 1 01  
day of July 201  
199 to the best of my skill and judgment. So help me God.

(Sign Here) James E. Halley Sr.

Subscribed and sworn to before me this 28 day of June 2001  
NOTARY PUBLIC  
STATE OF WEST VIRGINIA  
CHARLES ALAN PLUM  
P. O. Box 185  
Newburg, West Virginia 26410  
My Commission Expires Sept. 30, 2007



Charles Alan Plum  
Notary Public / Mayor

County Clerk  
Kingwood, W. VA.

STATE OF WEST VIRGINIA, PRESTON CO.SS:

I James H Weaver \_\_\_\_\_, DO

SOLEMNLY SWEAR THAT I SUPPORT THE

CONSTITUTION OF THIS STATE AND THAT

I WILL FAITHFULLY DISCHARGE THE

DUTIES OF MY OFFICE OF Council Member for

The Town of Newburg OF PRESTON COUNTY,

FOR THE 2001, 2003 YEAR TERM COMMENCING

ON THE 1<sup>st</sup> DAY OF July 2001.

(Sign here) James H Weaver

Subscribed and sworn before the undersigned this  
Thursday day of April 2002.

James Angus Hays





**Special Meeting  
Newburg Town Council  
May 2, 2002 7:00P.M.**

**Present: Mayor Lawren Goughenour, Council Members Mary Taylor, James Weaver, James Haddix, Edgar Fortney and Kevin Curry. Town's Attorney Mel Snyder, USDA representative Joseph Crickenberger.**

**Meeting called to order by the Mayor.**

**Mayor explained that the first order of business would be in regards to the RUS loan and funds. Mayor turned the floor over to Joseph Crickenberger for explanation about the loan and funds that are from USDA. Mr. Crickenberger explained the importance of the loan resolutions for the money and the importance to move the project forward.**

**Motion by Mary Taylor and seconded by James Haddix to approve the four letters of condition in regards to the loan resolution for the RUS money. Motion passed 4-0 with Weaver, Haddix, Fortney, and Taylor voting in favor of.**

**Late arrival of Council member Kevin Curry just after the first vote.**

**Open discussion was held about the recorder position and the need for a recorder for the bond issue. Detailed information from Mr. Snyder and Mr. Crickenberger about how this could hold up the sewage project for the Town.**

**Motion by James Haddix to appoint Mary Taylor for 10 days as Recorder. Second by Kevin Curry. Motion Passed 3-2 With Curry, Taylor, and Haddix voting for the motion and Weaver and Fortney voting against.**

**Motion to close by Fortney, Second by Weaver motion passed 5-0**



RECEIVED  
01 MAY -9 PM 3:03  
W. W. J. ... OFFICE

**TOWN OF NEWBURG**

AN ORDINANCE ESTABLISHING AND FIXING SEWER RATES, CONNECTION CHARGES, RECONNECTION CHARGES, DELAYED PAYMENT PENALTY AND OTHER CHARGES FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE TOWN OF NEWBURG

**THE COUNCIL OF THE TOWN OF NEWBURG HEREBY ORDAINS:**

The following rules, rates and charges are hereby fixed, determined and established for municipal sewage services provided to all general domestic, commercial, and industrial users and customers of the Town of Newburg Municipal Sewage Treatment Plant and Collection System, commencing upon the effective date as hereinafter provided, and in accordance with the following Rates and Schedules:

**SECTION 1. SCHEDULE OF RATES, CHARGES AND PENALTIES**

**SCHEDULE I**

**APPLICABILITY**

Applicable to the entire territory served.

**AVAILABILITY OF SERVICE**

Available for general domestic, commercial and industrial (except unusual industrial waste) service.

**RATES**

First	3,000 gallons	\$6.75 per 1,000 gallons
Over	3,000 gallons	\$6.75 per 1,000 gallons

**CONNECTION FEE**

The minimum connection fee for a building or premises connecting for the first time to the sewer system shall be as follows, payable in advance:

Prior to Construction:	\$100.00
After start of Construction:	\$300.00

MINIMUM CHARGE

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

5/8" or 5/8" x 3/4"	Meter	\$ 20.25 per month
3/4"	Meter	30.38 per month
1"	Meter	51.64 per month
1-1/2"	Meter	101.25 per month
2"	Meter	162.00 per month
3"	Meter	303.75 per month
4"	Meter	506.25 per month
6"	Meter	1,012.50 per month
8"	Meter	1,620.00 per month

Minimum monthly bill for \$20.25 for 3,000 gallons.

UNMETERED RATE

The unmetered monthly bill shall be \$20.25.

DOMESTIC SECURITY DEPOSITS

A refundable security deposit not to exceed 1/12 of the annual estimated charge for domestic service shall be required of domestic customers prior to being connected or reconnected. Said deposit will be refunded with interest (at a rate provided annually by the Public Service Commission) after 12 consecutive months of on time payments.

COMMERCIAL AND INDUSTRIAL SECURITY DEPOSITS

A refundable security deposit not to exceed 1/6 of the annual estimated charge for commercial or industrial service shall be required of commercial and industrial customers prior to being connected or reconnected. Said deposit will be refunded with interest (at a rate provided annually by the Public Service Commission) after 12 consecutive months of on time payments.

MULTIPLE OCCUPANCY

Apartment buildings and other multiple occupancy buildings shall be required to pay not less than the monthly Minimum Bill for each unit. Hotels and motels shall be exempt from this multiple occupancy charge.

House trailer or mobile home courts served through a single meter shall be required to pay the monthly Minimum Bill multiplied by the number of units in place at the time the meter is read each month.

DELAYED PAYMENT PENALTY

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

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

If any bill is not paid within 60 days from the date of the bill, water service to the customer will be disconnected and will not be restored until all past due bills have been paid in full, together with all penalty charges, subject to applicable rules of the Public Service Commission of West Virginia.

Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of \$25.00 shall be charged; or in the event the delinquent sewer bill is collected by the Town in the field, an administrative fee of \$25.00 shall be charged. A \$25.00 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored, after water service has been terminated for non-payment of sewer bills.

RETURNED CHECK CHARGE

If a check received is returned by the bank for any reason, the bank's charge to the Town shall be the Town's charge to the customer for such returned check and under no circumstances shall the fee collected by the Town exceed \$20.00.

SCHEDULE II

SURCHARGE FORMULA TO BE APPLIED IN CASES WHERE SURFACE DRAINAGE IS CONNECTED TO THE TOWN'S SANITARY SEWER SYSTEM

Where the Town has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the Town's sewer system and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the Town in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S - The surcharge in dollars

A - The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet

- R - The measured monthly rainfall, in inches
- .0006233 - A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water
- C - The Town's approved rate per thousand gallons of metered water usage

The Town shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

### SCHEDULE III

#### SURCHARGE FORMULA FOR USERS PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual wastes will be calculated on the basis of the following formula:

$$C_i = V_o V_i + B_o B_i = S_o S_i$$

$C_i$  = Charge to unusual users per year

$V_o$  = Average unit cost of transport and treatment chargeable to volume, in dollars per gallon

$V_i$  = Volume of waste water from unusual users, in gallons per year

$B_o$  = Average unit cost of treatment, chargeable to Bio-chemical Oxygen Demand (BOD), in dollars per pound

$B_i$  = Weight of BOD from unusual users, in pounds per year

$S_o$  = Average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound

$S_i$  = Weight of total solids from unusual users, in pounds per year

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made at the expense of the user. Waste containing materials which, in the judgement of the Town of Newburg or its duly authorized Board or agents, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charges therefor, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the Town of Newburg's relevant records, new cost figures will be calculated for the use in the above formula. The cost of establishing the monitoring facilities shall be paid by the user. Based on the audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the Town of Newburg, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

SCHEDULE IV  
FORMULA FOR CERTAIN NON-METERED INDUSTRIAL PLANTS

Where the amount of sanitary discharged into the Town of Newburg Wastewater Treatment System by certain industrial plant or plants cannot be accurately determined by the use of the plant's meter or meters, if any, a special formula will be used whereby such plant or plants will pay to the Town of Newburg a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

SCHEDULE V

APPLICABILITY

Applicable to the entire territory served.

AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

RATES

Commodity Charge - Each hauler shall pay a commodity charge of \$10.00 per 1,000 gallons per load. A load will be the actual capacity of the truck or other transport method delivering wastewater and leachate.

#### DELAYED PAYMENT PENALTY

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

#### RETURNED CHECK CHARGE

If a check received is returned by the bank for any reason, the bank's charge to the Town shall be the Town's charge to the customer for such returned check and under no circumstances shall the fee collected by the Town exceed \$20.00.

#### SECTION 2. SEWER USAGE RULES AND REGULATIONS

The Town of Newburg Sewer Use Ordinance, as last amended, shall be the controlling rules and regulations regarding sewer usage.

#### SECTION 3. SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

#### SECTION 4. EFFECTIVE DATE

The rates, charges and penalties provided herein shall become effective forty-five (45) days after final enactment hereof, or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia.





**TOWN OF NEWBURG SEWER RATE ORDINANCE**

A public hearing will be held on Tuesday, November 6, 2001, at 7:00 p.m. on the following ordinance which has been introduced on October 23, 2001. Any person interested may appear before the Town Council of the Town of Newburg at the Newburg Town Hall, Newburg, West Virginia, and present any comment or protest thereto. Following which hearing Council shall take such action as it shall deem proper.

**AN ORDINANCE ESTABLISHING AND FIXING SEWER RATES, CONNECTION CHARGES, RECONNECTION CHARGES, DELAYED PAYMENT PENALTY AND OTHER CHARGES FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE TOWN OF NEWBURG THE COUNCIL OF THE TOWN OF NEWBURG HEREBY ORDAINS:**

The following rules, rates and charges are hereby fixed, determined and established for municipal sewage services provided to all general domestic, commercial, and industrial users and customers of the Town of Newburg Municipal Sewage Treatment Plant and Collection System, commencing upon the effective date as hereinafter provided, and in accordance with the following Rates and Schedules:

**SECTION 1. SCHEDULE OF RATES, CHARGES AND PENALTIES**

**SCHEDULE 1**

**APPLICABILITY**

Applicable to the entire territory served.

**AVAILABILITY OF SERVICE**

Available for general domestic, commercial and industrial (except unusual industrial waste) service.

**RATES**

First	3,000 gallons	\$6.75 per 1,000 gallons
Over	3,000 gallons	\$6.75 per 1,000 gallons

**CONNECTION FEE**

The minimum connection fee for a building or premises connecting for the first time to the sewer system shall be as follows, payable in advance:

Prior to Construction:	\$100.00
After start of Construction:	\$300.00

**MINIMUM CHARGE**

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

5/8" or 5/8" x 3/4"	Meter	\$20.25 per month
3/4"	Meter	30.38 per month
1"	Meter	51.64 per month
1-1/2"	Meter	101.25 per month
2"	Meter	162.00 per month
3"	Meter	303.75 per month
4"	Meter	506.25 per month
6"	Meter	1,012.50 per month
8"	Meter	1,620.00 per month

Minimum monthly bill for \$20.25 for 3,000 gallons.

**UNMETERED RATE**

The unmetered monthly bill shall be \$20.25.

**DOMESTIC SECURITY DEPOSITS**

A refundable security deposit not to exceed 1/12 of the annual estimated charge for domestic service shall be required of domestic customers prior to being connected or reconnected. Said deposit will be refunded with interest (at a rate provided annually by the Public Service Commission) after 12 consecutive months of on time payments.

**COMMERCIAL AND INDUSTRIAL SECURITY DEPOSITS**

A refundable security deposit not to exceed 1/6 of the annual estimated charge for commercial or industrial service shall be required of commercial and industrial customers prior to being connected or reconnected. Said deposit will be refunded with interest (at a rate provided annually by the Public Service Commission) after 12 consecutive months of on time payments.

**MULTIPLE OCCUPANCY**

Apartment buildings and other multiple occupancy buildings shall be required to pay not less than the monthly Minimum Bill for each unit. Hotels and motels shall be exempt from this multiple occupancy charge.

House trailer or mobile home courts served through a single meter shall be required to pay the monthly Minimum Bill multiplied by the number of units in place at the time the meter is read each month.

**DELAYED PAYMENT PENALTY**

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

**WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES**

If any bill is not paid within 60 days from the date of the bill, water service to the customer will be disconnected and will not be restored until all past due bills have been paid in full, together with all penalty charges, subject to applicable rules of the Public Service Commission of West Virginia.

Whenever water service has been disconnected for non-payment of sewer bills, a \$50.00 shall be charged as in the event the delinquent sewer

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Carol Peters, the undersigned A  
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reston County, West Virginia, do he

re notice

TOWN OF NEWBURG -

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ublished in said paper for 2 suc  
10/24  
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issue of 10/31

nd, I do further certify that on  
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*Carol Peters*

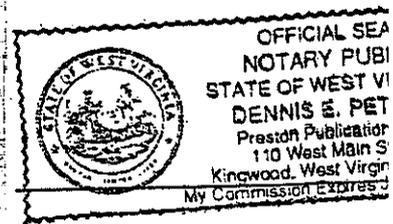
ADVERTISE

bscribed and sworn to before m

sh day of *October*, 20

*Dennis E. Pet*

My commission expires *1/2*



ublishing notice hereto \$ \_\_\_\_\_

ADVERTISE

territory served.  
 \$6.75 per 1,000 gallons  
 \$6.75 per 1,000 gallons  
 advance.  
 ing to the size

reconnection fee will be assessed for each service to sewer customers is restored, after water services has been terminated for non-payment of sewer bills.

**RETURNED CHECK CHARGE**  
 If a check received is returned by the bank for any reason, the bank's charge to the Town shall be the Town's charge to the customer for such returned check and under no circumstances shall the fee collected by the Town exceed \$20.00

**SCHEDULE II**  
**SURCHARGE FORMULA TO BE APPLIED IN CASES WHERE SURFACE DRAINAGE IS CONNECTED TO THE TOWN'S SANITARY SEWER SYSTEM**  
 Where the Town has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the Town's sewer system and such customer has failed to take appropriate action within thirty (30) days of receipt of a demand by the Town in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

- S - The surcharge in dollars
  - A - The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
  - R - The measured monthly rainfall, in inches
  - .0006233 - A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water
  - C - The Town's approved rate per thousand gallons of metered water usage
- The Town shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system.
- Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

**SCHEDULE III**  
**SURCHARGE FORMULA FOR USERS PRODUCING UNUSUAL WASTE**  
 The charge for the treatment of unusual wastes will be calculated on the basis of the following formula:

$$Ci = VoVi + BoBi = SoSi$$

- Ci = Charge to unusual users per year
- Vo = Average unit cost of transport and treatment chargeable to volume, in dollars per gallon
- Vi = Volume of waste water from unusual users, in gallons per year
- Bo = Average unit cost of treatment, chargeable to Bio-chemical Oxygen Demand (BOD), in dollars per pound
- Bi = Weight of BOD from unusual users, in pounds per year
- So = Average unit costs of treatment, (including sludge treatment) chargeable to total solids, in dollars per pound
- Si = Weight of total solids from unusual users, in pounds per year

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made at the expense of the user. Waste containing materials which, in the judgement of the Town of Newburg or its duly authorized Board or agents, should not be introduced into the sewer system need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charges therefor based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the Town of Newburg's relevant records, new cost figures will be calculated for the use in the above formula. The cost of establishing the monitoring facilities shall be paid by the user. Based on the audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the Town of Newburg, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

**SCHEDULE IV**  
**FORMULA FOR CERTAIN NON-METERED INDUSTRIAL PLANTS**  
 Where the amount of sanitary discharge into the Town of Newburg Wastewater Treatment System by certain industrial plant or plants cannot be accurately determined by the use of the plant's meter or meters, if any, a special formula will be used whereby such plant or plants will pay to the Town of Newburg a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

**SCHEDULE V**  
**APPLICABILITY**  
 Applicable to the entire territory served.  
**AVAILABILITY OF SERVICE**  
 Available for wastewater and leachate haulers.

**Publication**

I, Carol Peters, the undersigned Advertiser of The Preston County Journal, a newspaper of general circulation, published at Preston County, West Virginia, do hereby publish the notice

TOWN OF NEWBURG - SEWER

a copy of which notice is hereto annexed and published in said paper for 2 successive issues beginning with its issue of 10/24 and expiring on the issue of 10/31

And, I do further certify that on 10/24 I posted and left posted, a copy of said notice in front door of the Courthouse of said county

*Carol Peters*

ADVERTISING M

Subscribed and sworn to before me this

16 day of October, 20 01

*Dennis E. Peters*

NOTAR

commission expires 8/29/02



OFFICIAL SEAL  
 NOTARY PUBLIC  
 STATE OF WEST VIRGINIA  
 DENNIS E. PETERS  
 Preston Publications Inc.  
 110 West Main Street  
 Kingwood, West Virginia 26537  
 My Commission Expires June 29, 2002

Shipping notice hereto \$

ADVERTISING M

day

**SCHEDULE V**

**APPLICABILITY**

Applicable to the entire territory served.

**AVAILABILITY OF SERVICE**

Available for wastewater and leachate haulers.

**RATES**

**Commodity Charge** - Each hauler shall pay a commodity charge of \$10.00 per 1,000 gallons per load. A load will be the actual capacity of the truck or other transport method delivering wastewater and leachate.

**DELAYED PAYMENT PENALTY**

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

**RETURNED CHECK CHARGE**

If a check received is returned by the bank for any reason, the bank's charge to the Town shall be the Town's charge to the customer for such returned check and under no circumstances shall the fee collected by the Town exceed \$20.00.

**SECTION 2: SEWER USAGE RULES AND REGULATIONS**

The Town of Newburg Sewer Use Ordinance, as last amended, shall be the controlling rules and regulations regarding sewer usage.

**SECTION 3: SEPARABILITY; REPEAL OF CONFLICTING ORDINANCES**

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the remainder of the Ordinance. Upon the effective date hereof, all ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflicts, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

**SECTION 4: EFFECTIVE DATE**

The rates, charges and penalties provided herein shall become effective forty-five (45) days after final enactment hereof, or as soon thereafter as the same may be approved by the Public Commission of West Virginia.

**SECTION 5: STATUTORY NOTICE AND PUBLIC HEARING**

Upon introduction hereof, the Town Recorder shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks within a period of fourteen (14) consecutive days, with at least six (6) days between each publication, in the Preston County Journal and the Dominion Post, two qualified newspapers of general circulation in the Town of Newburg, and said notice shall state that this Ordinance has been introduced, and that any person interested may appear before Council at the Town Hall, Newburg, West Virginia, on November 6, 2001, at 7:00 p.m., which date is not less than ten days after the date of the first publication of the Ordinance and notice, and present any comment or protest thereto, following which hearing, Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the Town Recorder, Newburg, West Virginia.

Passed on First Reading: October 23, 2001.

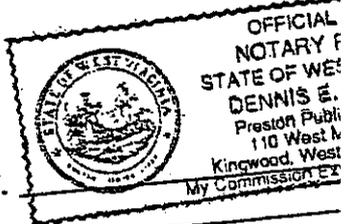
TOWN OF NEWBURG, a municipal corporation  
Mayor Lauren Goughnour

**CERTIFICATION AND NOTICE**

I hereby certify that the foregoing is a true and accurate copy of an Ordinance which has been introduced and adopted on first reading at a meeting of the Town Council of the Town of Newburg held on October 23, 2001, pursuant to proper notice, at which meeting a quorum was present and acting throughout. Any person interested may appear before the Town Council of the Town of Newburg at the Town Hall, Newburg, West Virginia, on November 6, 2001, at 7:00 p.m., being the date, time and place of the proposed final adoption of this Ordinance, and be heard. The Council will then take such action as it shall deem proper in the premises. The proposed ordinance may be inspected by the public at the Office of the Recorder in the Town Hall, Newburg, West Virginia during regular office hours.

Recorder  
10/24/31

commission exp



publishing notice hereto \$

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NOTICE OF PUBLIC HEARING ON TOWN OF NEWBURG SEWER RATE ORDINANCE

A public hearing will be held on Tuesday, November 6, 2001, at 7:00 p.m. on the following ordinance which has been introduced on October 23, 2001. Any person interested may appear before the Town Council of the Town of Newburg at the Newburg Town Hall, Newburg, West Virginia, and present any comment or protest thereto. Following which hearing, Council shall take action as it shall deem proper.

AN ORDINANCE ESTABLISHING AND FIXING SEWER RATES, CONNECTION CHARGES, RECONNECTION CHARGES, DELAYED PAYMENT PENALTY AND OTHER CHARGES FOR SERVICE TO CUSTOMERS OF THE SEWERAGE SYSTEM OF THE TOWN OF NEWBURG.

THE COUNCIL OF THE TOWN OF NEWBURG HEREBY ORDAINS: The following rules, rates and charges are hereby fixed, determined and established for municipal sewage services provided to all general domestic, commercial, and industrial users and customers of the Town of Newburg Municipal Sewage Treatment Plant and Collection Systems, commencing upon the effective date as hereinafter provided, and in accordance with the following Rates and Schedules:

SECTION 1: SCHEDULE OF RATES, CHARGES AND PENALTIES SCHEDULE I

APPLICABILITY

Applicable to the entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial (except unusual industrial waste) service.

RATES

First 3,000 gallons

Over 3,000 gallons

CONNECTION FEE

The minimum connection fee for a building or premises connecting for the first time to the sewer system shall be as follows:

payable in advance:

Prior to Construction:

After start of Construction:

MINIMUM CHARGE

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

Table with 2 columns: Meter size (5/8" or 5/8" X 3/4", 3/4", 1", 1-1/2", 2", 3", 4", 6", 8") and Monthly charge (\$20.25, 30.38, 51.64, 101.25, 162.00, 303.75, 506.25, 1,012.50, 1,662.00).

Minimum monthly bill for \$20.25 for 3,000

UNMETERED RATE

The unmetered monthly bill shall be \$20.25

DOMESTIC SECURITY DEPOSITS

A refundable security deposit not to exceed 1/12 of the annual estimated charge for domestic service shall be required of domestic customers prior to being connected or reconnected. Said deposit will be refunded with interest (at a rate provided annually by the Public Service Commission) after 12 consecutive months of on time payments.

COMMERCIAL AND INDUSTRIAL SECURITY DEPOSITS

A refundable security deposit not to exceed 1/6 of the annual estimated charge for commercial or industrial service shall be required of commercial and industrial interest (at a rate provided annually by the Public Service Commission) after 12 consecutive months of on time payments.

MULTIPLE OCCUPANCY

Apartment buildings and other multiple occupancy buildings shall be required to pay not less than the monthly Minimum Bill for each unit. Hotels and motels shall be exempt from this multiple occupancy charge.

House trailer or mobile home courts through a single meter shall be required to pay the monthly Minimum Bill multiplied by the number of units in place at the time the meter is read each month.

DELAYED PAYMENT PENALTY

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

WATER DISCONNECT-RECONNECT-ADMINISTRATIVE FEES

If any bill is not paid within 60 days from the date the bill, water service to the customer will be disconnected and will not be restored until all past bills have been paid in full, together with all penalty charges, subject to applicable rules of the Public Service Commission of West Virginia.

Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of \$25.00 shall be charged, or in the event the delinquent sewer bill is collected by the Town in the field, an administrative fee of \$25.00 shall be charged.

A \$25.00 reconnection fee will be assessed for each occurrence where water service to sewer customers is restored after water service has been terminated for non-payment of sewer bills.

RETURNED CHECK CHARGE

If a check received is returned by the bank for any reason, the bank's charge to the Town shall be the Town's charge to the customer for such returned check and under no circumstances shall the fee collected by the Town exceed \$20.00.

SCHEDULE II SURCHARGE FORMULA TO BE APPLIED IN CASES WHERE SURFACE DRAINAGE IS CONNECTED TO THE TOWN'S SANITARY SEWER SYSTEM

Where the Town has discovered that a customer's roof drain, down spouts, storm sewer or other similar facilities conducting surface water have been connected to the Town's sewer system and such customer has failed to take appropriate action within thirty (30) days of receipt of a demand by the Town in accordance with the Rules and Regulations of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

S = A x R x .0006233 x C

- S - The surcharge in dollars.
A - The area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet.
R - The measured monthly rainfall, in inches.
.0006233 - A conversion factor to charge inches of rain x square feet of surface to thousands of gallons of water.
C - The Town's approved rate per thousand gallons of metered water usage.

The Town shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing, or on-site inspection that rain or other surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty (30) days from receipt of such notice to divert the water from the sanitary sewer system. Failure to pay the said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the Rules and Regulations of the Public Service Commission of West Virginia.

SCHEDULE III SURCHARGE FORMULA FOR USERS PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

CI = VoBI + BoBI + SoBI

CI = Charge to unusual users per year

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STATE OF WEST VIRGINIA COUNTY OF MORGAN

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Ci = Charge to unusual users per year

Vo = Average unit cost of transport and treatment chargeable to volume, in dollars per gallon

Vi = Volume of waste water from unusual users, in gallons per year

Bo = Average unit cost of treatment, chargeable to Bio-chemical Oxygen Demand (BOD), in dollars per pound

Bi = Weight of BOD from unusual users, in pounds per year

So = Average unit costs of treatment (including sludge treatment) charge to total solids, in dollars per pound

Si = Weight of total solids from unusual users, in pounds per year

When an unusual user is to be served, a preliminary study of its wastes and the cost of transport and treatment thereof, will be made at the expense of the user. Waste containing materials which in the judgment of the Town of Newburg or its duly authorized Board or agents, should not be introduced into the sewer need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charges therefore, based upon the formula set out above.

Thereafter, unusual sewage will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the town of Newburg's relevant records, new cost figures will be calculated for the use in the above formula. The cost of establishing the monitoring facilities shall be paid by the user. Based on the audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user or refund given by the Town of Newburg, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

**SCHEDULE IV  
FORMULA FOR CERTAIN NON-METERED INDUSTRIAL PLANTS**

Where the amount of sanitary discharge into the town of Newburg Wastewater treatment System by certain industrial plant or plants cannot be accurately determined by the use of the plant's meter or meters, if any, a special formula will be used whereby such plant will pay to the town of Newburg a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

**SCHEDULE V**

**APPLICABILITY**

Application to the entire territory served.

**AVAILABILITY OF SERVICE**

Available for wastewater and leachate haulers.

**RATES**

Commodity Charge-Each hauler shall pay a commodity charge of \$10.00 per 1,000 gallons per load. A load will be the actual capacity of the truck or other transport method delivering wastewater and leachate.

**DELAYED PAYMENT PENALTY**

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

**RETURNED CHECK CHARGE**

If a check received is returned by the bank for any reason, the bank's charge to the Town shall be the Town's charge to the customer for such returned check and under no circumstances shall the fee collected by the Town exceed \$20.00.

**SECTION 2. SEWER USAGE RULES AND REGULATIONS**

The Town or Newburg Sewer Use Ordinance, as last amended, shall be the controlling rules and regulations regarding sewer usage.

**SECTION 3. SEPARABILITY: REPEAL OR CONFLICTING ORDINANCES**

The provisions of this Ordinance are separable, and if any clause, provision or section hereof shall be held void or unenforceable by the West Virginia Public Service Commission or any court of competent jurisdiction, such holding shall not affect the orders or parts of this Ordinance upon the effective date thereof, all ordinances, resolutions, orders or parts thereof in conflict, hereby repealed, and to the extent that the provisions of this Ordinance do not touch upon the provisions of prior ordinances, resolutions, orders or parts thereof, the same shall remain in full force and effect.

**SECTION 4. EFFECTIVE DATE**

The rates, charge and penalties provided herein shall become effective forty-five (45) days after final enactment hereof or as soon thereafter as the same may be approved by the Public Service Commission of West Virginia.

**SECTION 5. STATUTORY NOTICE AND PUBLIC HEARING**

Upon introduction hereof, the Town Recorder shall cause to be published a copy of this Ordinance once a week for two (2) successive weeks a period of fourteen (14) consecutive days, with a least six (6) days between each publication, in the Preston County Journal and The Dominion Post, two qualified newspapers of general circulation in the Town of Newburg, and said notice shall state that this Ordinance has been introduced, and any person interested may appear before Council at the Town Hall, Newburg, West Virginia, on November 6, 2001, at 7:00 p.m., which date is not less than ten days after the date of the first publication of the Ordinance and notice, and present an comment or protest thereto, following which hearing Council shall take such action as it shall deem proper. Copies of this Ordinance shall be available to the public for inspection at the office of the Town recorder, Newburg, West Virginia.

Passed on First Reading: October 23, 2001  
Passed on Second Reading: November 6, 2001  
TOWN OF NEWBURG, a municipal corporation  
Mayor

**CERTIFICATION AND NOTICE**

I hereby certify that the foregoing is a true and accurate copy of an Ordinance which has been introduced and adopted on first reading at a meeting of the town Council of the town of Newburg held on October 23, 2001, pursuant to proper notice, at which meeting a quorum was present and acting throughout. Any person interested may appear before the Town Council of the Town of Newburg at the Town Hall, Newburg, West Virginia, on November 6, 2001, at 7:00 p.m., being the date and place of the proposed final adoption of this Ordinance, and be heard. The Council will then take such action as it shall deem proper in the premises. The proposed ordinance may be inspected by the public at the Office of the recorder in the Town Hall, Newburg, West Virginia during regular office hours.

Recorder

**PUBLISH**

STATE OF WEST VIRG  
COUNTY OF MONONG

I, James Matuga

DOMINION POST,

published in the C

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day of ..Nov.... 20

Kathy

Notary Public

My commission expir

of April, 2004



My Commissic



Town of Newburg  
Special Meeting  
October 23, 2001.

Present: Mayor Lawren Goughenour, Council Members, James Weaver,  
James Haddix, Mary Taylor, Edgar Fortney and Kevin Curry. Also present  
Virginia Haddix, Mr. And Mrs. Don Morris, Todd Morris

Meeting called to order by the Mayor.

- \* Meeting is to discuss and vote on the new Town sewage rate and schedule.  
(Please see attached schedule of rates, charges and penalties) the above was  
read, reviewed and discussed by the council, mayor and others present.

Motion to pass the new ordinance by James Weaver, second by James Haddix  
motion passed 5-0

Additional business discussed by council Motion by Mary Taylor to buy the  
Town employees a \$25.00 gift certificate for Christmas and seconded by  
Kevin Curry motion passed 5-0.

Motion to close by Edgar Fortney, seconded by Mary Taylor, motion passed  
5-0.

Next meeting November 6<sup>th</sup> 2001. Sewage meeting November 14, at  
6:00P.M.

*Mr. Edw. EF. 4-0*  
*Minutes Approved 11/6/01*  
*Lawren Goughenour*  
*Mayor*

*Copy*  
*GD*

Town Meeting  
Regular Meeting  
November 6<sup>th</sup> 2001

1-of-2

Present: Mayor Lawren Goughenour: Council Members, Mary Taylor, James Weaver, James Haddix and Edgar Fortney. Town's attorney Mel Snyder.

Also present: Russ Peterson, Judith Peterson, Steve Moran, Gene Cole, Blain and Melissa Bowmar, Robert and Mary Lyons.

Meeting called to order by the Mayor.

Mayor made the statement that this meeting was to mainly focus on the reading and passage of the sewage ordinance.

Old business : Minutes were read from October 2<sup>nd</sup> and October 23<sup>rd</sup> meeting with motion to pass minutes by Edgar Fortney and second by James Haddix motion passed 4-0.

\* The new sewage <sup>works</sup> was then discussed with no direct rebuttals, or question to the Town council or the Town's attorney. Most of the question and comments were about changing out water meters and owners responsibility of hooking up to the sewage.

Comments were made and it was discussed by the Mayor to encourage individuals to use the payment plan for the hook-up fee in order to avoid the \$300.00 charge.

*copy yd*

2-of-2

It was announced that the next sewage meeting would be November 14<sup>th</sup> 2001 at 6:00 P.M. at the town hall.

Mayor asked if anyone had any question or concerns for the council or the attorney, with no reply.

\*Motion the by James Haddix for Final approval of the Sewage Ordinance and second by Mary Taylor. Motion passed 4-0.

Motion to close by James Weaver, Second by Mary Taylor, Motion passed 4-0.

*Copy yes*



**Certificate of Publication**

**LEGAL NOTICE  
TOWN OF NEWBURG**

**NOTICE OF PUBLIC HEARING ON ORDINANCE**

A public hearing will be held on the following-entitled Ordinance at a regular meeting of the Council of the Town of Newburg (the "Town") to be held on Tuesday April 16, 2002, at 7:00 p.m. in Council Chambers at the Town Hall, Newburg, West Virginia, and at such hearing any person interested may appear before the Council and present protests, and all protests and suggestions shall be heard by the Council and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

**ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF NEW PUBLIC SEWERAGE FACILITIES OF THE TOWN OF NEWBURG AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$110,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2002 (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 ORDINANCE SHALL TAKE EFFECT**

The above-entitled Ordinance was approved by the Council on April 2, 2002.

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The Town contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used to provide permanent financing of the costs of acquisition and construction of the sewerage system of the Town and to pay certain costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the sewerage system of the Town. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

A certified copy of the above-entitled Ordinance is on file with the Council at the office of the Recorder for review by interested parties during regular office hours.

Following the public hearing, the Council intends to enact the Ordinance upon final reading.

Dated: April 1, 2002.  
Lauren Goughenour, Mayor  
4/3, 10

I, **Carol Peters**, the undersigned Advertising Manager of The Preston County Journal, a weekly newspaper of general circulation, published at Kingwood, Preston County, West Virginia, do hereby certify that the notice

**Town of Newburg**

**Public Hearing on Ordinance**

a copy of which notice is hereto annexed, was published in said paper for **two** consecutive weeks, beginning with its issue of **April 3** and expiring with its issue of **April 10**.

And, I do further certify that on **April 10**

I posted and left posted, a copy of said notice at the front door of the Courthouse of said county.

*Carol Peters*

ADVERTISING MANAGER

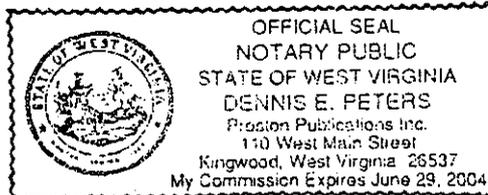
Subscribed and sworn to before me this the

3rd day of April, 2002

*Dennis E. Peters*

NOTARY PUBLIC

My commission expires 6/29/2004



Kingwood, W.V.

Received of \_\_\_\_\_

Amount for publishing notice hereto \$ \_\_\_\_\_

ADVERTISING MANAGER



Town of Newburg  
Regular Meeting  
April 2<sup>nd</sup> 2002

Present: Mayor Lawren Goughenour, Council James Weaver, James Haddix, Edgar Fortney, and Mary Taylor. Water personnel Steve Moran and Barb Casteel.

Water report was given by Steve and Barb.

Financial report was given by the Mayor; Taylor mad a motion to approve, Haddix second, motion approved 4-0

Mayor gave information that the latest update; the sewage project will be released April 15<sup>th</sup>

Mayor informed council with a reminder that the bid opening for the Dam will be April 10<sup>th</sup> at 7:00 pm at the hall.

Mayor reminded council that their will be a bond ordience public hearing April 16<sup>th</sup> at the hall 7:00 pm.

Update on old business: barrels are at the dam for the publics trash disposal; letter were sent out to 16 people about the cars; letter were sent out to people about the need for 2 water connections; a letter was set out to the mine about the Town's water sources.

Discussions were held again about the Bond ordience for the sewage project. Motion by Taylor to have a second vote of approval on the Bond, second by Haddix, motion passed 4-0. ✓

Discussion and review about the levy and budget report for the state was given by the Mayor; motion to approve the levy and budget for 2002-2003 by Weaver, seconded by Fortney, motion approved 4-0.

Motion to close by Taylor, second by Fortney, motion passed 4-0.

Town of Newburg  
Special Meeting Public Hearing for Bond  
April 16th 2002

Present: Mayor Lawren Goughenour, Council James Weaver,  
James Haddix, Kevin Curry, and Mary Taylor. Citizens Tom  
Tasker and Terry Tasker.

Meeting called to Order at 7:10 pm

✓ Mayor informed those present that this was a public hearing to  
discuss the bond issues and concerns regarding the sewage project.

Tom and Terry Tasker ask questions about what kind of time they  
would have about hooking up, and when the hook up would be.  
Mayor and council answered the questions. \

The Mayor made the statement that everyone would be informed  
with a 90 day notice of the requirements to hook up and that every  
resident would be provide with a copy of the rules for hook-up that  
were published and passed in February 2002 by the sewage board.

✓ Mayor asked if there were any specific question or concerns about  
the bond for the project. No questions were asked.

✓ Weaver made a motion to have a third vote of approval on the  
bond for the sewage project, second by Haddix, motion approved  
4-0.

Motion to close by Taylor, second by Weaver, motion passed 4-0.



WV MUNICIPAL BOND COMMISSION  
8 Capitol Street  
Suite 500, Terminal Building  
Charleston, WV 25301  
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: May 3, 2002

ISSUE: Town of Newburg, Sewer Revenue Bonds, Series 2002 (United States Department of Agriculture)

ADDRESS: Post Office Box 4, Newburg, WV 26410 COUNTY: Preston

PURPOSE OF ISSUE: New Money:  Refunding:  REFUNDS ISSUE(S) DATED: N/A

ISSUE DATE: May 3, 2002 CLOSING DATE: May 3, 2002

ISSUE AMOUNT: \$110,000 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: Step toe & Johnson PLLC  
Contact Person: Vincent A. Collins, Esquire  
Phone: (304) 624-8161

UNDERWRITERS COUNSEL: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone: \_\_\_\_\_

CLOSING BANK: Branch Banking and Trust Company  
Contact Person: Linda Uphold  
Phone: (304) 864-5051

ESCROW TRUSTEE: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone: \_\_\_\_\_

KNOWLEDGEABLE ISSUER CONTACT  
Contact Person: Lauren Goughenour  
Position: Mayor  
Phone: (304) 892-3341

OTHER: United States Department of Agriculture  
Contact Person: Joe Crickenburger  
Function: Rural Development Specialist  
Phone: (304)636-5902

DEPOSITS TO MBC AT CLOSE:  
By:  Wire  Check  IGT  
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 hold only the Series 2002 Bonds Reserve Account.

FOR MUNICIPAL BOND COMMISSION USE ONLY:  
DOCUMENTS REQUIRED: \_\_\_\_\_  
TRANSFERS REQUIRED: \_\_\_\_\_





United States  
Department of  
Agriculture

Rural Development

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

February 17, 1998

Honorable James L. Harris  
Mayor, Town of Newburg  
Box 4  
Newburg, WV 26410

Dear Mayor Harris:

This letter, with Attachments 1 through 11 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 \$165,000, an RUS grant in the amount of \$510,000, and other funding in the amount of \$1,250,000, for a total project cost of \$1,925,000. The other funding is planned in the form of a grant from the Governor's Office, Small Cities Block Grant program.

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.



- Attachment No. 1 - Project Construction Budget (All Copies)
- Attachment No. 2 - Town of Newburg 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 - Town of Newburg Sewer Users Agreement (Applicant and Attorney Copies)
- Attachment No. 10 - Declination Statement (Applicant and Attorney Copies)
- Attachment No. 11 - 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 you file is forwarded for closing instructions. Any changes required by our Office of the General Counsel will be included in the closing instructions.

The conditions referred to above are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 4.875% interest rate and a monthly amortization factor of .00483, which provides for a monthly payment of \$797.00. You have the option of participating in the **PREAUTHORIZED DEBIT (PAD)** payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account and a depreciation reserve account, which together equal 10% of the annual debt service each year for the life of the loan. Five percent (5%) will be deposited into both accounts until an annual debt payment has been accumulated. Thereafter, the entire 10% will be deposited into the depreciation reserve account.

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

2. **Security** - The loan must be secured by a statutory lien of first priority, a pledge of the system's revenues and other agreements between you and RUS as set forth in the bond ordinance 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 having obtained proper signed user agreements with at least 106 bona fide full time users located within the planned service area. You must provide evidence you have not signed user agreements from individuals located outside the planned service area.

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

Before RUS can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and that all potential users have been offered the proposed service.

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

*signed  
declination  
statements*

The RUS loan and grant commitment is based on the Town providing service to one (1) large volume user. Evidence must be provided to show that user will actually be connected to the system when it is completed and that the monthly water usage projected by the engineer for that user is reasonable. In the event that user refuses the offered service, the Town must obtain enough additional revenue (i.e., increase in user rates, sign up of an adequate number of other users, reduction in project scope to reduce debt service and O&M, etc.) to make up the projected income that would be lost by not having that user on the system.

4. Bond Counsel - The services of a recognized bond counsel are required. The bond counsel will prepare the form of ordinance 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:

*accts  
statements*

- 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 ordinance have been established and are operational.

The Audit 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 Town. The attached booklet, "Government Auditing Standards (Revised 1994)" (Attachment No. 8) outlines audit requirements. You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends \$300,000 or more in federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system's 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 Town 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 Town'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 Town has already acquired real property(s) (land or facilities), the Town'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:

*Eis join*

- West Virginia Department of Highways
- Railroads
- State Department of Health
- Department of Environmental Protection
- Public Land Corporation

10. Public Service Commission Approvals - You must obtain the following from the Public Service Commission of West Virginia:

*Down note schedule*

- a. A Certificate of Convenience and Necessity.
- b. Approval of user charges that are acceptable to you and the Rural Utilities Service, as applicable.
- 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:

*Check  
RUS CO*

- 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 Town 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 Town, 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 Town 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.

*See Bids  
copy*

14. Other Grants - Prior to advertisement for construction bids, you must provide evidence showing the approval of the other grants. This evidence should include a copy of the grant award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the "other" grant funds are available for expenditure. This evidence should consist of at least a letter from the grantor stating the funds are available for expenditure.

15. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:

- Form RD 442-7 - "Operating Budget"
- Form RD 1940-1 - "Request for Obligation of Funds"
- RUS Bulletin 1780-12 - "Water or Waste System Grant Agreement"
- Form RD 1942-47 - "Loan Resolution (Public Bodies)"
- Form RD 400-1 - "Equal Opportunity Agreement"
- Form RD 400-4 - "Assurance Agreement"
- Form AD 1047 - "Certification Regarding Debarment - Primary"
- Form AD 1049 - "Certification Regarding Drug-Free Workplace"
- Form RD 1910-11 - "Applicant Certification, Federal Collection Policies"
- FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"
- Standard Form LLL - "Disclosure of Lobbying Activities" (If Applicable)

*Adopt  
Motion  
Council*

16. 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.

*Bids copies*

17. 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 opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

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

Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining 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.

Page 11

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  
Elkins, WV

Accountant

Edwin C. Runner  
Attorney at Law  
P. O. Drawer 607  
Kingwood, WV 26537-0607

Bond Counsel

Thrasher Engineering  
P. O. Box 1532  
Clarksburg, WV 26301

Project Construction Budget

<u>Project Costs</u>	<u>SCBG Grant</u>	<u>RUS Grant</u>	<u>RUS Loan</u>	<u>Total</u>
Administration	50,000			50,000
Construction	1,110,000	201,000	85,000	1,396,000
Construction Contg.		112,000		112,000
Land & Rights		19,000	6,000	25,000
Legal Fees		9,000	3,000	12,000
Engineering Fees	90,000	132,000	53,875	275,875
Basic 114,170				
Insp. 104,705				
Spec. 57,000				
Bond Counsel		4,875	1,125	6,000
Interest			16,000	16,000
Project Contg.		32,125		32,125
<b>TOTALS</b>	<u>1,250,000</u>	<u>510,000</u>	<u>165,000</u>	<u>1,925,000</u>

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. @ \$ 6.50 per M gals.  
 Over 3,000 gals. @ \$ 6.50 per M gals.

*is sign up  
may be done*

5/8" x 3/4" meter - \$ 19.50 per month

Minimum Monthly Bill - \$ 19.50 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

\$20.00

Use and Income Analysis

68	users @ 3,000	gallons @ \$	19.50	per user = \$	1,326.00	monthly
18	users @ 4,000	gallons @ \$	26.00	per user = \$	468.00	monthly
8	users @ 5,000	gallons @ \$	32.50	per user = \$	260.00	monthly
4	users @ 6,000	gallons @ \$	39.00	per user = \$	156.00	monthly
3	users @ 7,000	gallons @ \$	45.50	per user = \$	136.50	monthly
1	user @ 8,000	gallons @ \$	52.00	per user = \$	52.00	monthly
1	user @ 9,000	gallons @ \$	58.50	per user = \$	58.50	monthly
1	user @ 10,000	gallons @ \$	65.00	per user = \$	65.00	monthly
1	user @ 11,000	gallons @ \$	71.50	per user = \$	71.50	monthly
1	user @ 36,000	gallons @ \$	234.00	per user = \$	234.00	monthly

106 Total Users

\$ 2,827.50 Monthly Revenue x 12 = \$ 33,930 Annual Revenue

**Budget**

Income \$ 33,930

**Expenses**

O & M \$ 23,400

\*Debt Service 9,564

\*\*Reserve 956

\$ 33,920

Balance and Depreciation \$ 10

**Operating and Maintenance Expenses**

Part-Time Plant Operator \$ 6,000

Repair and Maintenance 3,400

Electrical 6,800

Sludge Disposal 700

Treatment Chemicals 500

Reading, Billing, Collections 800

Taxes, Insurance and Bonds 2,000

Legal and Professional 1,000

Administration and Audit 2,200

TOTAL 23,400

\*Existing Debt Service \$ N/A

Proposed Debt Service 9,564

Total Debt Service 9,564

\*\* Existing Debt Service Reserve \$ N/A

Proposed Debt Service Reserve 956

Total Debt Service Reserve 956

Attachment No. 2 to Letter of Conditions  
 For: Town of Newburg  
 Date: February 17, 1998

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

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
SF 424.2	Application for Federal Assistance	3	1780.33(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
AD 1049	Certification Regarding Drug-Free Workplace	1	1780.33(h)	App.		Have	5
	Minutes Adopting Drug-Free Workplace Program	1	LOC	App.			5
RD 1940-20	Request for Env. Info/ Attachments	2	1780.33(f)	App./Eng.		Have	3

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
Bulletin 1780-22	Applicant Eligibility Certification/ Other Credit Certification	1	1780.33(d)	App.			3
Exhibit A / A-1	Certifications Regarding Lobbying	2	1780.33(h)	App.		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.		Have	3

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
	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
	Applicant's IRS Tax Number (TIN)	1	1780.33(g)	App.		Have	3
	Agency Determination on the Availability of "Other Credit" with Documentation	1	1780.7(d)	RUS		Have	3
	Agency Determination on Procurement	1	1780.70(d)	RUS			6
	Review for Outstanding Judgment	1	1780.7(g)	RUS			3
	Processing Conference	1	1780.39(a)	RUS		Have	3
	Staff Engineer PER Review	1	1780.33(c)	RUS			6
	Projected Bill Analysis for New Users	2	1780.33(c)	App./Eng.		Have	8
	Statement reporting the <u>total</u> number of <u>potential</u> users		1780.33(c)	App./Eng.		Have	8

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
RD 1942-19 or other approved	Agreement between Owner & Engineer	3	1780.39(b)	App./Eng.		Have	6
Bulletin 1780-7 or other approved	Legal Services Agreement with Local Attorney	3	1780.39 (b)(2)	App./Att.		Have	5
✓	Legal Services Agreement with Bond Counsel	1	1780.39 (b)(3)	App./ Bond Counsel			5
<i>enter will send</i>	Agreement for Accounting Services	1	1780.39 (b)(2)	App./Acct.			5
	Documentation on Service Area	1	1780.11	RUS		Have	3
	Relationships/ Associations with Agency Employees	1	1780.1(f)				3
Auto. Form	Grant Determination	3	1780.35(b)	RUS			
✓ RD 1942-45	Project Summary	3	1780.41(a)	RUS			1
✓ RD 442-7	Operating Budget	3	1780.33(h)	App.			3
✓ RD 1942-14	Project Fund Analysis	3	1780.41(a)	RUS			2

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
Bulletin 1780-1	Project Selection Criteria	2	1780.17	RUS		Have	1
✓	Letter of Conditions	7	1780.41 (a)(5)	RUS			3
RD 1942-46	Letter of Intent to Meet Conditions	2	1780.41 (a)(6)	App.		Have	3
✓ RD 1940-1	Request for Obligation of Funds	4	1780.41(a)	RUS/App.			2
Bulletin 1780-12	Association Water or Sewer System Grant Agreement	2	1780.45(c)	RUS/App.			2
	Evidence of "Other Funds"	1	1780.44(f)	App.			2
Bulletin 1780-12	Sewer Users Agreement or State Health Department Mandatory Hook-Up Commitment Letter	1	1780.39(c)	App.		Have	5
AD 1047	Certification Regarding Debarment (Primary)	1	1780.33(h)	App.		Have	5

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
AD 1048	Certification Regarding Debarment (Contractor)	1 ea.	1780.33(h)	All Appropriate Vendors		Have	5
RD 1910-11	Applicant Certification, Federal Collection Policies	1	1780.33(h)	App.		Have	3
	Evidence of Users:						
	1. <i>after users agreement</i> Map of Users with each identified by number	1	LOC	App.			Sep. File
	2. List of Signed Users Numbered to Map	1	LOC	App.			5
	3. List of Declination Statement Numbered to Map	1	LOC	App.			5
	4. Evidence of Tap Fees Being Paid	1	LOC	App.			5
	5. <i>review</i> Having Users Agreements and Declination Statements Available		LOC	App.			

Form No.	Document or Action	No. Needed	Proced. Ref.	Provided by	Target Date	Date Rec'd	File Pos.
<i>Develop a letter</i>	Positive Program to Encourage Connections when Completed	1	1780.39 (c)(5)	App.			5
	Verification of Users	1	1780.44(b)	RUS			3
	Preliminary Bond Transcript Documents w/o Defeasance Provisions	2	1780.83	Bond Counsel			2
<i>Eng</i>	Right-of-Way Map	1	1780.44(g)	Eng.			Sep. File
<i>attorney</i>	Deeds and/or Options		1780.44(g)	App./Att.			
RD 1927-9	Preliminary Title Opinion	1	1780.44 (g)(2)	App./Att.			5
<i>attorney</i> RD 1927-10	Final Title Opinion	1	1780.44 (g)(2)	App./Att.			5
<i>attorney</i>	Narrative Opinion from Attorney	1	1780.44(g)	Att.			5
<i>possible</i>	Waiver of Title Defects Letter	1	1780.44 (g)(2)(ii)	RUS			
RD 442-22	Opinion of Counsel Relative to R/Ways		1780.44 (g)(1)	Att.			5
<i>2-17-99</i> RD 1942-47	Loan Resolution	1	1780.45 (a)(2)	App.			5

Form No.	Document or Action	No. Needed	Proced. Ref.	Provided by	Target Date	Date Rec'd	File Pos.
	Copy of PSC Rule 42 Exhibit	1	State	Att./Acct.			3
<i>700</i>	Agreement with Accountant	1	1780.39 (b)(2)	App./Acct.			6
Lender Agrmnt/ Bulletin 1780-10/ 1780-10a	Interim Financing Documentation	1	1780.39(d)	App./RUS			1
RD 400-1	Equal Opportunity Agreement	1	1901-E	App.			6
RD 400-4	Assurance Agreement	1	1901-E	App.			3
	Bond Transcript Documents w/o Defeasance Provisions	3	1780.83	Bond Counsel			Sep. File
	OGC Closing Instructions	1	1780.44(h)	RUS			5
	S/O Closing Instructions	1	1780.44(h)	RUS			5
	DOH Permit	1	1780.15(d)	App.			6
	Railroad Permits	1	1780.15(d)	App.			6
	Public Land Corp. Permit	1	1780.15(d)	App.			6
	Corps of Engineers Permit	1	1780.15(d)	App.			6

<u>Form No.</u>	<u>Document or Action</u>	<u>No. Needed</u>	<u>Proced. Ref.</u>	<u>Provided by</u>	<u>Target Date</u>	<u>Date Rec'd</u>	<u>File Pos.</u>
	Contract Documents, Plans and Specifications	2		Eng.			Sep. File
	Dept. of Health Approval	1	1780.15(d)	Eng.			6
	Dept. of Environmental Protection Permit	1		Eng.			6
400-8	Comp. Review	1	1901-H 1901.204	RUS			5
1924-16	Record of PreConstruction Conference	1	1780.76(a)	RUS/Eng.			6
	Bid Tabulation	1	1780.61(b)	Eng.			6
	Resume' of Inspector	1	1780.76(c)	Eng.			6
	Liability Insurance		1780.39(g)	App.			7
	Workers' Compensation Certificate	1	1780.39(g)	App.			7
	Flood Insurance Policy	1	1780.39(g)	App.			7
440-24	Fidelity Bond	1	1780.39(g)	App.			7
	OGC Final Opinion	1	1780.45(g)	RUS			5



United States  
Department of  
Agriculture

Rural  
Development

*Bond Counsel*

Federal Building  
75 High Street, Room 320  
Morgantown, WV 26505-7500  
Phone (304) 284-4888  
FAX (304)284-4892  
TTY/TDD (304) 284-4836

July 10, 2001

COPY

~~The Honorable Charles A. Plum  
Mayor, Town of Newburg  
P.O. Box 4  
Newburg, WV 26410~~

RE: Amendment No. 1 to Letter of Conditions

Dear Mayor Plum:

This letter, with Attachment No. 1 amends the letter of conditions dated February 17, 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 RUS loan in the amount of \$110,000, and RUS grant in the amount of \$376,000, and other funding in the amount of \$1,805,461, for a total project cost of \$2,291,461. The other funding is planned in the form of a grant from the U.S. Environmental Protection Agency. The initial RUS loan of \$165,000 and initial RUS grant of \$510,000 have been reduced as noted above.

Subject to the requirements noted herein, all of the conditions of the February 17, 1998 letter of conditions remain in effect and must be satisfied prior to loan and grant closing.

The interest rate for the \$110,000 loan will be the lower of the rate in effect at the time of loan approval or the time of loan closing.

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

Enclosed are the following:

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

The conditions referred to above are as follows:

1. Loan Repayment – The reduced loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. The remaining 456 months will be equal amortized monthly installments. For planning purposes, use a 4.875% interest rate and a monthly amortization factor of .00483, which provides for a monthly payment of \$532.00.
2. 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.
3. 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”  
RUS Bulletin 1780-27 – “Loan Resolution”  
Form RD 1942-46 - “Letter of Intent to Meet Conditions”

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 Town 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,

  
JENNY N. PHILLIPS  
State Director

Enclosures

cc: Rural Development Manager, Elkins  
ATTN: Rural Utilities Service

David Keach, CPA  
Roth and White  
Kingwood, WV

Melvin Snyder III, Esquire  
McNeer, Highland, McMunn and Varner  
Kingwood, WV

Vincent A. Collins, Esquire  
Steptoe and Johnson, PLLC ✓  
Clarksburg, WV

Thrasher Engineering  
Clarksburg, WV

## Attachment No. 1 to Letter of Conditions

For: Town of Newburg (S)

Date: July 10, 2001Project Construction Budget

<u>Project Cost</u>	<u>EPA Grant</u>	<u>RUS Grant</u>	<u>RUS Loan</u>	<u>Total</u>
Construction	1,441,586	180,014	47,400	1,669,000
Construction Contingency		133,200	33,800	167,000
Land and Rights		19,800	5,200	25,000
Legal Fees		18,200	4,800	23,000
Accounting		2,000	500	2,500
Administration	50,000			50,000
Bond Counsel		4,700	1,300	6,000
Engineering Fees	313,875			313,875
Basic - \$129,170				
Inspection - <del>\$199,705</del> <i>\$119,705</i>				
Special - \$60,000				
Preliminary Eng. - \$5,000				
Interest			11,000	11,000
Project Contingency		18,086	6,000	24,086
<b>TOTALS</b>	<u>1,805,461</u>	<u>376,000</u>	<u>110,000</u>	<u>2,291,461</u>

Rates

Available for general domestic, commercial and industrial service.

First 2,000 gals. @ 6.75 per M gals.

Over 2,000 gals. @ 6.75 per M gals.

Minimum Monthly Bill \$20.25 for 2,000 gallons)

Delayed Payment Penalty

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

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

Connection Charge

Prior to Construction - \$100.00

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

Use and Income Analysis - See Page 3.

128 Total Users

\$3,429.00 Monthly Revenue x 12 = \$41,148.00 Annual Revenue

USE ANALYSIS 1

TOWN OF NEWBURG  
USE AND INCOME ANALYSIS

Blocking	Cust.	Gal/ Mo.	Minimum Bills	3,000	NEXT 1,000	NEXT 1,000	NEXT 1,000	NEXT 1,000	NEXT 1,000	NEXT 1,000	NEXT 2,000	TOTAL REVENUE
0 - 3,000	70	210	70									
4,000	21	84		63	21							
5,000	19	95		57	19	19						
6,000	11	66		33	11	11	11					
7,000	4	28		12	4	4	4	4				
8,000	2	16		6	2	2	2	2	2			
9,000	1	9		3	1	1	1	1	1	1		
Monthly Total	128	508	70	174	58	37	18	7	3	3	1	
User Rates			\$ 20.25	\$ 6.75	\$ 6.75	\$ 6.75	\$ 6.75	\$ 6.75	\$ 6.75	\$ 6.75	\$ 6.75	\$ 6.75
Monthly Revenues			\$ 1,417.50	\$ 1,174.50	\$ 391.50	\$ 249.75	\$ 121.50	\$ 47.25	\$ 20.25	\$ 6.75	\$ 6.75	\$ 3,429.00
Annual Revenues			\$ 17,010.00	\$ 14,094.00	\$ 4,698.00	\$ 2,997.00	\$ 1,458.00	\$ 567.00	\$ 243.00	\$ 81.00	\$ 81.00	\$ 41,148.00

OPERATING INCOME	41,148	
OTHER INCOME	0	
TOTAL (A)	<u>41,148</u>	41,148
EXPENSES		
O&M (B)	32,790	
Debt Service	6,384	
Debt Service Reserve	319	
Depreciation Reserve	319	
Taxes (B)	1,250	
TOTAL	<u>41,061</u>	41,061
Balance and Depreciation		<u>.87</u>
Operating & Maintenance Expenses		
Salaries/Benefits	9,824	
Repairs/Maintenance	1,500	
Utilities	6,495	
Chemicals	721	
Insurance/Permits/Fees	3,600	
Sludge Removal	7,200	
Professional Fees	2,250	
Office Expense	1,200	
TOTAL	<u>32,790</u>	
Existing Debt Service	0	
Proposed Debt Service	6,384	
TOTAL	<u>6,384</u>	
Existing Debt Service Reserve	0	
Proposed Debt Service Reserve	319	
TOTAL	<u>319</u>	
Existing Depreciation Reserve	0	
Proposed Depreciation Reserve	319	
TOTAL	<u>319</u>	
Debt Coverage (A/B)		1.21



UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

RURAL  
DEVELOPMENT

401 Davis Avenue  
Elkins, West Virginia 26241  
PHONE (304) 636-2158  
FAX (304) 636-5902  
TTY/TDD (304) 284-4836

April 11, 2002

The Honorable ~~Lawren~~ Goughenour  
Mayor, Town of Newburg  
Box 40  
Newburg, WV 26410

Dear Mayor Goughenour:

This letter is to confirm that the RUS loan/grant pre-closing for the Town of Newburg sewer project will be held on May 1, 2002 at 10:00 a.m. in the Senior Center building in Newburg. A pre-construction conference will follow at 11:00 a.m. The official loan closing date for the Town's project will be May 3, 2002. Please have your accountant and your attorney available at 10:00 a.m. for pre-closing decisions.

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

1. The RUS Grant Agreement will be signed at pre-closing. This form should be dated May 3, 2002.
2. The Town's attorney must furnish 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 Town. The opinion(s) should be dated May 3, 2002.
3. The Certification on the Loan Resolution will be completed at pre-closing.
4. The Town's accountant must certify that all accounts and records are properly established in accordance with item 7b in the letter of conditions.
5. In accordance with item 8c of the letter of conditions, a narrative opinion from the attorney should be provided addressing all permits, certifications, and other items necessary to show that all legal requirements can be met and stating how they will be met. The narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.
6. On or before the date of the pre-closing, the Town must provide evidence that all required insurance has been obtained and that fidelity bond coverage in compliance with item 11 of the letter of conditions has been obtained as well. USDA Rural Utilities Service is requesting the Town carry at least \$300,000. in fidelity bond coverage during the construction phase of the project.

USDA RURAL DEVELOPMENT IS AN EQUAL OPPORTUNITY LENDER, PROVIDER AND EMPLOYER.  
COMPLAINTS OF DISCRIMINATION SHOULD BE SENT TO: USDA, DIRECTOR, OFFICE OF CIVIL RIGHTS,  
WASHINGTON, D. C. 20250-9410

7. At pre-closing the Town's attorney will need to provide a new Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," showing no exceptions. This form should be dated May 3, 2002.
8. All applicable Public Service Commission certificates and/or approvals must be obtained prior to closing.
9. AD 1048, "Certification Regarding Debarment - Lower Tier Covered Transactions," should be signed by each contractor.

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

Sincerely,

  
JOSEPH D. CRICKENBERGER  
Rural Development Specialist

CC: State Director  
USDA - Rural Development

Thrasher Engineering  
Consulting Engineers

Region VI  
Planning & Development Council

McNeer, Highland, McMunn and Varner, L.C.  
Attorneys at Law

Roth and White, A.C.  
Certified Public Accountants

Steptoe and Johnson ✓  
Bond Counsel



WATER OR WASTE SYSTEM GRANT AGREEMENT  
UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL UTILITIES SERVICE

THIS AGREEMENT dated \_\_\_\_\_ between  
Town of Newburg

a public corporation organized and operating under \_\_\_\_\_

Chapter 16, Article 13, 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 \$ 2,291,461.00 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 1,915,461.00 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 \$ 1,915,461.00 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 376,000.00 or 45% 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 16.4% 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.



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 Town of Newburg sewer system and all appurtenances, including land, buildings and rights-of-way associated therewith.**

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 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 and fully documented.

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

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

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

**All tangible items together with all appurtenant furnishings and equipment, including all accessions, repairs and replacements associated with the proposed facility.**

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:  
[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.
2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.  
[Revision 1, 11/20/97]
3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$ 376,000.00 which it will advance to Grantee to meet not to exceed 16.4% percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

\_\_\_\_\_ and attested and its corporate seal affixed by its duly authorized

\_\_\_\_\_ Attest:

By Mary Taylor  
(Title) Recorder

By James G. England  
(Title) Mayor

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By John D. Cribben Rural Development Specialist  
(Title)



May 02 02 09:17a

Region VI

RECEIVED APR 4 2000



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Honorable Charles A. Plum, Mayor  
Town of Newburg  
P.O. Box 4  
Newburg, West Virginia 26410

APR 4 2000

Re: Town of Newburg  
FY 2000 Special Appropriations Grant

Dear Mayor Plum:

Enclosed is a copy of a March 31, 2000 memorandum from EPA-Headquarters, approving your December 14, 1999 request for exception to the 45% local share match requirement. As advised at our meeting on March 16, 2000, EPA has approved a 94% Federal grant, which requires a 6% local share contribution.

If you have any questions regarding our approval or the grant application, please contact me at (215) 814-5770.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Smith".

Bruce Smith, EPA Project Manager  
Municipal Financial Assistance Branch

Enclosure

cc: Jim Hall, Region VI Planning & Development Council  
Mike Johnson, WV DEP



TOWN OF NEWBURG

Sewer Revenue Bonds, Series 2002  
(United States Department of Agriculture)

RECEIPT OF DEPOSITORY BANK

I, Nancy Pitzer, the undersigned duly authorized representative of Branch Banking and Trust Company, Reedsville, West Virginia (the "Bank"), hereby certify that on May 3, 2002, the Bank received an automated clearinghouse transfer in the amount of \$12,239.47, to the credit of the Town of Newburg Sewerage System Construction Account, Account Number 517-262-7813.

WITNESS my signature on this 3rd day of May, 2002.

BRANCH BANKING AND TRUST COMPANY

Nancy Pitzer  
Branch Manager  
Area Operations Manager

04/11/02  
658210.98001

CH510106.1



TOWN OF NEWBURG  
Sewer Revenue Bonds, Series 2002  
(United States Department of Agriculture)

EVIDENCE OF PAYMENT OF STEP I LOAN

The undersigned, duly authorized representative of the West Virginia Water Development Authority (the "Authority"), as holder of the Town of Newburg STEP I Loan, dated February 8, 1978, in the original principal amount of \$3,000.00 (the "STEP I Loan"), hereby certifies and declares that on March 18, 2002, the undersigned received the sum of \$3,030.00 from the Town of Newburg, and that such sum is sufficient to pay in full the entire principal amount of and the service charge for the STEP I Loan and discharge all liens, pledges and encumbrances securing the STEP I Loan.

WITNESS my signature this 3rd day of May, 2002.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

  
Authorized Representative

04/11/02  
658210.98001