DISTRIBUTION LIST

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

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KLEERFAX RECYCLED

80000 SERIES
30% P.C.W.

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND
SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND)

TRANSCRIPT LIST

A. BASIC DOCUMENTS

1. Bond Resolution.
2. Supplemental Resolution.
3. Loan Agreement.
4. Public Service Commission Order.
5. Infrastructure and Jobs Development Council Approval.
6. Cross-Receipt for Bond and Bond Proceeds.
7. Request and Authorization to Authenticate and Deliver Bond.
8. Specimen Bond and Register.

B. OPINIONS OF COUNSEL

9. Approving Opinion of Goodwin & Goodwin, LLP, Bond Counsel.
10. Opinion of Counsel to Issuer.
11. Final Title Opinion.

C. CERTIFICATES

12. General Certificate.
13. Certificate of Engineer with Schedule A Attached.
14. Certificate of Certified Public Accountant.
15. Certificate of Secretary as to Truth and Accuracy of Documents Delivered.
16. Certificate as to Use of Proceeds.

D. DOCUMENTS OF THE ISSUER

17. County Commission Order Creating Northern Jackson County Public Service District.

18. County Commission Orders Appointing Board Members.

19. Oaths of Office of Board Members.

20. Rules of Procedure.

21. Minutes of Current Year Organizational Meeting.

22. Minutes on Adoption of Bond Resolution and Supplemental Resolution.

23. Affidavit of Publication of Abstract of Bond Resolution.

24. Municipal Bond Commission New Issue Report.

E. MISCELLANEOUS DOCUMENTS

25. Acceptance of Appointment of Depository Bank.

26. Acceptance of Appointment of Registrar.

27. Registrar's Agreement.

28. Certificate of Registration.

29. Closing Memorandum.

30. Evidence of Insurance.

31. NPDES Permit.

32. Tariff

33. Grant Agreements.

34. Copies of Statutory Authorities.

The Pre-closing of the sale of the $550,000 Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) will take place at the West Virginia Water Development Authority's office at 180 Association Drive in Charleston, West Virginia, at 2:00 p.m., prevailing time on August 31, 2010. The Closing will occur on September 1, 2010. No transaction shall be deemed to have been completed, and no documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND
SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND)

BOND RESOLUTION

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NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE NEW PUBLIC SEWER FACILITIES OF NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $550,000 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SEWER REVENUE BOND, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNER OF SUCH BOND; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BOND; APPROVING, RATIFYING AND CONFIRMING THE LOAN AGREEMENT RELATING TO SUCH BOND; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BOND AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. Northern Jackson County Public Service District (the "Issuer") is a public service district, public corporation and political subdivision of the State of West Virginia in Jackson County of said State.

B. The Issuer intends to construct a new public sewer system that it will own and operate. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed a new public sewer facilities of the Issuer, consisting of the installation of 13,300 linear feet of 8" gravity, 450 linear feet of 4" forced main, 3,850 linear feet 6" forced main of gathering line and two wastewater lift stations, and related appurtenances to serve

approximately 119 potential customers, together with all appurtenant facilities (the "Project"), which constitute public service properties for the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of sewer to or for the public for industrial, public, private or other uses, in accordance with the plans and specifications prepared by the Boyles and Hildreth, Consulting Engineers, Inc., which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer has not heretofore issued any sewer revenue bonds. There are no outstanding bonds or obligations of the Issuer that are secured by revenues and assets of the System. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bond to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Infrastructure Fund administered by the Authority pursuant to the Act.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bond in the principal amount of not more than $550,000, in one series, being the Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) (the "Series 2010 Bond"), to permanently finance a portion of the costs of acquisition and construction of the Project. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Such costs shall be deemed to include the cost of acquisition and construction of any public service properties and any improvements and extensions thereto, the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, on the Series 2010 Bond prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the respective Reserve Account for the Series 2010 Bond (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2010 Bond and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2010 Bond or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

F. It is in the best interests of the Issuer that the Series 2010 Bond be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), in form satisfactory to the respective parties (the "Loan Agreement"), approved hereby if not previously approved by resolution of the Issuer.

G. The estimated revenues to be derived in each year following completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System, the principal of and interest, if any, on the Series 2010 Bond and all funds and accounts and other payments provided for herein.

H. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and the issuance of the Series 2010 Bond, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the Project and the financing thereof by the Council and the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia (the "PSC") by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2010 Bond or such final order will not be subject to appeal or rehearing.

I. The Project has been reviewed and determined to be technically and financially feasible by the Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2010 Bond by the Authority, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owner of such Series 2010 Bond, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

"Act" means, collectively, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2010 Bond, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any temporary Acting Chairman duly elected by the Governing Body.

"Bond Legislation," "Resolution," "Bond Resolution" or "Local Act" means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Bond Registrar" means the Issuer, the bank or other entity to be designated as such in this Bond Resolution or the Supplemental Resolution and its successors and assigns.

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

"Bonds" means, collectively, the Series 2010 Bond and any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

"Chairman" means the Chairman of the Governing Body of the Issuer or any temporary Acting Chairman duly elected by the Governing Body.

"Closing Date" means the date upon which there is an exchange of the Series 2010 Bond for all or a portion of the proceeds of the Series 2010 Bond.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

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

"Costs" or "Costs of the Project" means those costs described in Section 1.02E hereof to be a part of the costs of acquisition and construction of the Project.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any other agency of the State of West Virginia that succeeds to the functions of the Council.

"Depository Bank" means the bank or banks designated as such in the Supplemental Resolution and any successors and assigns, which shall be a member of FDIC.

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

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

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

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

"Grants" means all moneys received by the Issuer on account of any Grant for the Project.

"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.

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

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

"Investment Property" means:

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"Issuer" means Northern Jackson County Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Jackson County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" means the Loan Agreement heretofore entered, or to be entered, into by and between the Issuer and the Authority, on behalf of the Council, providing for the purchase of the Series 2010 Bond from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Net Proceeds" means the face amount of the Series 2010 Bond, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2010 Bond, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property as defined in Section 148(b) of the Code that is not a purpose investment.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and regularly included under recognized accounting principles and retention of a sum not to exceed 1/6th of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Series 2010 Bond and into the Reserve Account and the Renewal and Replacement Account have been made to the last monthly payment date prior to the date of such retention.

"Outstanding," when used with reference to bonds and as of any particular date, describes all bonds theretofore and thereupon being authenticated and delivered, except (i) any bond canceled by the Bond Registrar at or prior to said date; (ii) any bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Registered Owners, any bonds registered to the Issuer.

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

"Paying Agent" means the Commission or other entity designated as such for the Series 2010 Bond in the Supplemental Resolution.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that, use as a member of the general public shall not be taken into account.

"Project" means the Project as described in Section 1.02B hereof.

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

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

"Qualified Investments" means and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the Code of West Virginia, 1931, as amended, including, without limitation, authorized pools of investments operated by such Investment Management Board; 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, Inc. or Standard & Poor's Corporation.

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

"Registrar" means the Bond Registrar.

"Regulations" means temporary and permanent regulations promulgated under the Code or any predecessor to the Code.

"Renewal and Replacement Account" means the Renewal and Replacement Account created by Section 5.01 hereof.

"Reserve Accounts" means the reserve account of the Series 2010 Bond.

"Reserve Requirement" means the amount required to be on deposit in the Reserve Account.

"Revenue Fund" means the Revenue Fund created by Section 5.01 hereof.

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

"Series 2010 Bond" means the Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2010 Bond Construction Trust Fund" means the Series 2010 Bond Construction Trust Fund created by Section 5.01 hereof.

"Series 2010 Bond Reserve Account" means the Series 2010 Bond Reserve Account created by Section 5.02 hereof.

"Series 2010 Bond Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2010 Bond in the then current or any succeeding year.

"Series 2010 Bond Sinking Fund" means the Series 2010 Bond Sinking Fund created by Section 5.02 hereof.

"Sinking Fund" means the sinking fund of the Series 2010 Bond.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2010 Bond; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2010 Bond, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bond or any other obligations of the Issuer, including, without limitation, the Sinking Fund, the Reserve Account and the Renewal and Replacement Account.

"System" means the complete sewerage system of the Issuer, including 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; and shall include the Project and any and all extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the sewerage system from any sources whatsoever, both within and without the Issuer.

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

"West Virginia Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the Code of West Virginia, 1931, as amended and in effect on the date of adoption hereof.

Additional terms and phrases are defined in this Resolution as they are used. 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 Bond or any certificate or other document by the Chairman or the Secretary shall mean that such Bond, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

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 $2,600,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2010 Bond shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Authority and the Council.

The cost of the Project is estimated to be $2,600,000, of which $550,000 will be obtained from proceeds of the Series 2010 Bond, $550,000 will be obtained from a grant from the Council, and $1,500,000 will be obtained from a grant from the U. S. Army Corps of Engineers.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BOND; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bond. For the purposes of capitalizing interest on the Series 2010 Bond, funding the Reserve Account for the Series 2010 Bond, paying Costs of the Project not otherwise provided for, and paying certain costs of issuance of the Series 2010 Bond and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued the negotiable Series 2010 Bond of the Issuer. The Series 2010 Bond shall be issued in one series, designated as "Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund)," in the principal amount of not more than $550,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2010 Bond remaining after funding the Reserve Account (if funded from Bond proceeds) and capitalizing interest on the Series 2010 Bond, if any, shall be deposited in or credited to the Series 2010 Bond Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bond. The Series 2010 Bond shall be issued in such principal amount; shall bear interest, if any, at such rate or rates, not exceeding the legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2010 Bond shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2010 Bond, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2010 Bond shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2010 Bond. The Series 2010 Bond shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 3.03. Execution of Bond. The Series 2010 Bond shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2010 Bond shall cease to be such officer of the Issuer before the Series 2010 Bond so signed and sealed have been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bond had not ceased to hold such office. Any Series 2010 Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bond shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.04. Bond Registrar; Authentication and Registration. The Bond Registrar for the Series 2010 Bond shall be the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns. No such Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 hereof, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any such Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar,

but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on the Series 2010 Bond issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2010 Bond shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner, in accepting the Series 2010 Bond shall be conclusively deemed to have agreed that such Bond shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner shall further be conclusively deemed to have agreed that such Bond shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Series 2010 Bond remains outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bond.

The registered Series 2010 Bond shall be transferable only upon the books of the Bond Registrar, by the Registered Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the Registered Owner or its duly authorized attorney.

In all cases in which the privilege of exchanging the Series 2010 Bond or transferring the registered Series 2010 Bond is exercised, such Bond shall be delivered in accordance with the provisions of this Bond Legislation. Such Bond surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of such Bond, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of such Bond during the period commencing on the 15th day of the month next preceding an interest payment date on such Bond or, in the case of any proposed redemption of such Bond, next preceding the date of the selection of such Bond to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bond Mutilated, Destroyed, Stolen or Lost. In case the Series 2010 Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. Any Bond so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If such Bond shall have matured or be about to mature, instead of issuing a

substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bond not to be Indebtedness of the Issuer. The Series 2010 Bond shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Registered Owner of such Bond shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay such Bond or the interest, if any, thereon.

Section 3.08. Bond Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2010 Bond shall be secured by a first lien on the Net Revenues. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2010 Bond and to make all other payments provided for in this Bond Legislation are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bond. The Issuer shall execute and deliver the Series 2010 Bond to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2010 Bond to the original purchasers upon receipt of a request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver such Bond to the original purchaser.

Section 3.10. Form of Bond. The text of the Series 2010 Bond shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2010 BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1 $550,000.00

KNOW ALL MEN BY THESE PRESENTS: That NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Jackson County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the sum of FIVE HUNDRED FIFTY THOUSAND DOLLARS ($550,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 20__, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____ __, 2010.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the new public sewer facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The new public sewer facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on March 16, 2010, and a Supplemental Resolution duly adopted by the Issuer on _____ __, 2010 (collectively, the

"Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the System and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2010 Bond Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2010 Bond Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest, if any, on this Bond payable in any year and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond; provided however, that so long as there exists in the Series 2010 Bond Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner (as defined in the Bond Legislation) of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of the Project and the costs of issuance hereof as described in

the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated _____ __, 2010.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2010 Bond described in the within-mentioned Bond Legislation and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____ __, 2010.

WESBANCO BANK, INC., as Registrar

By: _____
Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

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

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer 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: _____, 20__.

In the presence of:

_____

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$550,000	_____ __, 2010

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

WesBanco Bank, Inc.

By: _____
Vice President

Section 3.11. Sale of Bond; Approval and Ratification of Execution of Loan Agreement. The Series 2010 Bond shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation.

Section 3.12. Filing of Amended Schedule. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority and the Council, a schedule, the form of which will be provided by the Council, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

(1) Revenue Fund;

(2) Renewal and Replacement Account; and

(3) Series 2010 Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts 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 2010 Bond Sinking Fund; and

(2) Series 2010 Bond Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2010 Bond, for deposit in the Series 2010 Bond Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2010 Bond on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2010 Bond Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Commission, commencing 3 months prior to the first date of payment of principal of the Series 2010 Bond, if not fully funded upon the issuance of the Series 2010 Bond, for deposit in the Series 2010 Bond Reserve Account, an amount equal to 1/120th of the Series 2010 Bond Reserve Requirement, until the amount in the Series 2010 Bond Reserve Account equals the Series 2010 Bond Reserve Requirement; provided that, no further payments shall be made into the Series 2010 Bond 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 2010 Bond Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Account an amount equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Series 2010 Bond Reserve Account, so long as the Series 2010 Bond is outstanding. All funds in the Renewal and Replacement Account shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Account for replacements, repairs, improvements or extensions to the System; provided that, any deficiencies in the Series 2010 Bond 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 moneys from the Renewal and Replacement Account.

Moneys in the Series 2010 Bond Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2010 Bond as the same shall become due. Moneys in the Series 2010 Bond Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2010 Bond as the same shall come due, when other moneys in the Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2010 Bond Reserve Account (when fully funded) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2010 Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2010 Bond and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2010 Bond Reserve Account that result in a reduction in the balance therein to below the Series 2010 Bond Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional bonds ranking on a parity with the Series 2010 Bond are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2010 Bond Sinking Fund or the Series 2010 Bond Reserve Account for the Series 2010 Bond when the aggregate amount of funds therein are at least equal to the principal amount of the Series 2010 Bond issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2010 Bond Sinking Fund and the Series 2010 Bond Reserve Account created hereunder, and all amounts required for such accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at any time, the Issuer shall make the necessary arrangements whereby required payments into such accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2010 Bond Sinking Fund and the Series 2010 Bond Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2010 Bond Sinking Fund and the Series 2010 Bond Reserve Account for the Series 2010 Bond shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2010 Bond under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payments 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. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreement, and submit a copy of said form, together with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the respective parties shall require such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at any time, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

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

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

ARTICLE VI

APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 2010 Bond, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2010 Bond, there shall first be deposited in the Series 2010 Bond Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2010 Bond for the period commencing on the date of issuance of the Series 2010 Bond and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2010 Bond, there shall be deposited in the Series 2010 Bond Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2010 Bond Reserve Account.

C. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2010 Bond, such moneys shall be deposited with the Depository Bank in the Series 2010 Bond Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02 and until so expended, are hereby pledged as additional security for the Series 2010 Bond.

D. After completion of construction of the Project, as certified by the Consulting Engineers, and the payment of all costs, any remaining proceeds of the Series 2010 Bond shall be expended as directed by the Council.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

A. The Issuer shall each month provide the Council with a requisition for the costs incurred for the Project, together with such documentation as the Council shall require. Payments of all costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements of proceeds of the Series 2010 Bond from the Series 2010 Bond Construction Trust Fund shall be made only after submission to and approval from the Council of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

(a) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(b) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a cost of the Project;

(c) Each of such costs has been otherwise properly incurred; and

(d) Payment for each of the items proposed is then due and owing.

The Issuer shall expend all proceeds of the Series 2010 Bond within 3 years of the date of issuance of the Council's bonds, the proceeds of which were used to make the loan to the Issuer.

B. Pending such application, moneys in the Series 2010 Bond Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2010 Bond. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2010 Bond as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2010 Bond or the interest, if any, thereon are Outstanding and unpaid.

Section 7.02. Bond not to be Indebtedness of the Issuer. The Series 2010 Bond shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Registered Owner of the Series 2010 Bond shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2010 Bond or the interest, if any, thereon.

Section 7.03. Bond Secured by Pledge of Net Revenues . The payment of the debt service of the Series 2010 Bond shall be secured by a first lien on the Net Revenues. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Series 2010 Bond and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired

without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in and approved by the PSC Order and such rates are hereby adopted.

So long as the Series 2010 Bond is Outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and in compliance with the Loan Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2010 Bond shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Series 2010 Bond is Outstanding and except as otherwise required by law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2010 Bond, be remitted to the Series 2010 Sinking Fund and applied to the payment of principal of and interest, if any, on the Series 2010 Bond. Any balance remaining after the payment of the Series 2010 Bond and interest, if any, thereon shall be remitted to the Issuer unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Account. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Account. The payment of such proceeds into the

Renewal and Replacement Account shall not reduce the amount required to be paid into said fund by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all bonds then Outstanding without the prior approval and consent in writing of the Registered Owners of the bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owner of the Bond for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2010 Bond. All obligations issued by the Issuer after the issuance of the Series 2010 Bond and payable from the revenues of the System, except such additional parity bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2010 Bond; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2010 Bond, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2010 Bond and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the Council prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2010 Bond pursuant to this Bond Legislation, except with the prior written consent of the Authority and the Council under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2010 Bond.

No such Parity Bonds shall be issued except for the purposes of financing the costs of the design, acquisition or construction of extensions and improvements to the System or refunding any Outstanding Bonds, or both such purposes.

No Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Registered Owner of the Series 2010 Bond and the Registered Owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the outstanding bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2010 Bond.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Bond Legislation with respect to the Series 2010 Bond then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the Council such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any State and federal grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof.

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 Registered Owner of the Bond issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Council and the Authority and shall mail in each year to any Registered Owner of the Series 2010 Bond, requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation, and the status of all said funds and accounts.

(C) The amount of any bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2010 Bond, and shall submit said report to the Council and the Authority. Such audit report submitted to the Authority and the Council shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreement and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Authority and the Council, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the Council, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the Council with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2010 Bond, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds

created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2010 Bond and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 Bond; provided that, in the event that amounts equal to or in excess of the Series 2010 Reserve Requirement are on deposit in the Series 2010 Reserve Account for the Series 2010 Bond and any reserve accounts for obligations on a parity with the Series 2010 Bond, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2010 Bond and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 Bond. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the Council within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the Council and to any Registered Owner of the Series 2010 Bond, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority and the Council and to any Registered Owner of the Series 2010 Bond, or anyone acting for and on behalf of such Registered Owner.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement, and forward a copy of such report to the Authority and the Council by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, certifying,

among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Authority and the Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the Council is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the Council covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the Council and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreement.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the PSC, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.14. No Free Services. Except as required by law, the Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency,

instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2010 Bond remains Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Account and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Account. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $550,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Authority and the Council. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the PSC, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and State requirements and standards.

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2010 Bond required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. [Reserved]

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owner of the Series 2010 Bond, a statutory mortgage lien upon the System is granted and created by

the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2010 Bond.

Section 7.20. Compliance with Loan Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer shall provide the Council with copies of all documents submitted to the Authority.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Authority, the Council or other State, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.21. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2010 Bond or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the Council for written approval. The Issuer shall obtain the written approval of the Council before expending any proceeds of the Series 2010 Bond held in "contingency" as set forth in the schedules attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the Council before expending any proceeds of the Series 2010 Bond made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the Council and the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investment of Funds. Any moneys held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank, or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as the Series 2010 Bond is Outstanding.

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2010 Bond as a condition to issuance of the Series 2010 Bond. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2010 Bond as may be necessary in order to maintain the status of the Series 2010 Bond as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2010 Bond which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2010 Bond are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2010 Bond and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2010 Bond:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any series of the Series 2010 Bond; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2010 Bond set forth in this Bond Legislation, any supplemental resolution or in the Series 2010 Bond, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or a Registered Owner of a Bond; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2010 Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2010 Bond, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owner of the Series 2010 Bond, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2010 Bond, or the rights of such Registered Owner.

Section 9.03. Appointment of Receiver. Any Registered Owner of the Series 2010 Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Series 2010 Bond, any Registered Owner of a Series 2010 Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Series 2010 Bond and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate and maintain, manage and control the System, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to the System as the Issuer itself might exercise.

Whenever all that is due upon the Series 2010 Bond and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of the Series 2010 Bond shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owner of the Series 2010 Bond. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Series 2010 Bond and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BOND

Section 10.01. Payment of Series 2010 Bond. If the Issuer shall pay or there shall otherwise be paid to the Registered Owner of the Series 2010 Bond, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this

Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2010 Bond shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2010 Bond, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2010 Bond, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owner of the Series 2010 Bond shall be made without the consent in writing of the Registered Owner of the Series 2010 Bond so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Series 2010 Bond required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Registered Owner as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2010 Bond from gross income of the Registered Owner thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owner of the Series 2010 Bond, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution, or the Series 2010 Bond.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Public Notice of Proposed Financing. Prior to making formal application to the PSC for a certificate of public convenience and necessity and adoption of this Resolution, the Secretary shall have caused to be published in a newspaper of general circulation in each municipality in Northern Jackson County Public Service District and within the boundaries of the Issuer, a Class II legal advertisement stating:

(a) The maximum amount of the Series 2010 Bond to be issued;

(b) The maximum interest rate and terms of the Series 2010 Bond authorized hereby;

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

(d) The maximum anticipated rates which will be charged by the Issuer; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the PSC.

Section 11.08. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 16th day of March, 2010.

Frank A Murrey
Chairman

John C Lockhart
Member

Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT on the 16th day of March, 2010.

Dated this 27th day of August, 2010.

[SEAL]

John C Lockhart
Secretary

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND
SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT SEWER REVENUE BOND, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2010 A BOND TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE BOND PURCHASE AGREEMENT WITH RESPECT TO THE SERIES 2010 A BOND; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BOND.

WHEREAS, the Public Service Board (the "Governing Body") of Northern Jackson County Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on March 16, 2010 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE NEW PUBLIC SEWER FACILITIES OF NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $550,000 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SEWER REVENUE BOND, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNER OF SUCH BOND; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BOND; APPROVING, RATIFYING AND CONFIRMING THE LOAN AGREEMENT RELATING TO SUCH BOND; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BOND AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) of the Issuer, in the aggregate principal amount not to exceed $550,000 (the "Series 2010 A Bond" or the "Bond"), and has authorized the execution and delivery of a loan agreement relating to the Series 2010 A Bond, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bond should be established by a supplemental resolution, and that other matters relating to the Bond be therein provided for;

WHEREAS, construction bids for the Project received by the District on March 23, 2010, exceeded the budget and funding sources, which deficiency shall be funded by an additional grant from the Council in the amount of $540,000, increasing the total estimated cost of the Project to $3,140,000;

WHEREAS, the interest rate of the Series 2010 A Bond has been changed from 0% to 1%;

WHEREAS, the Council has agreed to provide an additional grant to complete the funding for the Project;

WHEREAS, a Loan Agreement has been presented to the Issuer at this meeting that describes the terms of the Series 2010 A Bond;

WHEREAS, the Series 2010 A Bond is proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and ratified, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Series 2010 A Bond be fixed hereby in the manner stated herein, and that other matters relating to the Series 2010 A be herein provided for.

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

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bond of the Issuer:

A. Sewer Revenue Bond, Series 2010A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of $550,000. The Series 2010 A Bond shall be dated the date of delivery, shall finally mature September 1, 2050, and shall bear interest at the rate of 1% per annum. The principal of and interest on the Series 2010 A Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2012, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2010 A Bond. The Series 2010 A Bond shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2010 A Bond.

Section 2. All other provisions relating to the Series 2010 A Bond and the text of the Series 2010 A Bond shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairman and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority. The price of the Series 2010 A Bond shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2010 A Bond shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer hereby appoints and designates WesBanco Bank, Inc., Wheeling, West Virginia, to serve as Registrar (the "Registrar") for the Series 2010 A Bond under the Resolution and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Series 2010 A Bond, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Series 2010 A Bond under the Resolution.

Section 6. The Issuer hereby appoints and designates WesBanco Bank, Inc., Ripley Branch, to serve as Depository Bank for the Revenue Fund, the Renewal and Replacement Fund and the Series 2010 Construction Trust Fund.

Section 7. The proceeds of the Series 2010 A Bond, as advanced from time to time, shall be deposited in or credited to the Series 2010 Construction Trust Fund, as received by the Issuer for payment of costs of the Project, including costs of issuance of the Series 2010 A Bond.

Section 8. The Chairman, Secretary and Treasurer are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2010 A Bond and by the Resolution approved and provided for, to the end that the Series 2010 A Bond may be delivered to the Authority pursuant to the Loan Agreement dated September 1, 2010.

Section 9. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2010 A Bond are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 10. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Sinking Funds and the Reserve Accounts for the Series 2010 A Bond shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 11. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project and the Chairman is hereby authorized and directed to execute and deliver all such contracts.

Section 19. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 20. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 17th day of August, 2010.

Frank A Murrey
Chairman

John C Lockhart
Member

Seldon W. Angus
Member

CERTIFICATION

Certified as a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Northern Jackson County Public Service District on the 17th day of August, 2010.

Dated this 17th day of August, 2010.

[SEAL]

John C Lockhart
Secretary

IC-1
(08/09)

LOAN AGREEMENT

THIS LOAN AGREEMENT, made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council"), and the governmental agency designated below (the "Governmental Agency").

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
(2003S-726)

(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered upon request of the Council to make loans to governmental agencies for the acquisition or construction of projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a project, as defined by the Act, and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

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

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an

1.7 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

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

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

1.10 "Project" means the project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds.

1.11 "System" means the project owned by the Governmental Agency, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or

(100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Governmental Agency shall provide and maintain competent and adequate engineering services satisfactory to the Council and the Authority covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the Council and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

2.10 The Governmental Agency shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Governmental Agency shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of this Loan Agreement.

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

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

2.13 The Governmental Agency shall serve the additional customers at the location(s) as set forth in Schedule X. The Governmental Agency shall not reduce the amount of additional customers served by the project without the prior written approval of the WDA Board. Following completion of the Project the Governmental Agency shall certify to the Authority the number of customers added to the System.

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

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

(h) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and the Council shall have received a certificate of the accountant for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority and the Council, to such effect; and

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

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority, the Council or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Governmental Agency and the Governmental Agency shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Governmental Agency shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit or surety) in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues of the System, as more fully set forth in Schedule X attached hereto and in the Local Act;

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

(iii) That the Governmental Agency shall complete the Project and operate and maintain the System in good condition;

the Council, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Governmental Agency's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

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

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

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

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

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

sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project; and

(xxv) That, unless it qualifies for an exception, the Governmental Agency shall comply with all the requirements of Chapter 21, Article 1C of the Code of West Virginia, 1931, as amended (the "West Virginia Jobs Act") and shall require its contractors and subcontractors to comply with the West Virginia Jobs Act. The Governmental Agency shall provide the Council and the Authority with a certificate stating that (I) the Governmental Agency will comply with all the requirements of the West Virginia Jobs Act; (II) the Governmental Agency has included the provisions of the West Virginia Jobs Act in each contract and subcontract for the Project; (III) the Governmental Agency has received or will receive, prior to entering into contracts or subcontracts, from each contractor or subcontractor a certificate demonstrating compliance with Section 4 of the West Virginia Jobs Act or waiver certificates from the West Virginia Division of Labor ("DOL"); and (IV) the Governmental Agency will file with the DOL and the Council copies of the waiver certificates and certified payrolls or comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation, following the procedures established by the DOL. The monthly requisitions submitted to the Council shall also certify that the Governmental Agency is monitoring compliance by its contractors and subcontractors and that the required information has been submitted.

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

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority and the Council.

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

4.4 The Loan shall bear interest from the date and at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the

ARTICLE VI

Other Agreements of the Governmental Agency

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

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

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

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

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

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

7.10 This Loan Agreement shall terminate upon the earlier of:

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

(ii) termination by the Authority and the Council pursuant to Section 6.1 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____

(Issuer)

_____

(Name of Bonds)

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

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

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

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by [DEP/BPH/PSC] and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least ___years if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A and my firm[1] has ascertained that all

[1]If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of _____,

EXHIBIT B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
300 Summers Street, Suite 980
Charleston, West Virginia 25301

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

Ladies and Gentlemen:

We are bond counsel to _____ (the "Governmental Agency"), a _____.

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

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

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

EXHIBIT C

MONTHLY FINANCIAL REPORT

Name of Governmental Agency _____
Name of Bond Issue(s) _____
Type of Project _____ **Water** _____ **Wastewater**
Fiscal Year _____ **Report Month** _____

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

_____
Name of Person Completing Form

_____
Address

_____
Telephone

EXHIBIT D

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Name of Governmental Agency] on [Date].

Sinking Fund:

Interest	$
Principal	$
Total:	$
Reserve Account:	$

Witness my signature this ___ day of_____.

[Name of Governmental Agency]

By: _____
Authorized Officer

Enclosure: copy of check(s)

SCHEDULE Y
DEBT SERVICE SCHEDULE

Northern Jackson County PSD

IF

1% Interest Rate

40 Years from Closing Date

Dated Date 9/1/10

Delivery Date 9/1/10

Period Ending	Principal	Coupon	Interest	Debt Service
9/1/10				
9/1/12	2,955	1.000%	1,375.00	4,330.00
12/1/12	2,963	1.000%	1,367.61	4,330.61
3/1/13	2,970	1.000%	1,360.21	4,330.21
6/1/13	2,978	1.000%	1,352.78	4,330.78
9/1/13	2,985	1.000%	1,345.34	4,330.34
12/1/13	2,993	1.000%	1,337.87	4,330.87
3/1/14	3,000	1.000%	1,330.39	4,330.39
6/1/14	3,008	1.000%	1,322.89	4,330.89
9/1/14	3,015	1.000%	1,315.37	4,330.37
12/1/14	3,023	1.000%	1,307.83	4,330.83
3/1/15	3,030	1.000%	1,300.28	4,330.28
6/1/15	3,038	1.000%	1,292.70	4,330.70
9/1/15	3,045	1.000%	1,285.11	4,330.11
12/1/15	3,053	1.000%	1,277.49	4,330.49
3/1/16	3,061	1.000%	1,269.86	4,330.86
6/1/16	3,068	1.000%	1,262.21	4,330.21
9/1/16	3,076	1.000%	1,254.54	4,330.54
12/1/16	3,084	1.000%	1,246.85	4,330.85
3/1/17	3,091	1.000%	1,239.14	4,330.14
6/1/17	3,099	1.000%	1,231.41	4,330.41
9/1/17	3,107	1.000%	1,223.66	4,330.66
12/1/17	3,115	1.000%	1,215.90	4,330.90
3/1/18	3,122	1.000%	1,208.11	4,330.11
6/1/18	3,130	1.000%	1,200.30	4,330.30
9/1/18	3,138	1.000%	1,192.48	4,330.48
12/1/18	3,146	1.000%	1,184.63	4,330.63
3/1/19	3,154	1.000%	1,176.77	4,330.77
6/1/19	3,162	1.000%	1,168.88	4,330.88
9/1/19	3,169	1.000%	1,160.98	4,329.98
12/1/19	3,177	1.000%	1,153.06	4,330.06
3/1/20	3,185	1.000%	1,145.11	4,330.11
6/1/20	3,193	1.000%	1,137.15	4,330.15
9/1/20	3,201	1.000%	1,129.17	4,330.17
12/1/20	3,209	1.000%	1,121.17	4,330.17
3/1/21	3,217	1.000%	1,113.14	4,330.14
6/1/21	3,225	1.000%	1,105.10	4,330.10
9/1/21	3,233	1.000%	1,097.04	4,330.04
12/1/21	3,241	1.000%	1,088.96	4,329.96
3/1/22	3,250	1.000%	1,080.85	4,330.85
6/1/22	3,258	1.000%	1,072.73	4,330.73
9/1/22	3,266	1.000%	1,064.58	4,330.58
12/1/22	3,274	1.000%	1,056.42	4,330.42
3/1/23	3,282	1.000%	1,048.23	4,330.23

Northern Jackson County PSD				
IF				
1% Interest Rate				
40 Years from Closing Date				
Period Ending	Principal	Coupon	Interest	Debt Service
6/1/35	3,709	1.000%	621.07	4,330.07
9/1/35	3,719	1.000%	611.80	4,330.80
12/1/35	3,728	1.000%	602.50	4,330.50
3/1/36	3,737	1.000%	593.18	4,330.18
6/1/36	3,747	1.000%	583.84	4,330.84
9/1/36	3,756	1.000%	574.47	4,330.47
12/1/36	3,765	1.000%	565.08	4,330.08
3/1/37	3,775	1.000%	555.67	4,330.67
6/1/37	3,784	1.000%	546.23	4,330.23
9/1/37	3,794	1.000%	536.77	4,330.77
12/1/37	3,803	1.000%	527.28	4,330.28
3/1/38	3,813	1.000%	517.78	4,330.78
6/1/38	3,822	1.000%	508.24	4,330.24
9/1/38	3,832	1.000%	498.69	4,330.69
12/1/38	3,841	1.000%	489.11	4,330.11
3/1/39	3,851	1.000%	479.51	4,330.51
6/1/39	3,861	1.000%	469.88	4,330.88
9/1/39	3,870	1.000%	460.23	4,330.23
12/1/39	3,880	1.000%	450.55	4,330.55
3/1/40	3,890	1.000%	440.85	4,330.85
6/1/40	3,899	1.000%	431.13	4,330.13
9/1/40	3,909	1.000%	421.38	4,330.38
12/1/40	3,919	1.000%	411.61	4,330.61
3/1/41	3,929	1.000%	401.81	4,330.81
6/1/41	3,938	1.000%	391.99	4,329.99
9/1/41	3,948	1.000%	382.14	4,330.14
12/1/41	3,958	1.000%	372.27	4,330.27
3/1/42	3,968	1.000%	362.38	4,330.38
6/1/42	3,978	1.000%	352.46	4,330.46
9/1/42	3,988	1.000%	342.51	4,330.51
12/1/42	3,998	1.000%	332.54	4,330.54
3/1/43	4,008	1.000%	322.55	4,330.55
6/1/43	4,018	1.000%	312.53	4,330.53
9/1/43	4,028	1.000%	302.48	4,330.48
12/1/43	4,038	1.000%	292.41	4,330.41
3/1/44	4,048	1.000%	282.32	4,330.32
6/1/44	4,058	1.000%	272.20	4,330.20
9/1/44	4,068	1.000%	262.05	4,330.05
12/1/44	4,079	1.000%	251.88	4,330.88
3/1/45	4,089	1.000%	241.68	4,330.68
6/1/45	4,099	1.000%	231.46	4,330.46
9/1/45	4,109	1.000%	221.21	4,330.21
12/1/45	4,119	1.000%	210.94	4,329.94
3/1/46	4,130	1.000%	200.64	4,330.64
6/1/46	4,140	1.000%	190.32	4,330.32
9/1/46	4,150	1.000%	179.97	4,329.97
12/1/46	4,161	1.000%	169.59	4,330.59
3/1/47	4,171	1.000%	159.19	4,330.19

SCHEDULE Z

None.

081739alj033009.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL

4/19/2009

Entered: March 30, 2009

CASE NO. 08-1739-PSD-CN

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public utility, Sandyville, Jackson County. Application for a certificate of public convenience and necessity to provide wastewater collection service to approximately 119 customers located in the Eastwood and Balis Subdivisions and select surrounding areas in Jackson County.

RECOMMENDED DECISION

PROCEDURE

On October 6, 2008, the Northern Jackson County Public Service District (District)[1] filed a duly verified application for a certificate of public convenience and necessity from the Public Service Commission to provide wastewater collection service to approximately 119 customers located in the Eastwood and Balis Subdivisions and select surrounding areas in Jackson County. The District proposes to collect the sewer flows and transport the wastewater to the City of Ravenswood for treatment. The inter-governmental agreement between the District and City was filed with the Commission on August 11, 2008, docketed as Case No. 08-1354-PSD-PC, and revised and approved on February 15, 2009.

The project is expected to cost $2,600,000 and will consist of the installation of 13,300 linear feet of 8-inch gravity line; 450 linear feet of 4-inch FM line; 3,850 linear feet of 6-inch FM gathering line; two (2) wastewater lift stations; and related appurtenances. Funding for the project will consist of a loan in the amount of $550,000 from the West Virginia Infrastructure and Jobs Development Council (WVIJDC) at 0%

[1] The Northern Jackson County Public Service District was formerly known as the Silverton Public Service District. In Case No. 05-1732-PSWD-NC, a joint petition was filed by the Jackson County Commission and the Silverton Public Service District seeking approval for the name change. By Final Order of the Commission entered on January 4, 2006, the joint petition was granted. The instant project is the first sewer project for the District. Prior to this time, the District had not filed for a certificate to construct any sewer facilities.

interest for 38 years; a WVIJDC grant in the amount of $550,000; and a grant from the United States Army Corps of Engineers in the amount of $1,500,000. Benefits of the project were noted as follows: the project, once completed, will enable the treatment of wastewater that is presently going untreated, will eliminate the need for septic systems in the project area and will improve water quality in the Sand Creek watershed, which drains into the Ohio River.

By Notice of Filing Order entered on October 8, 2008, the District was ordered to provide notice of its application by publishing a copy of the Notice of Filing Order as a Class I legal advertisement in a newspaper duly qualified by the Secretary of State, published and of general circulation in Jackson County. The District was also ordered to file the Affidavit of Publication immediately after publication.

On October 22, 2008, this matter was referred to the Division of Administrative Law Judges with a decision due date of February 20, 2009, if no timely public protest to the Notice of Filing was received, and a due date of May 6, 2009, if timely public protest was received.

On December 30, 2008, the District filed an Affidavit of Publication which confirmed the Notice of Filing Order was published on October 16, 2008.

Joint Memoranda were filed by Commission Staff on November 12, 2008, and January 6 and 8, 2009. In its January 8, 2009 Final Joint Staff Memoranda, Commission Staff pointed out, among other things, that the Notice of Filing published on October 16, 2008, in The Jackson Star News was deficient in that a complete tariff was not published.

On January 8, 2009, the District filed a motion to toll its certificate application for 60 days in order to allow sufficient time for it to republish notice of its pending certificate application.

By Commission Order entered on January 15, 2009, the Commission granted the District's January 8, 2009 Motion, tolled the proceeding for 60 days and established a new decision due date of April 21, 2009, if no timely protest is received to the revised Notice of Filing which the District was ordered to publish.

By Procedural Order issued on February 20, 2009, the District was ordered to file the Affidavit of Publication for the revised Notice of Filing. Also, a procedural schedule was established in order to insure the orderly processing of the case.

On February 23, 2009, the District filed the Affidavit of Publication. The Affidavit confirmed that the District had published the revised Notice of Filing as a Class II legal advertisement in the Jackson Newspapers on February 11 and 17, 2009. Accordingly, the 30-day protest period expired on March 19, 2009.

By Procedural Order issued on February 27, 2009, the procedural schedule adopted on February 20, 2009, including the hearing date of March 9, 2009, was canceled. The undersigned reasoned that, since the last publication of the revised Notice of Filing took place on February

17, 2009, and since the 30-day protest period would expire 10 days after the hearing date, the hearing should be canceled, to be rescheduled, if timely protest was received.

On March 23, 2009, the District filed a letter requesting that its certificate application be granted, without hearing, since no public protest had been received to the revised Notice of Filing.

DISCUSSION

Since this project was approved by the West Virginia Infrastructure and Jobs Development Council, the Commission has approximately 180 days under the West Virginia Code to process the same, if no timely protest is received in response to the publication of the notice of filing. See, West Virginia Code §24-2-11(e). In this instance, because the notice of filing that was initially published was deficient, the District requested and received a tolling of the application in order to avoid dismissal.

The revised Notice of Filing was published on February 11 and 17, 2009, in the Jackson Newspapers as confirmed by the Affidavit of Publication filed on February 23, 2009. The revised publication substantially complies with the requirements of Code §24-2-11(b), Procedural Rule 10.3.d., and Form No. 14 of the Procedural Rules. The 30-day protest period expired on March 19, 2009. Since no protest has been received in response to the revised Notice of Filing, this case is ripe for decision.

The District proposes to provide service for the first time under its sewer authority to approximately 119 customers in conjunction with the City of Ravenswood. According to the application, the District will collect the sewage flows of the customers in the Eastwood and Balis Subdivisions and select surrounding areas in Jackson County and then transport those flows to the City's facilities where they will be treated. See October 6, 2008 Application.

The total project cost has been estimated to be $2,600,000, which will be funded by a loan in the amount of $550,000 from the West Virginia Infrastructure and Jobs Development Council at 0% interest for 38 years; a WVIJDC grant in the amount of $550,000; and a grant from the United States Army Corps of Engineers in the amount of $1,500,000. It is anticipated that, once the project is completed and in operation, raw sewage that currently goes untreated will be treated, the need for septic systems in the project area will be eliminated, and the water quality in the Sand Creek watershed, which drains into the Ohio River, will improve. See October 6, 2008 Application.

After investigation and review, Commission Staff filed its final recommendations on January 8, 2009, under cover of a Final Joint Staff Memorandum prepared by Staff Attorney Wendy Braswell to which was attached a Final Internal Memorandum prepared by Technical Analyst Associate Lisa Bailey of the Engineering Division and Utilities Analyst Nathan Nelson of the Water and wastewater Division (collectively referred to as Technical Staff). According to Technical Staff, of the estimated total project cost, under the proposed budget, only $2,000,000 is dedicated to actual construction. The project's soft costs are comprised

of $600,000, which, among other things, includes engineering fees of $382,000; legal fees and accounting fees of $25,000; fees for the KS Sewer line in the amount of $75,000; and bond counsel fees in the amount of $25,000. Additionally, the project has a contingency amount of $80,500. The project's budget was prepared by the District's engineer. See Technical Staff Final Internal Memorandum, at p. 4. According to Technical Staff, the monetary amounts associated with the engineering of a project of this magnitude are comparable to the average for engineering fees. The total engineering fees represent 15% of the total project cost, and the design cost represents about 11% of the estimated construction cost. Id.

Technical Staff has determined that the project is economically feasible. Indeed, the proposed project will provide service to approximately 119 customers for an estimated construction cost per customer of $16,807, which is slightly high, but not remarkable for a sewer project of this nature. Since the project is 80% grant-funded and since the customer density averages 36 customers per mile, Technical Staff finds the project to be reasonable. See Technical Staff Final Internal Memorandum, at p.5.

Additionally, Technical Staff reviewed the operation and maintenance (O&M) system estimates and looked at alternatives to the project option that was chosen. The O&M expenses are estimated at $55,800 upon the completion of the project, which Staff finds as reasonable. Likewise, Staff is satisfied that the option for sewer service that the District has chosen to pursue is reasonable. Id.

Regarding project financing, Technical Staff noted that, since the WVIJDC loan was obtained at 0% interest for a period of 38 years, annual debt service payments will total $14,474. This amount does not include the required reserve payment on the WVIJDC loan in the amount of $1,447 or the required deposits to the renewal and replacement account that must total 2.5% of the District's sewer revenues. Collectively, the District will be obligated to set aside and deposit approximately $2,105 to fund its reserve and renewal and replacement accounts. Further, when payroll taxes of $5,000 are included with the required amounts for O&M, debt service, reserve, and renewal and replacement, the total cost associated with the District's new sewer collection system is $78,826 per year. Although Staff confirms that the District's estimates are reasonable and should be approved, Staff made several adjustments to the proposed tariff regarding the amounts of the security deposit, leak adjustment and tap fees. Staff also revised the language for the disconnect, reconnect and administrative fees to be consistent with prior Commission rulings. See Technical Staff Final Internal Memorandum, at p.7.

According to Staff, the District's proposed sewer rates are based on the customers' actual water consumption and are designed to generate approximately $84,194 in annual operating revenues, including 2% for penalties which may be imposed. The rates, as designed, will generate sufficient revenue to cover the O&M expenses of the new system, provide a cash surplus in the amount of approximately $5,368 and debt service coverage of 161.63%, all of which Technical Staff finds to be reasonable. Nevertheless, Technical Staff recommends that the District file for a review of its rates, no sooner than one of the two following occurrences:

either within 18 months after construction of the system, or when the District files its first annual report based on a full test year of operations. See Technical Staff Final Internal Memorandum, at p.7. The Legal Division agreed with the recommendations of Technical Staff.

A copy of the Final Joint Staff Memorandum, including the Technical Staff Final Internal Memorandum, was mailed to the District on January 8, 2009, advising the District of its right to comment thereon within ten (10) days of the date of the Final Joint Staff Memorandum. As of today's date, the District has not challenged Staff's substantive recommendations.

In consideration of all of the above, the District's certificate application will be granted, subject to the following conditions:

1. The total project cost will not exceed an amount of $2,600,000 to provide sewer service to approximately 119 customers in the Eastwood and Balis Subdivisions and select areas in Jackson County, as more fully described in the engineering plans and contract documents submitted with the application filed on October 6, 2008, with the Public Service Commission, consisting of the installation of 13,300 linear feet of 8-inch gravity line; 450 linear feet of 4-inch FM line; 3,850 linear feet of 6-inch FM gathering line; two (2) wastewater lift stations; and related appurtenances;

2. The total project financing will consist of a West Virginia Infrastructure and Jobs Development Council Grant in the amount of $550,000; a West Virginia Infrastructure and Jobs Development Council Loan in the amount of $550,000 for a term of 38 years at 0% interest; and a United States Army Corps of Engineers Grant in the amount of $1,5000,000;

3. The Staff-recommended tariff, attached hereto as Appendix A, will be utilized by the District for all sewer service rendered after substantial completion of the project;

4. The District is required to seek and obtain additional Commission approval, if there are any changes in the plans, the scope or rates for the project. If however, there is a change in financing that does not affect rates, the District need only file a statement from its certified public accountant that its rates remain unaffected;

5. The District will be required to provide copies of the permits that it receives from the Department of Transportation and United States Army Corps of Engineers to the Commission prior to the start of construction;

6. Prior to releasing any project funds, the District will be required to have obtained at least 70% of the project easements;

7. The District will be required to provide a copy of the engineer's certified tabulation bids, within ten days of the bid opening date, for each construction contract or vendor bid contract to be awarded for the project;

8. The District will be required to provide a copy of the "Certificate of Substantial Completion" for each contract within ten days of issuance;

9. The District will be required to file for a rate review either within 18 months after construction of the system or at the time it files its first annual report based on a full test year of operations, whichever is earlier; and

10. The District will be required to adhere to all rules and regulations of the Department of Highways (DOH), if any of the DOH's rights-of-way are utilized during construction.

Finally, the District will be ordered to provide appropriate notice to its sewer customers of the availability of sewer service and billing after notice, as required by Rule 4.1.f. of the Commission's Rules and Regulations for the Government of Sewer Utilities.

FINDINGS OF FACT

1. On October 6, 2008, the Northern Jackson County Public Service District filed a duly verified application for a certificate of public convenience and necessity from the Public Service Commission to provide wastewater collection service to approximately 119 customers located in the Eastwood and Balis Subdivisions and select surrounding areas in Jackson County. The District proposes to collect the sewer flows and transport the wastewater to the City of Ravenswood for treatment. Total project cost is estimated at $2,600,000. (See October 6, 2008 application).

2. Funding for the project will consist of a loan in the amount of $550,000 from the West Virginia Infrastructure and Jobs Development Council at 0% interest for 38 years; a WVIJDC grant in the amount of $550,000; and a grant from the United States Army Corps of Engineers in the amount of $1,500,000. The District has obtained binding funding commitment letters and they are contained in the case file. (See case file generally).

3. On January 8, 2009, Commission Staff filed its Final Joint Staff Memorandum recommending that a revised Notice of Filing be published and that the certificate application be approved with certain conditions. (See, Final Joint Staff Memorandum filed January 8, 2009).

4. The project, once completed, will enable the treatment of wastewater that is presently going untreated, will eliminate the need for septic systems in the project area and will improve water quality in the Sand Creek watershed, which drains into the Ohio River. (See application; January 8, 2009 Final Joint Staff Memorandum).

5. The rates established for the project are sufficient, but not more than sufficient, to cover the operations of the system, including the funding of the reserves and debt service, while at the same time providing a cash surplus. The rates are estimated to generate $84,194 in annual operating revenues. (See January 8, 2009 Final Joint Staff Memorandum).

6. Proper notice of the project was published on February 11 and 17, 2009, in the Jackson Newspapers, as confirmed by the Affidavit of Publication filed on February 23, 2009. (See February 23, 2009 Affidavit).

7 No protest to the publication of the Notice of Filing has been received. (See case file generally).

CONCLUSION OF LAW

It is reasonable to grant the certificate application, subject to the conditions contained herein, because the project is convenient and necessary; the funding for the project has been committed; the inter-governmental agreement regarding the District's source of treatment has been previously approved; and the rates established for the project, once constructed, are sufficient.

ORDER

IT IS, THEREFORE, ORDERED that the application filed by the Northern Jackson County Public Service District on October 6, 2008, be, and hereby is approved with the following conditions:

(1) Total project cost will not exceed $2,600,000;

(2) Approved financing for the project consists of a loan in the amount of $550,000 from the West Virginia Infrastructure and Jobs Development Council at 0% interest for 38 years; a West Virginia Infrastructure and Jobs Development Council grant in the amount of $550,000; and a grant from the United States Army Corps of Engineers in the amount of $1,500,000.

(3) The Approved Tariff, attached hereto as Appendix A, will be utilized for all sewer service rendered after substantial completion of the project and proper notice has been provided pursuant to Rule 4.1.f. of the Commission's Rules and Regulations for the Government of Sewer Utilities;

(4) The District shall file with the Commission an original and at least six (6) copies of a revised tariff, reflecting the rates and charges approved herein, no later than ten (10) days after the date that this decision becomes a final order of the Commission;

(5) The District shall seek and obtain additional Commission approval, if there are any changes in the plans, the scope or

rates for the project. If, however, there is a change in financing that does not affect rates, the District need only file a statement from its certified public accountant that its rates remain unaffected;

(6) The District shall provide to the Commission copies of the permits that it receives from the Department of Transportation and United States Army Corps of Engineers prior to the start of construction;

(7) Prior to releasing any project funds, the District must obtain at least 70% of the project easements;

(8) The District shall file a copy of the engineer's certified tabulation bids to the Commission, within ten days of the bid opening date, for each construction contract or vendor bid contract to be awarded for the project;

(9) The District shall file a copy of the "Certificate of Substantial Completion" with the Commission for each contract within ten days of issuance;

(10) The District shall file for a rate review within 18 months after construction of the system or at the time it files its first annual report based on a full test year of operations, whichever is sooner; and

(11) The District will be required to adhere to all rules and regulations of the Department of Highways, if any of the Department of Highways's rights-of-way are utilized during construction.

IT IS FURTHER ORDERED that this proceeding be, and hereby is, removed from the Commission's docket of open cases.

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

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

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

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

Commission sooner than five (5) days after approval of such waiver by the Commission.

Meyisha Pearl Blair
Administrative Law Judge

MPB:s
081739ab.wpd

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
CASE NO. 08-1739-PSD-CN
APPROVED TARIFF

APPLICABILITY
Applicable within the entire territory served.

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

RATES (customers with metered water supply)
$10.75 per 1,000 gallons of water usage.

MINIMUM CHARGE
No bill will be rendered for less than $32.25 per month, which is the equivalent of 3,000 gallons.

FLAT RATE CHARGE (customers with non-metered water supply)
Equivalent of 4,500 gallons of water usage, $48.38.

SECURITY DEPOSIT
Not to exceed two-twelfths (2/12) of the annual estimated charge for residential or other sewer service, or $50.00 whichever is greater.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

LEAK ADJUSTMENT
$3.10 per 1,000 gallons of water is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

TAP FEE
The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to the applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 is to be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

DISCONNECT/RECONNECT FEES

Whenever water service has been disconnected by the District for non-payment of sewer service, a disconnection fee of $20.00 shall be charged.

Whenever water service has been reconnected by the District for non-payment of sewer service, a reconnect fee of $20.00 shall be charged. The District's water system shall be entitled to receive these fees from the sewer system whether paid by customers or not. The District's water system shall not charge any other fees to the customers for disconnection or reconnection of water service for non-payment of sewer bills. The water utility may charge a disconnection/reconnection fee directly to its customers only if it is terminating water service for reasons other than nonpayment of a sewer bill. If water service is terminated for non-payment of both sewer and water bills, the District may impose only its water tariff and this provision will not apply.

ADMINISTRATIVE FEE

Whenever a customer pays a delinquent sewer bill to personnel of Northern Jackson County Public Service District in the course of such personnel traveling to disconnect water service for non-payment of sewer service, an administrative fee of $20.00 shall be charged.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

LAW OFFICES
GOODWIN & GOODWIN, LLP
300 SUMMERS STREET, SUITE 1500
CHARLESTON, WEST VIRGINIA 25301-1678
P. O. BOX 2107
CHARLESTON, WEST VIRGINIA 25328-2107
TELEPHONE (304) 346-7000
TELECOPIER (304) 344-9692
www.goodwingoodwin.com

201 THIRD STREET
PARKERSBURG, WEST VIRGINIA 26101
(304) 485-2345

P.O. BOX 349
500 CHURCH STREET
RIPLEY, WEST VIRGINIA 25271
(304) 372-2651

Reply to Charleston Address
wkb@goodwingoodwin.com

August 23, 2010

Ms. Sandra Squire, Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Charleston, WV 25323

Re: Northern Jackson County Public Service District
Case No.: 08-1739-PSD-CN

Dear Ms. Squire:

As counsel for the Northern Jackson County Public Service District (the "District"), I have enclosed the original and 12 copies of an **AFFIDAVIT** filed on behalf of the District. The Affidavit is provided by Todd Dingess, the District's Certified Public Accountant.

The Affidavit is filed to comply with a provision included in the Recommended Decision entered by the Commission on March 30, 2009, in the above-referenced case, which became Final on April 19, 2009. The Order provided, in part, that "The District shall seek and obtain additional Commission approval, if there are any changes in the plans, the scope or rates for the project. If, however, there is a change in financing that does not affect rates, the District need only file a statement from its certified public accountant that its rates remain unaffected." As set forth in the enclosed Affidavit, a change in the financing of the project has occurred, but the rates remain unaffected.

Should you have any questions or concerns, do not hesitate to contact me.

Sincerely yours,

W. K. Bragg, Jr.

William K. Bragg, Jr.

WKB/aks
Enclosures
cc: Todd Dingess (via e-mail)

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Case No.: 08-1739-PSD-CN

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT,
a public utility,
Sandyville, Jackson County

Application for a certificate of public convenience and necessity to provide wastewater collection service to approximately 119 customers located in the Eastwood and Balis Subdivisions and select surrounding areas in Jackson County

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

AFFIDAVIT

I, Todd F. Dingess, CPA, on behalf of the Northern Jackson County Public Service District (the "District"), after making an oath of affirmation to tell the truth, say that I have reviewed the Recommended Decision of the Public Service Commission of West Virginia (the "Commission") in Case No. 08-1739-PSD-CN, which became final on April 19, 2009, approving a $550,000 West Virginia Infrastructure and Jobs Development Council (the "Council") loan at a 0% interest rate for a term of 38 years (the "Series 2010 Bond"). The balance of the financing for the project was being provided by grants from the Council in the amount of $550,000 and the United States Army Corps of Engineers in the amount of $1,500,000.

When bids for the construction of the project were received by the District, they exceeded the amount of funding available and approved by the Commission. The District has sought and secured a revised funding commitment from the Council that includes an additional Council grant in the amount of $540,000 and a change in the interest rate of the Council loan from 0% to 1%. The total cost of the project will increase from $2,600,000 to $3,140,000.

Based upon all the information that has been provided to me, I am of the opinion that (i) the rates and charges for the District are not affected by the revised funding consisting of a larger grant from the Council, increasing the Council's grant by $540,000 from $550,000 to $1,090,000, and a change in the interest rate of the Council loan from 0% to 1%; (ii) the rates and charges for the District will be sufficient to provide revenues which, together with other revenues of the System, will allow me to provide the CPA Certificate required for the issuance of the Series 2010 Bond; (iii) the revised funding

package is adequate to cover all project costs; and (iv) no rate increase is necessary for the District to fulfill its obligations with respect to payments owed under the terms of the Series 2010 Bond.

This Affidavit is executed on the 9th day of August, 2010.

Todd F. Dingess, CPA
License No. 2295
Smith, Cochran & Hicks, P.L.L.C.
405 Capitol Street, Suite 908
Charleston, WV 25301

Taken, subscribed and sworn to before me this 9th day of August, 2010.

My commission expires 12/13/15.

Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BETH A. VanBIBBER
SMITH, COCHRAN & HICKS, P.L.L.C.
405 CAPITOL STREET, SUITE 908
CHARLESTON, WV 25301
My commission expires December 13, 2015

WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Joe Manchin, III
Chairman

Kenneth Lowe, Jr.
Public Member

Dwight Calhoun
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

Angela K. Chestnut, P.E.
Executive Director

Barbara J. Pauley
Administrative Secretary

July 8, 2010

Frank A. Murrey, Board Chairman
Northern Jackson County Public Service District
39 Gilmore Drive
Sandyville, WV 25275

Re: Northern Jackson County PSD – Sewer Project 2003S-726 (Silverton)
Revised Binding Commitment (Bid Overrun)

Dear Mr. Murrey:

At its July 7, 2010 meeting, the West Virginia Infrastructure and Jobs Development Council (Infrastructure Council) voted to approve that the Northern Jackson County Public Service District (District) receive a revised binding commitment for a $550,000 Infrastructure Fund loan (1%, 40 yrs) and a $1,090,000 Infrastructure Fund grant; and utilize a $1,500,000 Corps of Engineers grant. Total project cost is $3,140,000. This project will provide a sanitary sewer collection system for 119 customers in the communities of Eastwood, Balis Addition and surrounding areas. The Infrastructure Fund loan and grant will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference.

If you have any questions regarding this matter, please contact Jim Ellars at 304-558-4607 (X201).

Sincerely,

Kenneth Lowe, Jr.

Enclosure (Sewer Technical Review Committee comments)

cc: Mike Johnson, P.E., DEP (w/o enclosure) *(via e-mail)*
Robert Leach, Mid-Ohio Valley Regional Council
Jim Hildreth, Boyles & Hildreth
Samme Gee, Esq., Jackson Kelly (w/o enclosure) *(via e-mail)*

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of itself and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and the undersigned Chairman of the Northern Jackson County Public Service District (the "District"), for and on behalf of the District, hereby certify as follows:

1. On the 1st day of September, 2010, at Charleston, West Virginia, the Authority received the Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) (the "Series 2010 Bond"), numbered AR-1, in the principal amount of $550,000, dated as of the date hereof. The Series 2010 Bond represents the entire above-captioned bond issue.

2. At the time of such receipt, the Series 2010 Bond had been executed and sealed by the designated officials of the District.

3. The District has received and hereby acknowledges receipt from the Authority of the sum of $69,413.00, being a portion of the principal amount of the Series 2010 Bond. The balance of the principal amount of the Series 2010 Bond will be advanced to the District by the Authority and the Council as the construction of the Project progresses.

WITNESS my signature on this 1st day of September, 2010.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: Carol A. Cummings
Authorized Representative

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

By: Frank A. Murrey
Chairman

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER BOND AND NOTE

September 1, 2010

WesBanco Bank, Inc.
1 Bank Plaza
Wheeling, WV 26003-3565
Attention: Trust Department

Ladies and Gentlemen:

We herewith hand to you, duly executed, the $550,000 Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund), in the form of one bond, numbered AR-1, dated the date hereof (the "Bond"), issued by the Northern Jackson County Public Service District (the "Issuer"), authorized to be issued under and pursuant to the Bond Resolution adopted on March 16, 2010, as amended by a Supplemental Resolution adopted by the Issuer on August 17, 2010 (collectively, the "Resolution"). Other defined terms herein shall have the meanings respectively given such terms in the Resolution.

You have received all the documents required to be filed with you pursuant to the Resolution.

You are hereby requested and authorized to authenticate, register and deliver the Bond on behalf of the Issuer to the West Virginia Water Development Authority, acting on behalf of the West Virginia Infrastructure and Jobs Development Council, as the Purchaser of the Bond, upon payment to the Issuer of $69,413.00, being the first advance of the principal of the Bond.

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

By: Frank A Murray
Chairman

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $550,000

KNOW ALL MEN BY THESE PRESENTS: That NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Jackson County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of FIVE HUNDRED FIFTY THOUSAND DOLLARS ($550,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, plus interest at the rate of one percent (1%) per annum, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2012, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

Principal and interest installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer and the Authority and the Council, dated September 1, 2010.

This Bond is issued (i) to pay a portion of the costs of acquiring, constructing and equipping certain improvements and extensions to new public sewerage facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The public sewerage facilities of the Issuer, including the improvements and extensions constructed by the Project and any further improvements or extensions thereto, are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on March 16, 2010, and a Supplemental Resolution duly adopted by the Issuer on August 17, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional

bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2010 Bond Reserve Account") and from unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds that may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2010 Bond Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond; provided however, that so long as there exists in the Series 2010 Bond Reserve Account an amount at least equal to the maximum amount of principal and interest that will become due on this Bond in the then current or any succeeding year, an amount at least equal to the requirement therefore, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owner of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owner of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of constructing the Project and costs of issuance hereof described in the Bond Legislation, and there shall be

and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated September 1, 2010.

[SEAL]

SPECIMEN
Chairman

ATTEST:

SPECIMEN
Secretary

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2010 Bond described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: September 1, 2010.

WESBANCO BANK, INC., as Registrar

By: SPECIMEN
Vice President and Senior Trust Officer

SPECIMEN

(Form of)

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$ 69,413.00	9/1/10	(6)	$	
(2)	$		(7)	$	
(3)	$		(8)	$	
(4)	$		(9)	$	
(5)	$		(10)	$	

TOTAL $_____

SPECIMEN

EXHIBIT B

DEBT SERVICE SCHEDULE

SPECIMEN

BOND DEBT SERVICE

Northern Jackson County PSD

IF

1% Interest Rate

40 Years from Closing Date

Dated Date	09/01/10
Delivery Date	09/01/10

Period Ending	Principal	Coupon	Interest	Debt Service
09/01/10				
09/01/12	2,955	1.000%	1,375.00	4,330.00
12/01/12	2,963	1.000%	1,367.61	4,330.61
03/01/13	2,970	1.000%	1,360.21	4,330.21
06/01/13	2,978	1.000%	1,352.78	4,330.78
09/01/13	2,985	1.000%	1,345.34	4,330.34
12/01/13	2,993	1.000%	1,337.87	4,330.87
03/01/14	3,000	1.000%	1,330.39	4,330.39
06/01/14	3,008	1.000%	1,322.89	4,330.89
09/01/14	3,015	1.000%	1,315.37	4,330.37
12/01/14	3,023	1.000%	1,307.83	4,330.83
03/01/15	3,030	1.000%	1,300.28	4,330.28
06/01/15	3,038	1.000%	1,292.70	4,330.70
09/01/15	3,045	1.000%	1,285.11	4,330.11
12/01/15	3,053	1.000%	1,277.49	4,330.49
03/01/16	3,061	1.000%	1,269.86	4,330.86
06/01/16	3,068	1.000%	1,262.21	4,330.21
09/01/16	3,076	1.000%	1,254.54	4,330.54
12/01/16	3,084	1.000%	1,246.85	4,330.85
03/01/17	3,091	1.000%	1,239.14	4,330.14
06/01/17	3,099	1.000%	1,231.41	4,330.41
09/01/17	3,107	1.000%	1,223.66	4,330.66
12/01/17	3,115	1.000%	1,215.90	4,330.90
03/01/18	3,122	1.000%	1,208.11	4,330.11
06/01/18	3,130	1.000%	1,200.30	4,330.30
09/01/18	3,138	1.000%	1,192.48	4,330.48
12/01/18	3,146	1.000%	1,184.63	4,330.63
03/01/19	3,154	1.000%	1,176.77	4,330.77
06/01/19	3,162	1.000%	1,168.88	4,330.88
09/01/19	3,169	1.000%	1,160.98	4,329.98
12/01/19	3,177	1.000%	1,153.06	4,330.06
03/01/20	3,185	1.000%	1,145.11	4,330.11
06/01/20	3,193	1.000%	1,137.15	4,330.15
09/01/20	3,201	1.000%	1,129.17	4,330.17
12/01/20	3,209	1.000%	1,121.17	4,330.17
03/01/21	3,217	1.000%	1,113.14	4,330.14
06/01/21	3,225	1.000%	1,105.10	4,330.10
09/01/21	3,233	1.000%	1,097.04	4,330.04
12/01/21	3,241	1.000%	1,088.96	4,329.96
03/01/22	3,250	1.000%	1,080.85	4,330.85
06/01/22	3,258	1.000%	1,072.73	4,330.73
09/01/22	3,266	1.000%	1,064.58	4,330.58
12/01/22	3,274	1.000%	1,056.42	4,330.42
03/01/23	3,282	1.000%	1,048.23	4,330.23

BOND DEBT SERVICE

Northern Jackson County PSD

IF

1% Interest Rate

40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
06/01/23	3,290	1.000%	1,040.03	4,330.03
09/01/23	3,299	1.000%	1,031.80	4,330.80
12/01/23	3,307	1.000%	1,023.56	4,330.56
03/01/24	3,315	1.000%	1,015.29	4,330.29
06/01/24	3,323	1.000%	1,007.00	4,330.00
09/01/24	3,332	1.000%	998.69	4,330.69
12/01/24	3,340	1.000%	990.36	4,330.36
03/01/25	3,348	1.000%	982.01	4,330.01
06/01/25	3,357	1.000%	973.64	4,330.64
09/01/25	3,365	1.000%	965.25	4,330.25
12/01/25	3,374	1.000%	956.84	4,330.84
03/01/26	3,382	1.000%	948.40	4,330.40
06/01/26	3,390	1.000%	939.95	4,329.95
09/01/26	3,399	1.000%	931.47	4,330.47
12/01/26	3,407	1.000%	922.98	4,329.98
03/01/27	3,416	1.000%	914.46	4,330.46
06/01/27	3,425	1.000%	905.92	4,330.92
09/01/27	3,433	1.000%	897.36	4,330.36
12/01/27	3,442	1.000%	888.77	4,330.77
03/01/28	3,450	1.000%	880.17	4,330.17
06/01/28	3,459	1.000%	871.54	4,330.54
09/01/28	3,468	1.000%	862.90	4,330.90
12/01/28	3,476	1.000%	854.23	4,330.23
03/01/29	3,485	1.000%	845.54	4,330.54
06/01/29	3,494	1.000%	836.82	4,330.82
09/01/29	3,502	1.000%	828.09	4,330.09
12/01/29	3,511	1.000%	819.33	4,330.33
03/01/30	3,520	1.000%	810.56	4,330.56
06/01/30	3,529	1.000%	801.76	4,330.76
09/01/30	3,538	1.000%	792.93	4,330.93
12/01/30	3,546	1.000%	784.09	4,330.09
03/01/31	3,555	1.000%	775.22	4,330.22
06/01/31	3,564	1.000%	766.34	4,330.34
09/01/31	3,573	1.000%	757.43	4,330.43
12/01/31	3,582	1.000%	748.49	4,330.49
03/01/32	3,591	1.000%	739.54	4,330.54
06/01/32	3,600	1.000%	730.56	4,330.56
09/01/32	3,609	1.000%	721.56	4,330.56
12/01/32	3,618	1.000%	712.54	4,330.54
03/01/33	3,627	1.000%	703.49	4,330.49
06/01/33	3,636	1.000%	694.43	4,330.43
09/01/33	3,645	1.000%	685.34	4,330.34
12/01/33	3,654	1.000%	676.22	4,330.22
03/01/34	3,663	1.000%	667.09	4,330.09
06/01/34	3,672	1.000%	657.93	4,329.93
09/01/34	3,682	1.000%	648.75	4,330.75
12/01/34	3,691	1.000%	639.55	4,330.55
03/01/35	3,700	1.000%	630.32	4,330.32

SPECIMEN

BOND DEBT SERVICE

Northern Jackson County PSD

IF

1% Interest Rate

40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
06/01/35	3,709	1.000%	621.07	4,330.07
09/01/35	3,719	1.000%	611.80	4,330.80
12/01/35	3,728	1.000%	602.50	4,330.50
03/01/36	3,737	1.000%	593.18	4,330.18
06/01/36	3,747	1.000%	583.84	4,330.84
09/01/36	3,756	1.000%	574.47	4,330.47
12/01/36	3,765	1.000%	565.08	4,330.08
03/01/37	3,775	1.000%	555.67	4,330.67
06/01/37	3,784	1.000%	546.23	4,330.23
09/01/37	3,794	1.000%	536.77	4,330.77
12/01/37	3,803	1.000%	527.28	4,330.28
03/01/38	3,813	1.000%	517.78	4,330.78
06/01/38	3,822	1.000%	508.24	4,330.24
09/01/38	3,832	1.000%	498.69	4,330.69
12/01/38	3,841	1.000%	489.11	4,330.11
03/01/39	3,851	1.000%	479.51	4,330.51
06/01/39	3,861	1.000%	469.88	4,330.88
09/01/39	3,870	1.000%	460.23	4,330.23
12/01/39	3,880	1.000%	450.55	4,330.55
03/01/40	3,890	1.000%	440.85	4,330.85
06/01/40	3,899	1.000%	431.13	4,330.13
09/01/40	3,909	1.000%	421.38	4,330.38
12/01/40	3,919	1.000%	411.61	4,330.61
03/01/41	3,929	1.000%	401.81	4,330.81
06/01/41	3,938	1.000%	391.99	4,329.99
09/01/41	3,948	1.000%	382.14	4,330.14
12/01/41	3,958	1.000%	372.27	4,330.27
03/01/42	3,968	1.000%	362.38	4,330.38
06/01/42	3,978	1.000%	352.46	4,330.46
09/01/42	3,988	1.000%	342.51	4,330.51
12/01/42	3,998	1.000%	332.54	4,330.54
03/01/43	4,008	1.000%	322.55	4,330.55
06/01/43	4,018	1.000%	312.53	4,330.53
09/01/43	4,028	1.000%	302.48	4,330.48
12/01/43	4,038	1.000%	292.41	4,330.41
03/01/44	4,048	1.000%	282.32	4,330.32
06/01/44	4,058	1.000%	272.20	4,330.20
09/01/44	4,068	1.000%	262.05	4,330.05
12/01/44	4,079	1.000%	251.88	4,330.88
03/01/45	4,089	1.000%	241.68	4,330.68
06/01/45	4,099	1.000%	231.46	4,330.46
09/01/45	4,109	1.000%	221.21	4,330.21
12/01/45	4,119	1.000%	210.94	4,329.94
03/01/46	4,130	1.000%	200.64	4,330.64
06/01/46	4,140	1.000%	190.32	4,330.32
09/01/46	4,150	1.000%	179.97	4,329.97
12/01/46	4,161	1.000%	169.59	4,330.59
03/01/47	4,171	1.000%	159.19	4,330.19

BOND DEBT SERVICE

Northern Jackson County PSD

IF

1% Interest Rate

40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
06/01/47	4,182	1.000%	148.76	4,330.76
09/01/47	4,192	1.000%	138.31	4,330.31
12/01/47	4,203	1.000%	127.83	4,330.83
03/01/48	4,213	1.000%	117.32	4,330.32
06/01/48	4,224	1.000%	106.79	4,330.79
09/01/48	4,234	1.000%	96.23	4,330.23
12/01/48	4,245	1.000%	85.64	4,330.64
03/01/49	4,255	1.000%	75.03	4,330.03
06/01/49	4,266	1.000%	64.39	4,330.39
09/01/49	4,277	1.000%	53.73	4,330.73
12/01/49	4,287	1.000%	43.04	4,330.04
03/01/50	4,298	1.000%	32.32	4,330.32
06/01/50	4,309	1.000%	21.57	4,330.57
09/01/50	4,320	1.000%	10.80	4,330.80
	550,000		**112,555.97**	**662,555.97**

SPECIMEN

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer 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: _____, 20__.

_____

In the presence of:

_____

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$550,000	September 1, 2010

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

WesBanco Bank, Inc.

By: _____
Vice President and Sr. Trust Officer

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September 1, 2010

Northern Jackson County Public Service District
Northern Jackson County, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We have served as bond counsel to the Northern Jackson County Public Service District (the "Issuer") in connection with the issuance of its Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) (the "Bond"), dated the date hereof.

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bond, dated September 1, 2010, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Issuer and the West Virginia Water Development Authority (the "Authority"), acting on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the Bond to be purchased by the Authority in accordance with the provisions of the Loan Agreement.

The Bond is issued in the principal amount of $550,000, in the form of one bond, registered to the Authority, bearing interest at the rate of one percent (1%) per annum, with principal and interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2012, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bond.

The Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of constructing certain additions, betterments and improvements to a new public sewerage system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on March 16, 2010, as supplemented by a Supplemental Resolution duly adopted by the Issuer on August 17, 2010 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bond and the Loan Agreement are authorized for issuance, execution and delivery. The Bond is subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Loan Agreement when used herein.

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

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to construct the Project, to operate and maintain the System, to adopt the Resolution and to issue and sell the Bond, all under the Act and other applicable provisions of law.

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

3. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority and the Council or diminish the obligations of the Issuer, without the written consent of the Authority and the Council.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bond. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against

the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bond has been duly authorized, issued, executed and delivered by the Issuer to the Authority and is a valid, legally enforceable and binding special obligation of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and a pledge of the Net Revenues of the System, all in accordance with the terms of the Bond and the Resolution.

6. Under the Act, the Bond and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

7. The Bond has not been issued on the basis that the interest thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bond.

No opinion is given herein as to the effect upon the enforceability of the Bond under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or the exercise of judicial discretion or principles of equity in appropriate cases.

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

Respectfully submitted,

Goodwin + Goodwin, LLP
GOODWIN & GOODWIN, LLP

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September 1, 2010

Northern Jackson County Public Service District
Sandyville, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Northern Jackson County Public Service District
Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We are counsel to Northern Jackson County Public Service District (the "Issuer"). As such counsel, we have examined copies of the approving opinion of Goodwin & Goodwin, LLP, as bond counsel, relating to the above-captioned bond of the Issuer (the "Bond"), a Loan Agreement dated September 1, 2010, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Issuer and the West Virginia Water Development Authority (the "Authority"), for the benefit of the West Virginia Infrastructure and Jobs Development Council (the "Council"), a Bond Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on March 16, 2010, as supplemented by a Supplemental Resolution duly adopted on August 17, 2010 (collectively, the "Resolution"), orders of The County Commission of Jackson County relating to the Issuer and the appointment of members of the Board, and other documents relating to the Bond and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Loan Agreement and the Resolution when used herein.

We are of the opinion that:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members and officers of the Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.

3. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority and the Council, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

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

5. The execution and delivery of the Bond and the Loan Agreement and the consummation of the transactions contemplated by the Bond, the Loan Agreement and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject and of which we are aware.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates, registrations and authorizations necessary for the creation and existence of the Issuer and the issuance of the Bond, including the Recommended Decision of the Public Service Commission of West Virginia ("PSC") entered on March 30, 2009, as made final by the PSC on April 19, 2009, in Case No. 08-1739-PSD-CN, granting the Issuer a certificate of public convenience and necessity for the Project and approving financing for the acquisition, construction and equipping of the Project and the rates for the System.

7. To the best of our knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, the Bond and the Resolution, the acquisition and construction of the Project, the operation of the System,

the validity of the Bond, the collection of the Gross Revenues or the pledge of the Net Revenues for the payment of the Bond.

8. In reliance upon the Engineer's Certificate of Boyles & Hildreth Engineers, Inc., we have ascertained that all successful bidders have provided the drug-free workplace affidavit and submitted their drug free workplace plan, that the contracts contain language that comply with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code, and that the required provisions for all insurance, payment and performance bonds, insurance policies, binders and bonds have been verified for accuracy. Based upon our review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, we are of the opinion that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Resolution and the Loan Agreement; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

The opinions given herein are all subject to the effect upon enforceability of any document under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or the exercise of judicial discretion or principles of equity in appropriate cases.

Our opinion specifically excludes any matters involving the regulatory, tax, securities or public finance activities of the Issuer. This opinion is given for the benefit of those addressed on page 1 hereof, in connection with the Bond, and may not be relied on by them for any other purpose or relied on by any other person, firm or corporation for any purpose whatsoever.

Very truly yours,

GOODWIN & GOODWIN, LLP

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September 1, 2010

Northern Jackson County Public Service District
Sandyville, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Northern Jackson County Public Service District
Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We are counsel to Northern Jackson County Public Service District (the "Issuer"). As such counsel, we have examined copies of a Loan Agreement dated September 1, 2010 (the "Loan Agreement"), by and among the Issuer and the West Virginia Water Development Authority, for the benefit of the West Virginia Infrastructure and Jobs Development Council, a Bond Resolution duly adopted by the Public Service Board of the Issuer on March 16, 2010, as supplemented by a Supplemental Resolution duly adopted on August 17, 2010 (collectively, the "Resolution"), an NPDES permit issued to the Issuer by the West Virginia Department of Environmental Protection ("DEP") on August 24, 2010 (the "Permit"), and other documents relating to the Bond and the Issuer.

No parties filed comments and/or intervened prior to the issuance of the Permit, and the thirty (30) day appeal period applicable to the Permit will expire on or about September 26, 2010. We have been advised by the Issuer that it does not intend to avail itself of its appellate rights with regard to the Permit. Therefore, we fully expect the DEP's issuance of the Permit to become final and non-appealable on or about September 26, 2010.

Very truly yours,

Goodwin & Goodwin, LLP

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August 17, 2010

Northern Jackson County Public Service District
39 Gilmore Drive
Sandyville, West Virginia 25275

West Virginia Infrastructure and Jobs Development Council
300 Summers Street, Suite 980
Charleston, West Virginia 25301

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

Re: Final Title Opinion for Northern Jackson County Public Service District

Ladies and Gentlemen:

We are counsel to Northern Jackson County Public Service District (the "Issuer") in connection with a proposed project to construct a new sewer (wastewater) collection system in Jackson County, West Virginia (the "Project"). We provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Infrastructure and Jobs Development Council (the "Council") for the Project. Please be advised of the following:

1. We are of the opinion that the Issuer is a duly created and validly existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the Council.

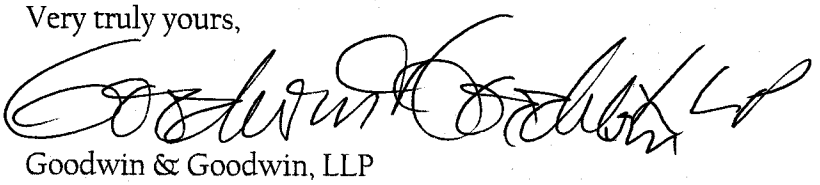
2. In reliance upon information provided by the Engineer the Issuer has obtained all necessary permits and approvals for the construction of the Project.

3. We have investigated and ascertained the location of, and are familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Boyles & Hildreth, ("Engineer") the consulting engineers of the Project.

4. We have examined the records on file in the Office of the Clerk of the County Commission of Jackson County, West Virginia for a period of 20 years, the county in which the Project is to be located. Subject to errors in the records of the County Commission, Sheriff and Assessor of Jackson County and based upon information furnished by the Engineer and assuming his information is correct as to the property which will be impacted by the project, in our opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project described by the Engineer, including all easements and/or rights of way, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Jackson County to protect the legal title to and interest of the Issuer.

Very truly yours,



Goodwin & Goodwin, LLP

MIS/*rmf*

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
1. LOAN AGREEMENT
13. SPECIMEN BOND
14. PROCEEDS
15. CONFLICTS OF INTEREST
16. VERIFICATION OF SCHEDULE
17. PROCUREMENT OF ENGINEERING SERVICES
18. CLEAN WATER ACT
19. COUNTERPARTS

We, the undersigned CHAIRMAN and the undersigned SECRETARY of the Public Service Board of Northern Jackson County Public Service District (the "Issuer") and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) (the "Bond" or the "Series 2010 Bond"), dated the date hereof, as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on March 16, 2010, and the Supplemental Resolution duly adopted by the Issuer on August 17, 2010 (collectively, the "Resolution"), and the loan agreement for the Series 2010 Bond by and among the Issuer and the West Virginia Water Development Authority (the "Authority"), for the benefit of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated September 1, 2010 (the "Loan Agreement").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or

affecting in any manner the authorization, issuance, sale and delivery of the 2010 Bond, the acquisition, construction and equipping of the Project, the operation of the System, the collection or use of the revenues of the System, the pledge and security of the Net Revenues for the Bond; nor affecting the validity of the 2010 Bond or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the 2010 Bond, the acquisition, construction and equipping of the Project, the operation of the System, the collection or use of the revenues of the System, the pledge and security of the Net Revenues for the Bond.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the creation and existence of the Issuer, and, upon reliance on the Engineer's Certificate of Boyles & Hildreth Consulting Engineers, the acquisition, construction and equipping of the Project and the operation of the System. The imposition of rates and charges and the issuance of the 2010 Bond have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited by the Issuer in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery of the Loan Agreement. The Issuer has met all conditions set forth in the Loan Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

5. SIGNATURES AND DELIVERY: The undersigned Chairman and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the 2010 Bond for the Issuer. The seal impressed upon the 2010 Bond and this Certificate is the duly authorized, proper and only seal of the Issuer. As of the date hereof, the undersigned Chairman officially signed the 2010 Bond, upon original issuance of a single Bond, dated the date hereof, by his manual signature; the undersigned Secretary officially caused the seal of the Issuer to be affixed upon the 2010 Bond and attested by his manual signature; the Registrar officially registered, authenticated and delivered the 2010 Bond to a representative of the Authority as the original purchaser of the 2010 Bond under the Loan Agreement.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision of the PSC entered on March 30, 2009, as made final by the PSC on April 19, 2009, in Case No. 08-1739-PSD-CN, granting the Issuer a certificate of public convenience and necessity for the Project and approving financing for the acquisition, construction and equipping of the Project and the rates for the System. The time for appeal of the Recommended Decision entered on March 30, 2009, expired prior to the date hereof without any appeal having been filed. Such order remains in full force and effect.

The Issuer has duly published the required notice with respect to, among other things, the amount of the 2010 Bond to be issued, the interest rate and terms of the 2010 Bond, the Project to be acquired and constructed, the cost of the Project, the anticipated user rates and charges and the date that a formal application for a certificate of public convenience and necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended.

7. RATES: The rates for the System, as approved by the PSC Order, entered March 30, 2009, as made final by the PSC on April 20, 2009, in Case No. 08-1739-PSD-CN, will become effective upon completion of the Project.

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

Name	Date of Commencement of Office	Date of Termination of Office
Frank Murrey	July 2, 2005	July 1, 2011
John Lockhart	April 2, 2006	April 1, 2012
Seldon Angus	January 2, 2007	January 1, 2013

The duly elected or appointed officers of the Board for 2009 are as follows:

Frank Murrey	-	Chairman
John Lockhart	-	Secretary
Seldon Angus	-	Treasurer

The duly appointed and acting attorney for the Issuer is Goodwin & Goodwin, LLP of Charleston, West Virginia.

9. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition, construction and equipping of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the 2010 Bond.

10. MEETINGS: All actions, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the 2010 Bond and the acquisition, construction, equipping, operation and financing of the Project or the System were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of the Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain Workers' Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the Loan Agreement. All insurance for the System required by the Resolution and the Loan Agreement are in full force and effect.

All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance, where applicable, in accordance with the Resolution. The successful bidders have provided the Drug-Free Workplace Affidavit as evidence of compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code. Prior to execution of construction contracts by the Issuer, all insurance for the System required by the Resolution will be in full force and effect.

12. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statements of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

The Issuer shall serve the additional customers at the location(s) as set forth in Certificate of Engineer. The Issuer shall not reduce the amount of additional customers served by the Project without the prior written approval of the Board of the Authority. Following completion of the Project, the Issuer shall certify to the Authority the number of customers added to the System.

13. SPECIMEN BOND: Attached hereto as Exhibit A is a specimen of the 2010 Bond which, except as to execution and authentication, is identical in all respects with the 2010 Bond this day delivered to the Authority and being substantially in the form prescribed in the Resolution.

14. PROCEEDS: On the date hereof, the Issuer received $69,413.00 from the Authority and the Council, being a portion of the principal amount of the Series 2010 Bond. The balance of the principal amount of the 2010 Bond will be advanced to the Issuer from time to time as acquisition, construction and equipping of the Project progresses.

15. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the 2010 Bond, the Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

16. VERIFICATION OF SCHEDULE: The final amended Schedule A attached to the Certificate of Consulting Engineer, with the signature of the Chairman and the Consulting Engineer, accurately represents the estimated costs of the acquisition, construction and equipping of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the 2010 Bond.

17. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

18. CLEAN WATER ACT: The Project, as described in the Resolution, complies with Sections 208 and 303(e) of the Clean Water Act.

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

WITNESS our signatures and the official corporate seal of Northern Jackson County Public Service District on this 1st day of September, 2010.

[SEAL]

Signature	Official Title
Frank A Murrey	Chairman
John C Lockhart	Secretary
	Attorney

EXHIBIT A

See Specimen Bond (Tab No. 8)

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

ENGINEER'S CERTIFICATE

I, James B. Hildreth, P.E., West Virginia License No. 7719, of Boyles and Hildreth Consulting Engineers, Spencer, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain improvements (the "Project") to the new public sewerage facilities (the "System") of Northern Jackson County Public Service District (the "District"), to be constructed in Jackson County, West Virginia, which project is being financed in part by the above-captioned revenue bond (the "Bond") of the District. Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the Resolution adopted by the Public Service Board of the District on March 16, 2010 (the "Resolution"), the Loan Agreement by and among the District and the West Virginia Water Development Authority (the "Authority"), for the benefit of the West Virginia Infrastructure and Jobs Development Council (the "Council") dated September 1, 2010 (the "Loan Agreement").

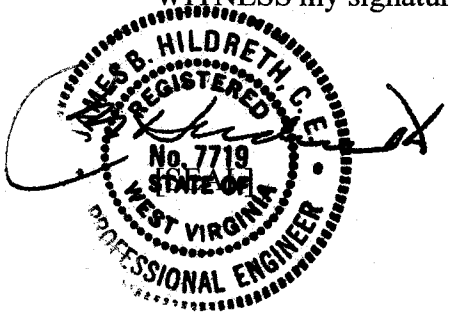
2. The Bond is being issued for the purposes of (i) paying a portion of the costs of acquiring and constructing the Project and (ii) paying costs of issuance and related costs.

3. To the best of my knowledge, information and belief (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP, and any change orders approved by the Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and will have a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with adjusting change order to the plan of financing set forth in the Schedule A attached hereto as Exhibit A, and all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) based upon our review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, the surety bonds and policies are adequate in form, substance and amount to protect the various interests of the District; (v) the successful bidders received any and all addenda to the original bid documents; (vi) the successful bidder(s) have provided the Drug-Free Workplace Affidavit as evidence of the Vendor's compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code; (vii) the bid documents relating to the Project reflect the Project as approved by the Council and the bid forms provided to the bidders contain all critical operational components of the Project; (viii) the successful bids include prices for every item on such bid forms; (ix) the uniform bid procedures were followed; (x) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (xi) in reliance upon the certificate of Smith, Cochran &

Hicks, P.L.L.C., CPA of even date herewith, as of the effective date thereof, the rates and charges for the System as approved by the Public Service Commission of West Virginia and adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (xii) the net proceeds of the Bond, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefore, are sufficient to pay the costs of acquisition and construction of the Project approved by the Council; (xiii) the District has obtained all right-of-ways, deeds and/or contracts to purchase and/or exchange land needed to construct the Project and operate the System; and (xiv) attached hereto as Exhibit A is the final amended "Schedule A-Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

4. The project will serve approximately 119 customers in the Eastwood, Balis Addition, and I-77 Ravenswood Interchange areas of Jackson County.

WITNESS my signature and seal on this 1st day of September, 2010.



BOYLES AND HILDRETH CONSULTING ENGINEERS

By: _____

James B. Hildreth, P.E.
West Virginia License No. 7719

EXHIBIT A

Schedule A - Total Cost of Project and Source of Funds

TOTAL COSTS OF PROJECT

Acquisition, Construction and Equipping	$ 2,436,931
Engineering – Basic & Special Services	217,000
Resident Project Representative Services	130,000
KS Sewerline acquisition	68,912
Land Rights	4,920
Appraisal Services	4,000
Step I Loan repayment	3,787
Accounting	6,250
Registrar Fees	1,000
Administration	10,000
Legal	24,000
Bond Counsel	19,500
Contingencies	178,700
	$ 3,105,000

SOURCES OF FUNDS

WVIJDC loan in the amount of $550,000, at the rate of 1.00% for term not to exceed 40 years, WVIJDC grant in the amount of $1,090,000, and a Corps of Engineers Grant in the amount of $1,465,000.

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Schedule B

Northern Jackson County Public Service District
Sanitary Sewer Collection System Project 2003S-726
TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

	TOTAL	COE Grant	IJDC Grant	IJDC Loan
A. COST OF PROJECT				
1 Construction				
a. Contract No. 1	2,436,931.00	1,198,000.00	827,681.00	411,250.00
2 Technical Services Boyles & Hildreth				
a. Design	172,000.00	112,000.00	40,000.00	20,000.00
b. Inspection	130,000.00	85,000.00	30,000.00	15,000.00
c. Special Services	45,000.00	30,000.00	5,000.00	10,000.00
3 Legal & Fiscal				
a. Legal	15,000.00	0.00	0.00	15,000.00
b. Accounting	6,250.00	0.00	0.00	6,250.00
4 Administrative	50,000.00	37,500.00	6,250.00	6,250.00
5 Sites & Other Lands	4,500.00	0.00	0.00	4,500.00
6 Contingency (± 6 %)	181,069.00	0.00	181,069.00	0.00
7 Miscellaneous	0.00	0.00	0.00	0.00
a. KS Sewerline	75,000.00	37,500.00	0.00	37,500.00
b. Step I Loan	3,750.00	0.00	0.00	3,750.00
8 TOTAL of Lines 1 through 8	3,119,500.00	1,500,000.00	1,090,000.00	529,500.00
B. SOURCES OF FUNDS				
9 Federal Grants				
a. COE Grant	1,500,000.00	1,500,000.00		
10 State Grants (IJDC)	1,090,000.00		1,090,000.00	
11 TOTAL Lines 9 through 10	2,590,000.00	1,500,000.00	1,090,000.00	0.00
12 Net Proceeds from Bond Issue	529,500.00			529,500.00
C. COST OF FINANCING				
13 Capitalized Interest	0.00			
14 Other Costs				
a. Bond Counsel (Goodwin & Goodwin)	20,000.00			20,000.00
b. Registrar Fees	500.00			500.00
15 Cost of Issuance	20,500.00			20,500.00
16 Size of Bond Issue	550,000.00			550,000.00

Frank A Murrey
GOVERNMENTAL AGENCY
June 18, 2010
DATE

CONSULTING ENGINEER
June 18, 2010
DATE

SCH
Smith, Cochran & Hicks, P.L.L.C.
Certified Public Accountants Oak Hill Charleston Montgomery
405 Capitol Street • Suite 908 • Charleston, WV 25301 • 304-345-1151 • Fax 304-346-6731

September 1, 2010

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND
SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFIED PUBLIC ACCOUNTANT'S CERTIFICATE

Northern Jackson County Public Service District
Sandyville, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

Ladies and Gentlemen:

I have reviewed the sewer rates of Northern Jackson County Public Service District (the "Issuer"), as approved by the Recommended Decision of the Public Service Commission of West Virginia entered March 30, 2009, in Case No. 08-1739-PSD-CN, which became a Final Order on April 19, 2009, the projected operating expenses and the anticipated customer usage provided by Boyles & Hildreth Engineers, Inc., the consulting engineer of the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the sewer facilities of the Issuer (the "System") and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Issuer's $550,000 Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) (the "Series 2010 Bond").

It is further my opinion that the Net Revenues for the fiscal year following the year in which the Series 2010 Bond is to be issued will be at least 115% of the average annual debt service requirements on the Series 2010 Bond.

It is further our opinion that the Net Revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Series 2010 Bond, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2010 Bond, will not be less than 115% of the maximum annual amount which will mature and become due in any succeeding year for principal of and interest on the Series 2010 Bond.

Very truly yours,

Smith Cochran & Hicks

SMITH, COCHRAN & HICKS, P.L.L.C.

SCH

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF SECRETARY AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, John Lockhart, the duly elected Secretary of the Northern Jackson County Public Service District (the "District"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the $550,000 Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the District and delivered in the transcript of proceedings, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Bond Resolution adopted on March 16, 2010.

2. Supplemental Resolution adopted on August 17, 2010.

3. Loan Agreement dated September 1, 2010.

4. Public Service Commission Recommended Decision entered on March 30, 2009.

5. Infrastructure and Jobs Development Council Approval.

6. County Commission Order Creating Northern Jackson County Public Service District.

7. County Commission Orders Appointing Board Members.

8. Oaths of Office of Board Members.

9. Rules of Procedure.

10. Minutes of Current Year Organizational Meeting.

11. Minutes on Adoption of Bond Resolution and Supplemental Resolution.

12. Affidavit of Publication of Notice of Public Hearing on Adoption of Bond Resolution.

13. Evidence of Insurance.

14. NPDES Permit.

WITNESS my signature and the official seal of the Northern Jackson County Public Service District as of the 1st day of September, 2010.

(SEAL)

John C. Lockhart
Secretary

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Chairman of the Public Service Board of the Northern Jackson County Public Service District in Jackson County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of the $550,000 Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund), of the Issuer, dated September 1, 2010 (the "Bond"), hereby certifies as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bond. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Resolution duly adopted by the Issuer on March 16, 2010, and supplemented by a Supplemental Resolution adopted by the Issuer on August 17, 2010 (collectively, the "Bond Resolution"), authorizing the Bond.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on September 1, 2010, the date on which the Bond is being physically delivered in exchange for a portion of the principal amount of the Bond, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Resolution pursuant to which the Bond is issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bond that would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority"), from which the proceeds of the Bond are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Bond was sold on September 1, 2010, to the Authority, pursuant to a Loan Agreement dated September 1, 2010, by and among the Issuer and the Authority, for the benefit of the West Virginia Infrastructure and Jobs Development Council ("Council"), for the aggregate purchase price of $550,000 (100% of par), at which time, the Issuer received $69,413.00 from the Authority and Council, being a portion of the principal amount of the Bond.

No accrued interest has been paid on the Bond. The balance of the principal amount of the Bond will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Bond is being delivered simultaneously with the delivery of this certificate and is issued for the purposes of (i) paying a portion of the costs of acquiring, constructing and equipping new public sewer facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bond and related costs.

7. The Issuer shall, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bond for the acquisition, construction and equipping of the Project, constituting a substantial binding commitment, or has already done so. The acquisition, construction and equipping of the Project and the allocation of the net sale proceeds of the Bond to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and all of the proceeds from the sale of the Bond, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before August 1, 2012. The acquisition, construction and equipping of the Project is expected to be completed by August 1, 2012.

9. The total cost of the Project is estimated at $3,140,000. Sources and uses of funds for the Project are as follows:

SOURCES	
Bond Proceeds	$ 550,000
Corps Grant	1,465,000
Council Grant	1,090,000
Total Sources	$ 3,105,000
USES	
Project Costs	$ 3,084,500
Cost of Issuance	20,500
Total Uses	$ 3,105,000

10. Pursuant to Article V of the Bond Resolution, the following special funds have been created or continued with respect to the Bond:

(1) Revenue Fund;
(2) Renewal and Replacement Fund;
(3) Series 2010 Bond Sinking Fund;
(4) Series 2010 Bond Reserve Account; and
(5) Series 2010 Construction Trust Fund.

11. Pursuant to Article VI of the Bond Resolution, all of the proceeds of the Bond will be deposited in the Series 2010 Construction Trust Fund and applied solely to payment of costs of the Project, including costs of issuance of the Bond and related costs, and for no other purpose.

1. Moneys held in the Series 2010 Bond Sinking Fund will be used solely to pay principal of and interest on the Bond and will not be available to meet costs of acquisition, construction and equipping of the Project.

13. The acquisition, construction and equipping of the Project will proceed with due diligence to completion. The acquisition, construction and equipping of the Project is expected to be completed within 23 months of the date hereof. All proceeds of the Bond will be expended on the Project within 23 months from the date hereof

14. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

15. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bond.

16. The amount designated as costs of issuance of the Bond consists only of costs that are directly related to and necessary for the issuance of the Bond.

17. All property financed with the proceeds of the Bond will be owned and held by (or on behalf of) a qualified governmental unit.

18. No proceeds of the Bond will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

19. The original proceeds of the Bond will not exceed the amount necessary for the purposes of the issue. The Issuer covenants that it shall maintain thorough and accurate accounting records, in conformance with generally accepted accounting principles, relative to the proceeds of the Bond so that use of proceeds from the Bond can be accounted for.

20. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

21. The Bond is not federally guaranteed.

22. The Issuer has retained the right to amend the Bond Resolution authorizing the issuance of the Bond if such amendment is necessary to assure that the Bond remain governmental or public purpose bonds.

23. The Issuer has either (a) funded the Series 2010 Bond Reserve Account at the maximum amount of principal which will mature and become due on the Bond in the then current or any succeeding year with the proceeds of the Bond, or (b) created the Series 2010 Bond Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until the Series 2010 Bond Reserve Account holds an amount equal to the maximum amount of principal which will mature and become due on the Bond in the then current or any succeeding year. Moneys in the Series 2010 Bond Reserve Account and the

Series 2010 Bond Sinking Fund will be used solely to pay principal of the Bond and will not be available to pay costs of the Project.

24. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bond, (b) are to be sold pursuant to a common plan of financing together with the Bond, and (c) will be paid out of substantially the same sources of funds of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bond.

25. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances that would materially change the expectations herein expressed.

26. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bond, rebates and rebate calculations.

27. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature as of this 1st day of September, 2010.

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

By: Frank A Murray
Chairman

STATE OF WEST VIRGINIA,

COUNTY OF JACKSON, to-wit:

I, JOHN LOCKHART, do hereby certify that I am the duly qualified and acting Secretary of the Public Service Board of the Northern Jackson County Public Service District.

I further certify that attached hereto are Orders of the County Commission of Jackson County, West Virginia, creating the Silverton Public Service District, subsequently expanding its boundaries, and subsequently approving a change in its name from the Silverton Public Service District to the Northern Jackson County Public Service District, all of which Orders remain in full force and effect with no changes, insertions, amendments or modifications having been made thereto since their respective dates of adoption.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and affixed the seal of said Public Service District as of the 1st day of September, 2010.

(SEAL)

John C. Lockhart

Secretary

Ripley, West Virginia

May 26, 1971

The County Court of Jackson County, West Virginia, met this day in regular session held this 26th day of May, 1971, at 10:00 a.m., pursuant to the call of Carl Warner, President, Conrad McCoy, Commissioner and H. S. Rawlings, Commissioner, said call being:

"To consider a petition of residents and property owners of Silverton, Ravenswood Magisterial District, Jackson County, West Virginia, asking for the creation of a public service district in the area therein described, and to adopt a proposed resolution and enter a proper order fixing a date of hearing on the creation of a public service district in Silverton, Ravenswood Magisterial District, Jackson County, West Virginia, as set forth in said petition and to provide for the publication of a notice of such hearing."

The meeting was called to order and the roll being called, there were present, Carl Warner, President, presiding, and the following named Commissioners:

1. Conrad McCoy
2. H. S. Rawlings

And were absent:

None.

Conrad McCoy introduced and caused to be read a proposed resolution and order entitled:

"A resolution and order fixing a date of hearing on the creation of a public service district within Jackson County, West Virginia; and providing for the publication of a notice of such hearing."

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

H. S. Rawlings seconded the motion and after due consideration the President put the question on the motion, and the roll being called the following voted:

Aye:

Carl Warner

Conrad McCoy

H. S. Rawlings

Nay:

None

Whereupon the president declared the motion duly carried and said resolution and order duly adopted on motion and vote, the meeting was thereupon adjourned.

President

Clerk

A Resolution and Order fixing a date of hearing on the creation of a proposed public service district within Jackson County, West Virginia; and providing for the publication of a notice of such hearing.

WHEREAS, there has heretofore been filed in the office of the Clerk of the County Court of Jackson County, West Virginia, a petition to this County Court, for the creation of a public service district within Jackson County, West Virginia; and

WHEREAS, said County Court Clerk has presented such petition to this County Court at this meeting;

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

Section 1. That the County Court of Jackson County, West Virginia, hereby finds and declares that there has been filed in the office of the County Court Clerk and presented by said County Court Clerk to this County Court a petition for the creation of a public service district within Jackson County, West Virginia, which petition contains a description sufficient to identify the property to be embraced within the proposed public service district and the name of the proposed public service district and which petition has been signed by 146 legal voter residents within and owning real property within the limits of the proposed public service district and said County Court further finds and declares that said petition in all respects meets the requirements of Article 13A of Chapter 16 of the West Virginia Code.

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

(a) The name and corporate title of said public service district shall be the "Silverton Public Service District".

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

BEGINNING at a point in the corporate limits of the Town of Ravenswood, said point having a latitude of N. 38° 57' 10" and longitude W. 81° 45' 00"; thence S. 53° 53' E. 17,700 feet to a point having a latitude of N. 38° 55' 36" and longitude W. 81° 41' 58"; thence south 5,000 feet more or less to center of Sandy Creek to a point having a latitude of N. 38° 54' 36" and longitude W. 81° 41' 58"; thence with centerline of Sandy Creek down stream and in a northwesterly direction 13,000 feet to a point in the westerly right of way of Interstate Route 77, having a latitude of N. 38° 55' 28"; thence with said right of way in a southwesterly direction 1,600 feet to a point of intersection of Interstate 77 and Route 33/3, said point having a latitude of N. 38° 55' 16" and longitude W. 81° 43' 02"; thence N. 50° 37' W. 3,200 more or less to center of Sandy Creek at which point Appalachian Electric Power line crosses said Creek, said point having a latitude of N. 38° 55' 56" and longitude W. 81° 43' 34"; thence down stream with Sandy Creek 10,800 feet more or less to corporate limits of the Town of Ravenswood; thence with said corporate limits 4,000 feet in a northerly direction to beginning, containing an area of 3.56 square miles, all within Ravenswood Magisterial District of Jackson County, State of West Virginia, as shown upon a map prepared by J. H. Milam, Inc., 1214 Myers Avenue, Dunbar, West Virginia, dated June 8, 1979.

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

(d) The territory described above does not include within its limits the territory of any other public service district organized under Article 13A of Chapter 16 of the West Virginia Code, nor does such territory include within its limits any city, incorporated town or other municipal corporation.

Section 3. That said petition contains more than 100 legal voter residents within and owning real property within the limits

of the proposed public service district.

Section 4. That on April 7, 1971, at the hour of 10:30 A. M., this County Court shall meet in the County Court House at Ripley, West Virginia, for the purpose of conducting a public hearing on the creation of the proposed public service district at which time and place all persons residing in or owning or having any interest in property in the proposed public service district may appear before this County Court and shall have an opportunity to be heard for and against the creation of said district, and at such hearing, this County Court shall consider and determine the feasibility of the creation of the proposed public service district.

Section 5. That the County Court Clerk is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on March 25, 1971, in the Ravenswood News, a newspaper of general circulation published in Ravenswood, Jackson County, West Virginia, and said notice shall also be posted in at least five conspicuous places in the proposed public service district. The posted notice shall be posted not less than ten (10) days before said hearing.

NOTICE IS HEREBY GIVEN that a legally sufficient petition has been filed with the Clerk of the County Court of Jackson County, West Virginia, and has been presented to the County Court of Jackson County for the creation of a public service district within Jackson County, for the purpose of constructing or acquiring by purchase or otherwise and the maintenance, operation, improvement and extension of public service properties supplying water and sewerage services within said district and also outside said district to the extent permitted by law; to be named "Silverton Public Service District", and having the following described boundaries:

BEGINNING at a point in the corporate limits of the Town of Ravenswood, said point having a latitude of N. 38° 57' 10" and longitude W. 81° 45' 00"; thence S. 53° 33' E. 17,700 feet to a point having a latitude of N. 38° 55' 36", and longitude W. 81° 41' 58"; thence south 5,000 feet more or less to center of Sandy Creek to a point having a latitude of N. 38° 54' 36" and longitude W. 81° 41' 58"; thence with centerline of Sandy Creek down stream and in a northwesterly direction 13,000 feet to a point in the westerly right of way of Interstate Route 77, having a latitude N. 38° 55' 28", thence with said right of way in a southwesterly direction 1,600 feet to a point of intersection of Interstate 77 and Route 33/3, said point having a latitude of N. 38° 55' 16" and longitude W. 81° 43' 02"; thence N. 50° 37' W. 3,200 more or less to center of Sindy Creek at which point Appalachian Electric Power line crosses said Creek, said point having a latitude of N. 38° 55' 36" and longitude W. 81° 43' 54"; thence down stream with Sandy Creek, 10,800 feet more or less to corporate limits of the Town of Ravenswood, thence with said corporate limits 4,000 feet in a northerly direction to beginning, containing an area of 3.56 square miles, all within Ravenswood Magisterial District of Jackson County, State of West Virginia, as shown upon a map prepared by J. H. Hiam, Inc., 1214 Myers Avenue, Dunbar, West Virginia, dated June 8, 1970.

That the County Court of Jackson County, by resolution adopted March 20, 1971, proposes the creation of the Silverton Public Service District of the County of Jackson, West Virginia.

All persons residing in or owning or having any interest in property in said proposed public service district are hereby notified

that the County Court of Jackson County will conduct a public hearing on April 7, 1971, at 10:30 a.m., in the County Court House at Ripley, West Virginia, at which time and place all interested persons may appear before the County Court and shall have an opportunity to be heard for and against the creation of the proposed public service district.

By order of the County Court this 20th day of March, 1971.

County Court Clerk

ADOPTED BY THE COUNTY COURT March 20, 1971.

President

ATTEST:

Clerk

STATE OF WEST VIRGINIA,

COUNTY OF JACKSON, to-wit:

I, C. E. Kessel, hereby certify that I am the duly qualified and acting Clerk of the County Court of Jackson County, West Virginia, and that the foregoing constitutes a true, correct and complete transcript of the proceedings of said County Court as had under date of March 20, 1971, and a resolution and order then adopted relating to the proposed creation of the Silverton Public Service District, all as shown by the official records in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and the seal of said Court at Jackson County, West Virginia, this March 20, 1971.

(SEAL)

County Court Clerk

Ripley, West Virginia
April 7, 1971

The County Court of Jackson County, West Virginia, met in special session pursuant to law and to the rules of said Court at the County Court House, Ripley, West Virginia, at 10:30 o'clock, A.M. The meeting was called to order and the roll being called there were present: Carl Warner, President, presiding, and the following names Commissioners:

H. S. Rawlings

Absent: Conrad McCoy

This being the date fixed by prior action of the County Court for conducting the public hearing on the creation of the proposed Silverton Public Service District, as contemplated and provided for in a resolution and order adopted by the County Court on March 20, 1971, the president announced that all persons residing in or owning or having any interest in property in said proposed public service district desiring to be heard for or against the creation of said district would be heard and all such interested persons desiring to be heard were given full opportunity.

The County Court then further discussed the creation of said public service district, whereupon H. S. Rawlings introduced and caused to be read a proposed resolution and order, entitled

"A RESOLUTION AND ORDER creating Silverton Public Service District in Jackson County, West Virginia."

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

order be adopted. Carl Warner seconded the motion and after due consideration the President put the question on the motion and the roll being called, the following voted:

Aye: Carl Warner
H. S. Rawlings

Nay: None

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

On motion and vote the meeting adjourned.

Carl W. Warner
President

Attest:

C. E. Kessel
Clerk

I, JEFF WAYBRIGHT, DO HEREBY CERTIFY THAT THE DOCUMENT TO WHICH THIS STAMP IS AFFIXED IS A TRUE COPY OF Resolution + Order RECORDED IN THIS OFFICE IN Minute BOOK A PAGE 377 DATE 12-14-95

Jeff Waybright CLERK/DEPUTY

JEFF WAYBRIGHT, JACKSON COUNTY CLERK

STATE OF WEST VIRGINIA,

COUNTY OF JACKSON, to-wit:

I, C. E. Kessel, hereby certify that I am the duly qualified and acting Clerk of the County Court of Jackson County, West Virginia, and that the foregoing constitues a true, correct and complete transcript of the proceedings of said County Court as had under date of April 7, 1971, and resolutions and orders then adopted relating to the creation of Silverton Public Service District, and appointment of members to the public service board of said district.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of said Court at Ripley, West Virginia, this 7th day of April, 1971.

C. E. Kessel
County Court Clerk

A RESOLUTION AND ORDER appointing members to the public service board of the Silverton Public Service District.

WHEREAS, the County Court of Jackson County, West Virginia, did heretofore by resolution and order adopted April 7, 1971, create the Silverton Public Service District; and

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

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

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

Section 1. That the County Court of Jackson County, West Virginia, hereby finds and determines that George C. Weirick, Noble Adkins, and Everett L. Crow are persons residing within the Silverton Public Service District, and the aforesaid persons are hereby appointed as members of the public service board of said district and their respective terms of office shall be as follows:

George C. Weirick for a term of six years from the first day of the month in which this resolution and order is adopted;

Noble Adkins for a term of four years from

the first day of the month in which this resolution and order is adopted; and

Everett L. Crow for a term of two years from the first day of the month in which this resolution and order is adopted.

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

ADOPTED BY THE COUNTY COURT April 7, 1971.

President

Attest:

Clerk

I, JEFF WAYBRIGHT, DO HEREBY CERTIFY THAT THE DOCUMENT TO WHICH THIS STAMP IS AFFIXED IS A TRUE COPY OF Resolution and Order RECORDED IN THIS OFFICE IN Minute BOOK 3 PAGE 379 DATE 12-14-95

CLERK/DEPUTY

JEFF WAYBRIGHT, JACKSON COUNTY CLERK

Ripley, West Virginia

WHEREAS, the County Court of Jackson County, West Virginia, did heretofore by a resolution and order adopted March 20, 1971, fix a date for a public hearing on the creation of the proposed Silverton Public Service District and in and by said resolution and order provide that all persons residing in or owning or having any interest in property in the proposed public service district might appear before the County Court at this meeting and have the opportunity bo be heard for and against the creation of said district; and

WHEREAS, NOTICE of this hearing was duly given in the manner provided and required by said resolution and order and by Article 13A of Chapter 16 of the West Virginia Code, as amended, and all interested persons have been afforded an opportunity of being heard for and against the creation of said district, but no written protest has been filed by the requisite number of qualified voters registered and residing within said proposed public service district and said County Court has given due consideration to all matters for which such hearing was offered, and

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

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

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

BEGINNING at a point in the corporate limits of the Town of Ravenswood, said point having a latitude of N. 38° 57' 10" and longitude W. 81° 45' 00"; thence S. 53° 33' E. 17,700 feet to a point having a latitude of N. 38° 55' 36" and longitude W. 81° 41' 58"; thence south 5,000 feet more or less to center of Sandy Creek to a point having a latitude of N. 38° 54' 36" and longitude W. 81° 41' 58"; thence with centerline of Sandy Creek down stream and in a northwesterly direction 13,000 feet to a point in the westerly right of way of Interstate Route 77, having a latitude N. 38° 55' 28"; thence with said right of way in a southwesterly direction 1,600 feet to a point of intersection of Interstate 77 and Route 33/3, said point having a latitude of N. 38° 55' 16" and longitude W. 81° 43' 02"; thence N. 50° 37' W. 3,200 feet more or less to center of Sandy Creek at which point Appalachian Electric Power line crosses said Creek, said point having a latitude of N. 38° 55' 36" and longitude W. 81° 43' 34"; thence down stream with Sandy Creek, 10,800 feet more or less to corporate limits of the Town of Ravenswood; thence with said corporate limits 4,000 feet in a northerly direction to beginning, containing an area of 3.56 square miles, all within Ravenswood Magisterial District of Jackson County, State of West Virginia.

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

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

ADOPTED BY THE COUNTY COURT April 17, 1971.

President

ATTEST:

C. E. Head
Clerk

I, JEFF WAYBRIGHT, DO HEREBY CERTIFY THAT THE DOCUMENT TO WHICH THIS STAMP IS AFFIXED IS A TRUE COPY OF Resolution RECORDED IN THIS OFFICE IN Minute BOOK A PAGE 374 DATE 12-14-95

CLERK/DEPUTY

JEFF WAYBRIGHT, JACKSON COUNTY CLERK

A RESOLUTION AND ORDER ENLARGING THE SILVERTON PUBLIC SERVICE DISTRICT IN JACKSON COUNTY, WEST VIRGINIA

WHEREAS, the County Commission of Jackson County, West Virginia, did heretofore by a resolution and order adopted February 22, 1975, fix a date for a public hearing on the enlargement of the Silverton Public Service District and in and by said resolution and order provided that all persons residing in or owning or having any interest in property in the Silverton Public Service District or in the area proposed to be added to the Silverton Public Service District might appear before the County Commission at this meeting and have an opportunity to be heard for and against the enlargement of said district, and

WHEREAS, notice of this hearing was duly given in the manner provided and required by said resolution and order and by Article 13A of Chapter 16 of the West Virginia Code, and all interested persons have been afforded an opportunity of being heard for and against the enlargement of said district, and

WHEREAS, no persons appeared before the County Commission to object to the enlargement of the Silverton Public Service District, and

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

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

Section 1: That the Silverton Public Service District be enlarged and that the area to be added onto the present District shall have the following described boundaries:

BEGINNING at the northeastern corner of the existing Silverton Public Service District, said point having a latitude of N. 38° 55' 36" and longitude of W. 81° 41' 58"; thence from said point N. 63° 45' E. 21,800 feet to a point having a latitude N. 38° 57' 00" and longitude W. 81° 38' 06"; thence East 6,000'

W. OFFICES
S AND SKEEN
WEST VIRGINIA

to a point having the latitude of N. 38° 57' 00" and longitude W. 81° 36' 58"; thence S. 57° 49' West 25,100 feet to a point having a latitude N. 38° 53' 11" and longitude W. 81° 39' 47"; thence West 4,200 feet to a point having the latitude N. 38° 53' 11" and longitude W. 81° 40' 40"; thence with centerline of Sandy Creek downstream 15, 200 feet to a point having a latitude of N. 38° 54' 36" and longitude W. 81° 41' 58"; thence North 5,000 feet to the beginning, containing an area of 9.85 square miles, all within Ravenswood Magisterial District of Jackson County, West Virginia.

Section 2: That said enlarged public service district shall continue under the name and corporate title of "Silverton Public Service District: and shall constitute a public corporation and political subdivision of the State of West Virginia having all of the rights and powers conferred on public service districts by the laws of the State of West Virginia, particularly Article 13A of Chapter 16 of the West Virginia Code.

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

ADOPTED BY THE COUNTY COMMISSION APRIL 5, 1975.

Attest:

Clerk

I, JEFF WAYBRIGHT, DO HEREBY CERTIFY THAT THE DOCUMENT TO WHICH THIS STAMP IS AFFIXED IS A TRUE COPY OF Resolution RECORDED IN THIS OFFICE IN Minute BOOK C PAGE 441 DATE 12-14-95

JEFF WAYBRIGHT, JACKSON COUNTY CLERK/DEPUTY

LAW OFFICES
AMS AND SKEEN
EY, WEST VIRGINIA

IN THE COUNTY COMMISSION OF JACKSON COUNTY, WEST VIRGINIA

RESOLUTION and ORDER

On this the 18th day of October, 1994, came the respective representatives of the Southern Jackson County Public Service District and the Silverton Public Service District pursuant to those certain legal notices and the previous order of this Commission setting a date for hearing on the expansion of the Southern Jackson County Public Service District and for the expansion and the name change of the Silverton Public Service District.

It appearing to your Commission that notice of the public hearing for the foregoing purposes was posted and published in accordance with West Virginia Code 16-13A-2, as amended, the affidavit of the publisher of the Jackson Herald, a newspaper of general circulation in Jackson County, West Virginia, as a Class I legal advertisement being attached hereto and the affidavits of Steve Farley, Manager of the Southern Jackson County Public Service District, and Betty Finley, Manager of the Silverton Public Service District also being attached hereto, said affidavits indicating that notice of the proposed changes was posted in at least five conspicuous places not less than ten (10) days prior to this hearing.

A hearing was set for October 18, 1994, at 3:00 p. m. in the County Commission meeting room by previous order and resolution of this Commission. There being no one appearing in opposition to the proposed expansion and enlargement of each of these public service districts and the change of the name of the Silverton

Public Service District to the name of the Northern Jackson County Public Service District, and upon a motion to approve the same, duly seconded, and unanimously carried, the said proposals as contained in said public notices is hereby approved.

It is further ordered that certified copies of this order be forthwith sent to the Public Service Commission of West Virginia, as provided by law, for action thereon, all in pursuance of West Virginia Code 16-13A-2.

Unanimously resolved, ordered and entered on this the 18th day of October, 1994, at a regular meeting of said commission.

DICK D. CASTO, Commissioner

EMERSON S. SNYDER, Commissioner

DONALD G. STEPHENS, President

ATTEST:

JEFF WAYBRIGHT, CLERK
JACKSON COUNTY COMMISSION

misc:psd-3

I, JEFF WAYBRIGHT, DO HEREBY CERTIFY THAT THE DOCUMENT TO WHICH THIS STAMP IS AFFIXED IS A TRUE COPY OF Resolution + Order RECORDED IN THIS OFFICE IN Minute BOOK Q PAGE 256 DATE 12/14/95

CLERK/DEPUTY
JEFF WAYBRIGHT, JACKSON COUNTY CLERK

Commissioner Stephens reported on the Fairgrounds Advisory Committee meeting held on Thursday, July 21, 2005. A motion was made by Commissioner Stephens to accept the recommendation of the Advisory Board and allow the Church of Jesus Christ Full Gospel to hold a tent revival at the fairgrounds with the fee being 15% of the offering collection received. The motion was seconded by Commissioner Waybright and upon the call for a vote, passed unanimously.

A motion was made by Commissioner Stephens to accept the resignation of Dale Mason as a member of the Southern Jackson County Public Service District retroactive to July 1, 2005. The motion was seconded by Commissioner Waybright and upon the call for a vote, passed unanimously.

A motion was made by Commissioner Stephens to appoint Leslie Miller-Stover to serve the unexpired term of Dale Mason as a member of the Southern Jackson County Public Service District. The motion was seconded by Commissioner Waybright and upon the call for a vote, passed unanimously.

The Commission discussed a request from the Silverton Public Service District for approval from this Commission to change its name to the Northern Jackson County Public Service District. A motion was made by Commissioner Stephens to approve this name change request. The motion was seconded by Commissioner Waybright and upon the call for a vote, passed unanimously. The Public Service District will petition the Public Service Commission, request approval from all bond holders and handle any other legal requirements necessary to accomplish this name change.

A motion was made by Commissioner Waybright for this Commission to support the WV Department of Transportation including U.S. Route 33 as a Civil War Trail to promote tourism in West Virginia. The motion was seconded by Commissioner Stephens and upon the call for a vote, passed unanimously.

A motion was made by Commissioner Waybright to enter into executive session for the purpose of discussing personnel matters. The motion was seconded by Commissioner Stephens and upon the call for a vote, passed unanimously.

A motion was made by Commissioner Stephens come out of executive session. The motion was seconded by Commissioner Waybright and upon the call for a vote, passed unanimously. Following the executive session, a motion was made by Commissioner Stephens to accept the recommendation of Doctor and EMS Medical Director Steve Eshenaur and Emergency Operations Chief Lori Pierson and terminate James Hanshaw effective at the end of his shift on July 28, 2005. The motion was seconded by Commissioner Waybright and upon the call for a vote, passed unanimously.

Commissioners reported on various meetings attended with no action being taken or required.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 4th day of January, 2006.

CASE NO. 05-1732-PSWD-NC

JACKSON COUNTY COMMISSION and
SILVERTON PUBLIC SERVICE DISTRICT
Petition for Silverton Public Service District to change its name to Northern Jackson County Public Service District.

COMMISSION ORDER

The Applicant requests Commission consent and approval to change its name to Northern Jackson County Public Service District. The Applicant has not yet filed an amended certificate of authority from the West Virginia Secretary of State amending the Applicant's certificate of authority to change the Applicant's name to Northern Jackson County Public Service District.

Staff recommends approval of the name change contingent upon submission of an amended certificate of authority from the West Virginia Secretary of State.

ORDER

IT IS THEREFORE ORDERED that Jackson County Commission and Silverton Public Service District's request for consent and approval to change its name to Northern Jackson County Public Service District, is hereby granted contingent upon the filing of an amended certificate of authority from the West Virginia Secretary of State.

IT IS FURTHER ORDERED that within thirty (30) days of the date of submission of the above ordered amended certificate of authority from the West Virginia Secretary of State, Jackson County Commission and Silverton Public Service District shall file its revised tariff with the Commission's tariff office.

AMENDMENT FOR PUBLIC CORPORATION

FIRST: The present name of the public corporation is: **SILVERTON PUBLIC SERVICE DISTRICT**

SECOND: The date of the adoption of the amendment(s): **JANUARY 4, 2006**

THIRD: In the manner prescribed by the Law, the board of directors has adopted the following amendment(s):

The name of the district shall be change to: **NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT.**

NOTE: A copy of the West Virginia Public Service Commission Order is attached.

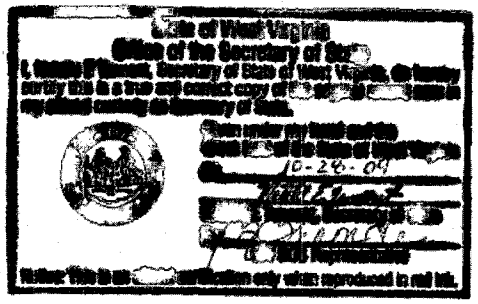
FOURTH: Articles of amendment prepared by:

(name) Michael I. Spiker, Goodwin & Goodwin, LLP

(address) 300 Summers Street, Suite 1500 (25301)
Post Office Box 2107
Charleston, West Virginia 25328-2107

(phone #) (304) 346-7000

FIFTH: Signature of the chairman of the board:



Frank Murray, Chairman

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 4th day of January, 2006.

CASE NO. 05-1732-PSWD-NC

JACKSON COUNTY COMMISSION and
SILVERTON PUBLIC SERVICE DISTRICT
Petition for Silverton Public Service District to change its name to Northern Jackson County Public Service District.

COMMISSION ORDER

The Applicant requests Commission consent and approval to change its name to Northern Jackson County Public Service District. The Applicant has not yet filed an amended certificate of authority from the West Virginia Secretary of State amending the Applicant's certificate of authority to change the Applicant's name to Northern Jackson County Public Service District.

Staff recommends approval of the name change contingent upon submission of an amended certificate of authority from the West Virginia Secretary of State.

ORDER

IT IS THEREFORE ORDERED that Jackson County Commission and Silverton Public Service District's request for consent and approval to change its name to Northern Jackson County Public Service District, is hereby granted contingent upon the filing of an amended certificate of authority from the West Virginia Secretary of State.

AMENDMENT FOR PUBLIC CORPORATION

FIRST: The present name of the public corporation is: **SILVERTON PUBLIC SERVICE DISTRICT**

SECOND: The date of the adoption of the amendment(s): **JANUARY 4, 2006**

THIRD: In the manner prescribed by the Law, the board of directors has adopted the following amendment(s):

The name of the district shall be change to: **NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT.**

NOTE: A copy of the West Virginia Public Service Commission Order is attached.

FOURTH: Articles of amendment prepared by:

(name) Michael L Spiker, Goodwin & Goodwin, LLP

(address) 300 Summers Street, Suite 1500 (25301)
Post Office Box 2107
Charleston, West Virginia 25328-2107

(phone #) (304) 346-7000

FIFTH: Signature of the chairman of the board:

Frank O Murray

Frank Murray, Chairman

LAW OFFICES
GOODWIN & GOODWIN, LLP
300 SUMMERS STREET, SUITE 1500
CHARLESTON, WEST VIRGINIA 25301-1678

P. O. BOX 2107
CHARLESTON, WEST VIRGINIA 25328-2107

TELEPHONE (304) 346-7000
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201 THIRD STREET
PARKERSBURG, WEST VIRGINIA 26101
(304) 485-2345

P.O. BOX 349
500 CHURCH STREET
RIPLEY, WEST VIRGINIA 25271
(304) 372-2651

Reply to Charleston Address
mis@goodwingoodwin.com

January 6, 2006

Via First Class Mail

Ms. Margie Flinn
Silverton Public Service District
Route 1 Box 182AA
Ravenswood, WV 26164

Re: Silverton Public Service District
Request for Name Change
Case No: 05-1732-PSWD-NC

Dear Margie:

I have enclosed a copy of the Public Service Commission Order approving the name change. I have also enclosed a Certificate to Change Name which must be signed and returned to me so I can file with the Secretary of State.

If you have any questions, please do not hesitate to contact me.

Sincerely yours,

Michael I. Spiker

MIS/rmf
Enclosures

RECEIVED
UTILITIES DIVISION
SPECIAL STUDIES SECTION

2006 FEB -3 AM 8:50

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA

P.S.C. W. Va. No. 1
Canceling P.S.C. W. Va. No. 18 of Silverton Public Service District

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public utility

OF

SANDYVILLE, WEST VIRGINIA

Public Service Commission
of W. VA. Tariff Office
FEB 02 2006
Special Studies Section

RATES, RULES AND REGULATIONS FOR FURNISHING

WATER

Silverton and vicinity, Jackson County, West Virginia

Filed with THE PUBLIC SERVICE COMMISSION
of
WEST VIRGINIA

Issued January 23, 2006

Effective for all bills rendered on and after January 4, 2006
or as otherwise provided herein

Issued by authority of an order of the
Public Service Commission of West Virginia
in Case No. 05-1732-PSWD-NC dated
January 4, 2006 or as otherwise provided herein

Issued by NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT,
a public utility

By Frank A Murrey

Chairman
Title

The Jackson County Commission

Jackson County Courthouse
Ripley, West Virginia 25271
Phone (304) 373-2220
Fax (304) 373-0245

Commissioner
Virginia J. Starcher

Commissioner
James L. Waybright

Commissioner
Donald Stephens

December 21, 2006

Mr. Seldon Angus
Rt. 3, Box 7
Sandyville, WV 25275

Dear Mr. Angus:

We are pleased to advise you that during our regular meeting of December 21, 2006, you were appointed to serve an additional term as a member of the Northern Jackson County Public Service District. Your new term will January 1, 2013 and you may stop by the office of the County Clerk at your convenience to sign your oath of office.

We would like to take this opportunity to thank you for your willingness to accept this additional appointment. We are sure you will continue to be a valuable asset on this board.

Once again we would like to thank you, and if we may be of service to you in any way, please feel free to contact us.

Sincerely,

THE JACKSON COUNTY COMMISSION

Donald G. Stephens, President

James L. Waybright, Commissioner

Virginia J. Starcher, Commissioner

JCC:sg

The Jackson County Commission

Jackson County Courthouse
Ripley, West Virginia 25271
Phone (304) 373-2220
Fax (304) 373-0245

Commissioner
Virginia J. Starcher

Commissioner
James L. Waybright

Commissioner
Donald Stephens

June 16, 2005

Mr. Frank Murray
Rt. 3 Box 87
Sandyville, WV 25275

Dear Mr. Murray:

We are pleased to advise you that during our regular meeting of June 16, 2005, we acknowledged your appointment to serve an additional term as a member of the Silverton Public Service District. Your term will expire July 1, 2011, and you may stop by the office of the County Clerk at your convenience to sign your oath of office.

We would like to take this opportunity to thank you for your willingness to accept this appointment. We are sure you will be a valuable asset on this board.

Once again we would like to thank you, and if we may be of service to you in any way, please feel free to contact us.

Sincerely,

THE JACKSON COUNTY COMMISSION

Virginia J. Starcher, President

Donald G. Stephens, Commissioner

James L. Waybright, Commissioner

JCC:sg

The Jackson County Commission

Jackson County Courthouse
Ripley, West Virginia 25271
Phone (304) 373-2220
Fax (304) 373-0246

Commissioner
Virginia J. Starcher

Commissioner
James L. Waybright

Commissioner
Donald Stephens

March 16, 2006

Mr. John C. Lockhart
Rt. 3 Box 159
Sandyville, WV 25275

Dear Mr. Lockhart:

We are pleased to advise you that during our regular meeting of March 16, 2006, we acknowledged your appointment to serve an additional term as a member of the Northern Public Service District. Your term will expire April 1, 2012 and you may stop by the office of the County Clerk at your convenience to sign your oath of office.

We would like to take this opportunity to thank you for your willingness to accept this appointment. We are sure you will be a valuable asset on this board.

Once again we would like to thank you, and if we may be of service to you in any way, please feel free to contact us.

Sincerely,

THE JACKSON COUNTY COMMISSION

Donald G. Stephens, President

James L. Waybright, Commissioner

Virginia J. Starcher, Commissioner

JCC:sg

To Margie
If you get this call me
John

OATH OF OFFICE

STATE OF WEST VIRGINIA

COUNTY OF JACKSON, to-wit:

I, Seldon Angus, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties as a member of the Northern Jackson County Public Service District in and for Jackson County, West Virginia, to the best of my skill and judgment, during my continuance in the same. SO HELP ME GOD. Term to expire January 1, 2013.

Seldon Angus

Seldon Angus

Subscribed and sworn to before the County Commissioner of Jackson County, West Virginia, this 28th day of December, 2009.

Jeff Waybright

Jeff Waybright, County Clerk

FROM : FAX NO. : Oct. 15 2009 09:22AM P1

FROM : FAX NO. : Jan. 25 2006 11:37AM P1

OATH OF OFFICE

STATE OF WEST VIRGINIA

COUNTY OF JACKSON, to-wit:

I, John C. Lockhart, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties as a member of the Northern Public Service District in and for Jackson County, West Virginia, to the best of my skill and judgment, during my continuance in the same. SO HELP ME GOD. Term to expire April 1, 2012.

John C. Lockhart

Subscribed and sworn to before the County Commissioner of Jackson County, West Virginia, this 28 day of March, 2006.

Jeff Waybright, County Clerk

OATH OF OFFICE

STATE OF WEST VIRGINIA

COUNTY OF JACKSON, to-wit:

I, Frank Murrey, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties as a member of the Silverton Public Service District in and for Jackson County, West Virginia, to the best of my skill and judgment, during my continuance in the same. SO HELP ME GOD. Term to expire July 1, 2011.

Frank O Murrey

Frank Murrey

Subscribed and sworn to before the County Commissioner of Jackson County, West Virginia, this 28th day of June, 2005.

Jeff Waybright

Jeff Waybright, County Clerk

05 JUN 28 AM 10:45

STATE OF WEST VIRGINIA,

COUNTY OF JACKSON, to-wit:

I, JOHN LOCKHART, do hereby certify that I am the duly qualified and acting Secretary of the Public Service Board of the Northern Jackson County Public Service District.

I further certify that attached hereto is a true and correct copy of the Rules of Procedure of the Public Service Board of the Silverton Public Service District, now known as the Northern Jackson County Public Service District, Jackson County, West Virginia, adopted on June 21, 2005, and which remain in full force and effect with no changes, insertions, amendments or modifications having been made thereto since their date of adoption.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and affixed the seal of said Public Service District as of the 1st day of September, 2010.

(SEAL)

John C. Lockhart

Secretary

RULES OF PROCEDURE

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

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

Section 2. The principal office of the District will be located at 39 Gilmore Drive, Sandyville, WV 25275, Jackson County, West Virginia.

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

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

ARTICLE II

PURPOSE

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

ARTICLE III

MEMBERSHIP

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

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

appointment or re-appointment to maintain a fully qualified membership of the Board.

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

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

Section 5. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the District, nor shall a former board member be hired by the District in any capacity within a minimum of 12 months after such board member's term has expired or after such board member has resigned from the Board.

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

Section 7. The members of the Board are not personally liable or responsible for any obligations of the District or the Board but are answerable only for willful misconduct in the performance of their duties.

ARTICLE IV

MEETINGS OF THE BOARD

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

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

Section 3. Unless otherwise waived, notice to members of regular meetings shall be by

letter or telephone. Unless otherwise waived, notice to members of each special meeting shall be by letter or telephone not less than 72 hours before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted at such meeting, and no business other than that stated in the notice shall be transacted at such special meeting.

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

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of these Rules of Procedure and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place of the Board and at the Jackson County Courthouse, where notices customarily are posted, a notice setting forth the date, time and place of the Board's regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Secretary not less than 72 hours before such regular meeting is to be held.

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

News Media	Address
Jackson Herald	Ripley, WV
Star News	Ravenswood, WV

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 72 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Board, notice of such modification shall immediately be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above not less than 48 hours before such regular meeting is to be held. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice

was given.

Rule No. 2. Notice of Special Meetings. Not less than 72 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the Jackson County Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 72 hours prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

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

Rule No. 3. Emergency Meetings. The Board may hold a meeting without providing the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof only in the event of an emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Board and shall be attested to in a certificate by the Secretary describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

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

Rule No. 5. Minutes. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, minutes of all meetings except minutes of

executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

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

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Board may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting to understand what is being deliberated, voted or acted upon. However, this rule does not prohibit the Board from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Board may not vote by secret or written ballot.

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

Rule No. 8. Telephonic Meetings. Board meetings may be held by telephone conference or other electronic means. All Board members participating by telephone or other electronic means must be audible to all those personally present.

Section 5. All meetings of any committee of the Board shall be subject to the Rules of Procedure set forth in Section 4 above.

ARTICLE V

OFFICERS

Section 1. The officers of the Board shall be a Chairperson, Secretary and Treasurer. The Chairperson shall be elected from the members of the Board. The Secretary and Treasurer need not be members of the Board. In addition to the foregoing officers, the Board may designate such other officers or officials as from time to time may be deemed advisable and may prescribe their duties.

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

ARTICLE VI

DUTIES OF OFFICERS

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

Section 2. If the Chairperson is absent from any meeting, the remaining members of the Board shall select a temporary chairperson.

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. Duplicate records shall be filed with the County Commission and shall include the minutes of all Board meetings. The Secretary shall, together with the Chairperson, sign the minutes of the meetings at which the Secretary is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other documents and papers of the Board. The Secretary shall also perform such other duties as may be required of the Secretary by law or as may be conferred upon the Secretary from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out on orders authorized or approved by the Board. The Treasurer shall keep or cause

to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through the Treasurer and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. The Treasurer shall keep and preserve all financial records of the District for 10 years and shall at all times have such records readily available for public inspection. At the end of the Treasurer's term of office, the Treasurer shall promptly deliver all financial records of the District to his successor in office. The Treasurer shall also perform such other duties as may be required of the Treasurer by law or as may be conferred upon the Treasurer from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

Section 5. No money may be paid out by the District except upon an order signed by the Chairperson and Secretary, or such other person or persons authorized by the Chairperson or the Secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the Board.

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

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

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

Readopted this 17th day of August, 2010.

Frank A Murrey
Chairman and Member

John C Lockhart
Member

Member

Northern Jackson County Public Service District
Minutes - Board Meeting * Tuesday, January 19, 2010

Those in attendance were: Frank Murrey, Chairman; John Lockhart, Secretary; Seldon Angus, Treasurer; Margie Flinn, Mgr.

The meeting was called to order by Frank Murrey at 5:54 p.m.

Seldon Angus moved to approve the minutes from the previous board meeting held on December 15, 2009. John Lockhart second. Motion carried. Three yes votes, unanimously approved.

The Water and Sewer Financial Reports for December 2009 were presented. John Lockhart moved to accept the Financial Reports. Seldon Angus second. Motion carried. Three yes votes, unanimously approved.

Invoices were signed by the Audit Committee. John Lockhart moved to pay invoices and payment of checks (water) #5255 - #5313 and (sewer) #0000. Seldon Angus second. Motion carried. Three yes votes, unanimously approved.

No adjustments for the month were presented for approval.

No new taps for the month were presented for approval.

December's unaccountable water was 15% (total loss 15%).

ITEMS FOR DISCUSSION:

Water - Lockhart Fork/Medina -
Letters were sent to the Rt 21 residents with a deadline of 02/15/10 to submit their User Agreements and pre-construction tap fees. Two of eleven tap fees have been received.
Hildreth was informed to design a 6" line across Rt 21 to serve the Dewey Thomas Road resident(s) The upgrade from a 2" to 6" will be beneficial in the future.

Water - Old System Upgrade - Hildreth has not made much progress towards trying to procure stimulus funding for the Old System Upgrade. MOVRC has been contacted and Bob Leach the new Grant Coordinator replacing Erin Thacker will be preparing the IJDC Application. A request has been made to Hildreth for the Preliminary Engineering Report.

Sewer - Rob Johnston did on-site reviews of the three properties for right-of-way condemnations on Friday, November 20, 2009. Several times they have said they had completed the appraisals only to later find out they are still working on them.
Repeated calls (messages) were made for 3 weeks by the District to the WVIJDC in regard to approving the sewer project to go to bid. Finally, IJDC sent an email to Jim Hildreth stating they could not locate the packet that was sent to them on October 20, 2009. Progress has finally started to get an "authorization to bid" letter.

Tariff - The WVPSC will come to the District in February to perform their audit.
One item that is not too late to include in this Tariff is a $20.00 Disconnect Fee. Jim Aucremanne, WVPSC, has repeatedly suggested that we request a Disconnect Fee due to high cost of fuel, etc. Seldon Angus moved to submit a letter requesting a Disconnect Fee be included in the Tariff under review. John Lockhart second. Motion carried. Three yes votes, unanimously approved.

Annual election of board officers was held. Seldon Angus made a motion for board officers to stay the same John Lockhart second. Motion carried. Three yes votes unanimously approved.

Due to the age of the copier (4 years old), a maintenance agreement is being arranged with CWS for $28.00 per month. This will cover toner, parts, labor.

John Lockhart moved to adjourn at 6:37 p.m. Seldon Angus second. Motion carried. Three yes votes, unanimously approved.

Approval Date: February 16, 2010.

_____
Frank A. Murrey, Chairman

_____
John C. Lockhart, Secretary

Northern Jackson County Public Service District
Minutes - Board Meeting * Tuesday, March 16, 2010

Those in attendance were: Frank Murrey, Chairman; John Lockhart, Secretary; Seldon Angus, Treasurer; Margie Flinn, Mgr.; Deb Smith; Admin. Asst.

The meeting was called to order by Frank Murrey at 6:00 p.m.

Seldon Angus moved to approve the minutes from the previous board meeting held on February 16, 2010. John Lockhart second. Motion carried. Three yes votes unanimously approved.

The Water and Sewer Financial Reports for February 2009 were presented. Seldon Angus moved to accept the Financial Reports. John Lockhart second. Motion carried. Three yes votes unanimously approved.

Invoices were signed by the Audit Committee._ John Lockhart moved to pay invoices and payment of checks (water) #5376 - #5428 and (sewer) #1078 - #1081. Seldon Angus second. Motion carried. Three yes votes unanimously approved.

No adjustments for the month were presented for approval. An adjustment of a late fee was been requested by Neil Weekley. There is not a substantial reason as to why he had not paid the bill which incurred a late fee. His bill was very large due to neglect of frozen water pipes and he has paid in in full. I do not recommend an allowance for this late fee.

One new tap for the month was presented for approval; Robert & Linda Miihlbach, Greenhills Road. Seldon Angus moved to accept the tap. John Lockhart second. Motion carried. Three yes votes unanimously approved.

February's unaccountable water was 20% (total loss 27%). Two leaks at an approximate10-12 gpm total were repaired at Rt 21/Liverpool on 02/26 and 02/27 during snowy weather conditions. The daily water loss is much less now.

ITEMS FOR DISCUSSION:

Water - Lockhart Fork/Medina - An inquiry has been made to Hildreth as to the possibility of adding tank painting of Eastwood, Lockhart, and Sandyville, along with an additional tank for capacity at Sandvyille to the Lockhart/Medina project. It is probably not a good idea to amend the IJDC application at this time.

Jim states he has a good set of drawings completed for this project. Once he has a few quiet days to make a final review, he will submit them to the Health Dept. A request will be made that he submit them at his earliest convenience. It is very important that we move the project forward as much as possible to be "shovel ready".

Water - Old System Upgrade - Hildreth will prepare the Preliminary Engineering Report (PER) and Angie Vealey will prepare a Draft Rule 42. An inquiry will be made with Hildreth as to what upgrades will be done.

Sewer -On 02/1810 a check for $20 payable to Jackson County Circuit Clerk for value of interest for Dianna Riggs-Shaffer was sent to Mike Spiker to file her case and get right of entry and order setting status conference. On 02/19/10 Mike Spiker, Goodwin & Goodwin sent Petition to Condem Land for Public use as a Right-of-Way and for Immediate Right of Entry; and Order filing Petition, Granting Right of Entry and Setting Status Conference for Carmichael/Dianna Riggs-Shaffer property . After a civil suit appeared in the Jackson Herald on March 2, on March 3, 2009 Deanna came in and signed the right of way and was compensated $20. Spiker has filed an order to Jackson County Circuit Clerk to return the $20.00 paid for value of interest.

Spiker needs a legal description of centerline of Cobb right of way before Cobb's filing. Hildreth finally provided this on March 4, 2010.

On March 15, 2010, Spiker submitted the Civil Information Sheet, Summons, Petition to Condemn land for Public use as a Right-of-Way and for Immediate Right of Entry, Order filing Petition, check for filing case vs. Kester Leighton Cobb.

The r/w for the B&O/CSX land now appears that this property may have been sold to Kaiser and then to Ridgeline. Hildreth and Spiker are trying to rectify this r/w.

Authorization to bid was received from WVIJDC January 20, 2010. Hildreth sent the Advertisement for Bid as a Class II Legal Advertisement on February 19, 2010 to the Jackson Newspapers, to be published on February 23, 2010 and March 2, 2010 with bid opening at 1:30 p.m. March 23, 2010. The Sandyville Senior Center basement has been reserved for the bid opening. That would make the loan closing about May 23 and construction starting June 15th.

The Sewer Revenue Bond Resolution advertisement was sent to Jackson Newspapers to be published as Class I notice on March 2 in The Jackson Herald and on March 4 in The Star News. (Copy attached for your review) John Lockhart motioned to adopt the Resolution for the Sewer Revenue Bond for $550,000. Seldon Angus second. Motion carried. Three yes votes unanimously approved.

Tariff Case No. 09-2053-PWD-19A - Pete Lopez, Utilities Analyst performed his audit review at the District 02/18 and 02/19. Mr. Lopez states that we will not get the requested 14.7% rate increase requested and maybe no increase at all The WVPSC now feels if you have funds in your general fund, you do not need a rate increase. If you have funds in your reserve accounts you need to spend them and not request a rate increase. He also wanted to remove the Tank Maintenance account. He feels it is not necessary and if we need money to paint our tanks we can take out a loan. Once he has issued his Initial Report, we have 10 days to answer. If you have any thoughts on this matter, please let me know.

In order to include a pay increase Mr. Lopez has to have an actual effective date to include in his report that is due before March 29. A Memo requesting approval of a July 1, 2010 effective date was sent to the Board for pre-approval before the March 16 board meeting when a formal motion will be completed. He suggested July 1, 2010 to flow with the next fiscal year. A pre-approval was given by board members on 02/23/2010. John Lockhart moved to make salary increases effective July 1, 2010 pending the outcome of the rate increase. Seldon Angus second. Motion carried. Three yes votes unanimously approved.

Tariff Form No. 6, Affidavit of Publication of Tariff Form No. 8-A, rate increase press release, Newsletter with statement, and brochure was sent to the WVPSC 02/22/10.

Some Employee Hand revisions have been made. Copies were distributed for review. Additions are in red, deletions have a strikeout line. The review will continue for a few months.

A Draft Credit Card Policy was distributed for review. This will be reviewed for the next few months.

A meeting was held on March 5, 2010 with Rick and Mike Shinn at the NJCPSD office to discuss Mike's request for gravel on the beginning of the tank road. The Sandyville tank was installed in 1976 and about 1996 and 1999 Rick and Mike established residences on this road. This is the only tank road that is used as a residential road. The District has put gravel numerous times on the road and only travels this road about once per month. In the future, we ask that Shinn's bring in copies of when, amount, and price of gravel and road maintenance they provide. The District will also maintain records of their costs and contributions to the road. The District agreed to put 10 ton #4 as requested by Mike on the beginning of the tank road.

The District's 2" water trash pump is on its last leg. Randal has made several patches and repairs. It is very important to have equipment that operates properly when the maintenance personnel are in the middle of a leak repair, therefore, a new pump has been purchased. A small portable generator has been purchased so power tools can be used while out on the job.

Seldon Angus made a motion to obtain bids to have black top sealant applied to the District parking lot this summer. John Lockhart second. Motion carried. Three yes votes unanimously approved.

John Hickman has requested rock for his parking spot in his yard where he parks the company truck. Pictures will be obtained of his parking area to review the need for this

Deb Smith will be assuming a lot of duties during Margie's time off. Margie recommend a $1.00 per hour increase in salary during this time for the extra work load she will be receiving. Seldon Angus made a motion for the $1.00 per hour increase in wages. John Lockhart second. Motion carried. Three yes votes unanimously approved.

Nancy Kane, Caven Fork, wrote to Shelley Moore Capito's office as to why the Medina waterline extension did not include a booster and tank to serve the Caven Fork area. A response has been sent to Ms. Capito and Kane that the District would welcome grant funding to make this waterline extension affordable.

Due to the lengthy time it takes to complete a project, a review needs to be made in regard to moving forward on some petitioned areas such as Trace Fork and/or other areas.

Hydrants are being painted this year.

John Lockhart moved to adjourn at 7:08 p.m. Frank Murrey second. Motion carried. Three yes votes unanimously approved.

Approval Date: April 20, 2010

Frank A Murrey
Frank A. Murrey, Chairman

John C Lockhart
John C. Lockhart, Secretary

Northern Jackson County Public Service District
Minutes Board Meeting * Tuesday, August 17, 2010

Those in attendance were: Frank Murrey, Chairman; John Lockhart, Secretary; Seldon Angus, Treasurer; Kim DeVaughn, Manager: Deb Smith, Admin. Asst.; Jim Hildreth, Boyles & Hildreth; Mike Spiker, Goodwin & Goodwin;

The meeting was called to order by Frank Murrey at 6:08 p.m.

Seldon Angus moved to approve the minutes from the previous board meeting held on July 20, 2010. John Lockhart second. Motion carried. Three yes votes unanimously approved.

The Water and Sewer Financial Reports for July 2010 were presented. John Lockhart moved to accept the Financial Reports. Seldon Angus second. Motion carried. Three yes votes unanimously approved.

Invoices were signed by the Audit Committee. Seldon Angus moved to pay invoices and payment of checks (water) # 5659-#5711. John Lockhart second. Motion carried. Three yes votes unanimously approved.

No adjustments for the month were presented for approval.

No new taps for the month were presented for approval.

July's unaccountable water was 13% (total loss 13%). Leaks were repaired on August 11; Independence Rd.; July 29, 2" line at Thompson's on Silverhills; July 27, repaired crack bell on Silverhills line; July 23, Sandyville tank line; and July 22, Runion garage fire.

ITEMS FOR DISCUSSION:

Water - Lockhart Fork/Medina - No new information at this time.

Sewer - On July 21, Jim Hildreth, Boyles & Hildreth received a letter from Scott Pierson, Pipe Plus, Inc. extending the contract hold time 45 days.

The City of Ravenswood needs to modify their existing NPDES permit to accept the District's discharge.

A meeting was requested by Mayor Harbert on July 20. Those attending were: Frank Murrey, Seldon Angus, John Lockhart, Kim DeVaughn, NJCPSD; Mayor Lucy Harbert, Kendra Liegey, City clerk; Councilmen Mike Kelly, Gary Cross, and Bob Romeo; Kathy Garrett, City Recorder; and Judy Wiseman; Mark Mercer, Wastewater Operator and his assistant Sarah; Vince Cambarare, Water Operator; Jim Hildreth, Boyles & Hildreth. The meeting pertained to Ravenswood's concern about taking in the NJCPSD sewer discharge from the District's new collection system to be constructed at Eastwood, Balis Addition, and the I-77 businesses.

On August 4, Kim phoned Mark Mercer, Ravenswood Wastewater Operator to see if he had completed the modification application for the NPDES permit. He stated that he had completed the application and was sending it to Mayor Harbert that day. On August 5, Mayor Lucy Harbert phoned and stated that the modification application was mailed that day.

On July 21, Todd Dingess, Smith, Cochran, and Hicks confirmed to Bill Bragg, Goodwin & Goodwin that a rate increase would not be necessary due to new WVIJDC funding.

Several letters have been sent in the past to the 5 customers that have not paid their pre-construction sewer tap fee. Jeff Fowler, Jackson County Health Department assisted by sending them a letter with the requirement that they must connect to the sewer, therefore being required to pay the pre-construction sewer tap fee and sign a User Agreement. To date, these tap fees have not been collected, therefore, Kim contacted the USDA Rural Development at Ripley concerning the five customers that have not paid their pre-construction sewer tap fees. They suggested that we contact our legal council. Mike Spiker, Goodwin & Goodwin was then notified of the situation. However, he needed customer's names and addresses and a copy of the one signed User Agreement with a partial payment before he can proceed. On August 5, Mike Spiker asked that we send one more letter to each of these customers and to CC him as our legal council to see if that might influence the customers. Certified letters were mailed on August 12 to the five customers. Mike also asked that we make sure that all five customers still own their property. Deb attempted to contact the customers, however, efforts were futile. Kim also contacted the PSC for laws pertaining to customer's requirements for connection to a new system. Bonnie Boston, WVPSC emailed information regarding the WV codes for sewer connection.

On August 5, a conference call was scheduled by Jim Ellars, Executive Director, West Virginia Infrastructure and Jobs Development Council. Those participating were Bill Bragg and Mike Spiker, Goodwin & Goodwin; Jim Hildreth, Boyles & Hildreth; Samme Gee, Jackson & Kelly PLLC; Todd Dingess, Smith, Cochran & Hicks; Kathy Emery and Yogesh Patel, WVDEP; Kim DeVaughn, Mgr. and Deb Smith, NJCPSD . The Infrastructure Council is considering scheduling a loan pre-closing for August 31 and a final closing on September 1. Subsequent to this closing date and prior to the expiration of the extended bid hold period of September 4, the District would be authorized by IJDC to issue a Notice of Award to Pipe Plus, Inc. and schedule a contract closing date subsequent to the expiration of the appeal period concerning the District's NPDES permit application to own and operate a sanitary sewer collection facility. It is estimated that this appeal period will end on or about September 17.

On August 10, a conference call was scheduled by Jim Ellars, Executive Director, West Virginia Infrastructure and Jobs Development Council. Those participating were Bill Bragg and Mike Spiker, Goodwin & Goodwin; Jim Hildreth, Boyles & Hildreth; Samme Gee, Jackson & Kelly PLLC; Todd Dingess, Smith, Cochran & Hicks; Frank Murrey, Chairman and Kim DeVaughn, Mgr., NJCPSD. A loan pre-closing date has been scheduled for August 31, with a closing date of September 1. Award Notice to Proceed will be issued on September 17. It was also mentioned that a letter was sent to Mayor Lucy Harbert from the DEP pertaining to the modification application which will need to be changed from a minor modification to a major modification. The cost for the change will be $205.00. Kim will contact Mayor Harbert the week of August 16 to confirm that the letter was received.

A Sewer Use Resolution authorizing the creation, construction, acquisition, operation and maintenance of a sewer collection and Public Service District's service area; setting out definitions requiring connection to the system; setting out rules and other regulations regarding the use and operation of the system: establishing rates and other charges for use of the system, termination of service and other related matters relating to the system. John Lockhart moved to except the Sewer Use Resolution prepared by Mike Spiker, Goodwin & Goodwin which is required for the bond closing. Seldon Angus second. Three yes votes unanimously approved. A copy of this will be incorporated into the NJCPSD Sewer Rules and Regulations adopted April 17, 2007.

Mike Spiker, Goodwin & Goodwin presented to the Board a Loan Agreement. This Loan Agreement, made and entered into in several counterparts, by and between the West Virginia Water Development Authority, A Governmental instrumentality and body corporate of the State

of West Virginia acting on behalf of the West Virginia Infrastructure and Jobs Development Council, and Northern Jackson County Public Service District. Frank Murrey moved to accept the Loan Agreement. John Lockhart second. Motion carried. Three yes votes unanimously approved.

Mike Spiker, Goodwin & Goodwin ask that we include the follow motions that he may need for the Passage of Supplement Loan Resolution . John Lockhart moved to accept the Passage Of Supplemental Loan Resolution relating to Sewer Project Bonds and Grants. Seldon Angus second. Motion carried. Three yes votes unanimously approved.

Jim Hildreth, Boyles & Hildreth presented the West Virginia Infrastructure and Jobs Development Council Schedule B to the Board. Seldon Angus moved to approve execution of the West Virginia infrastructure and Jobs Development Council Schedule B. John Lockhart second. Motion carried. Three yes votes unanimously approved.

Seldon Angus moved to approve the Resolution of the Northern Jackson County PSD invoices relating to the sanitary sewer collection system project and authorizing payment thereof, Drawdown No. 3, dated August 17, 2010 for $69,413.00. John Lockhart second. Motion carried. Three yes votes unanimously approved.

Smith, Cochran & Hicks		$ 6,250.00
Boyles & Hildreth (permit fee)	$ 2,500.00	
Goodwin & Goodwin (legal)		$24,000.00
Goodwin & Goodwin (bond)		$19,500.00
NJCPSD (land acquisition)		$ 4,920.00
McNeeley lift station	$ 800.00	
Deanna Shaffer r/w	$ 20.00	
L. Cobb r/w	$4,100.00	
NJCPSD (appraisal fees)		$ 4,000.00
NJCPSD (invoices)		$ 3,455.30
Stormwater	$1,170.00	
Groundwater-NPDES	$ 550.00	
Landfried (DOH bond)	$ 250.00	
Jackson News		
Amended Filing	$ 439.56	
Bond Resol.	$ 113.40	
Adv. Bid	$ 350.46	
Bond Resol	$ 113.40	
Public Notice	$ 168.48	
WVDHHR (permit)	$ 300.00	
WDA Step I Loan		$ 3,787.50
Wesbanco Registrar Fee		$ 1,000.00
WVIJDC Rounding		$ .20
Total		**$69,413.00**

Bill Bragg, Goodwin & Goodwin sent a revised copy of the Rules of Procedure for the Board to approve. Seldon Angus made a motion to accept the revised Rules of Procedure for NJCPSD. John Lockhart second. Motion Carried. Three yes votes unanimously approved.

Bill Bragg, Goodwin & Goodwin may want to schedule a special board meeting on August 27 or August 30 to approve some loan documents before the closing date. Please keep your calendars open.

A Grant Agreement authorizing $1.09md from the WVIJDC has been received for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by Council. Wiring instructions have been provided. Seldon Angus moved to approve the Grant Agreement. Frank Murrey second. Three yes Votes unanimously approved.

An Amendment to Legal Services Agreement was presented to the Board by Mike Spiker, Goodwin & Goodwin to revise the amount for the Legal Services to $24,000.00. Seldon Angus moved to approve the Amended Legal Service Agreement. John Lockhart second. Three yes votes unanimously approved.

Sewer maintenance men at this time do not have to be certified to work on/or maintain the sewer line. Mike Dill, Wastewater Training/Technician with WV Rural Water Association did state that in January 2011 when Legislation goes into session they will pass a law stating that the sewer maintenance men will have to be certified. This law will take effect July 1, 2011, which will be around the time our sewer project will be completed. His recommendation is for the sewer maintenance to take the class 1-sewer course for their certification.

Tariff Case No. 10-1053-PWD-19A - On August 2, Pete Lopez, WVPSC Utilities Analyst issued an Initial Memoranda requesting that the commission extend the time line in this case until the District files it's Annual Report for fiscal year ending June 30, 2010. He recommends expeditious treatment from District's accountants to submit the 2010 Annual Report by the September 30 deadline to prevent dismissal of this rate application.

On August 10, Wendy Braswell WVPSC Staff Attorney issued an Initial Joint Staff Memorandum recommending the District file its Annual Report by September 30, to prevent dismissal of this rate application.

First Further Joint Staff Memorandum was issued by Wendy Braswell, Staff Attorney on August 11, with instructions to inform the customers of the new rate increase.

Tariff Case No. 09-2053-PWD-19A - On July 26, WVPSC issued a Recommended Decision that the rate application filed by NJCPSD on December 18, 2009 is dismissed.

On July 26, WVPSC issued a Procedural Order that the August 24 hearing date was cancelled.

WV WISP - WV WISP has installed a temporary pole at the New Era store hoping to provide NJCPSD with internet service. However, some equipment needs to be moved before service can be provided to the District. Frank Waybright, WV WISP Field Tech has recently had surgery and this will probably result in a delay in receiving service to the District.

Robert Strobbe attended the July 20, board meeting with concerns about a leak allowance for his June water bill at his small apartment complex at Greenhills. Deb Smith notified Mr. Strobbe that the apartment building had used 195,000 gallons of water, a $945.61 water bill. The board had asked us to inquire with the PSC for their recommendations on how to handle this situation. Jim Aucremanne, WVPSC was contacted, and he recommended that the meter be pulled and tested by someone other than a NJCPSD employee. Mr. Strobbe's meter was pulled and taken to Ripley's Water Department and tested by Mr. Dean Kay a certified meter tester. The test showed an accuracy rate of 100.6 percent (normal 98 to 102). Jim Aucremanne was informed with the test results and he stated that Mr. Strobbe would be liable for the bill. Jim Aucremanne also stated that Mr. Strobbe could file a formal complaint with the PSC if he disagreed with the decision. Mr. Strobbe did file a formal complaint with the WVPSC. Kim then contacted David Foster, WVPSC to do a field assessment on the property on July 29, 2010 at 10:00 a.m. On July 23, Mr. Strobbe came to the office and paid the water bill in full and dropped the WVPSC formal complaint. Jim Aucremanne and David Foster were notified with Mr. Strobbe's decision and the field assessment with Dave Foster was cancelled. Mr. Strobbe has since sold this rental property. Mr. Strobbe inquired if the District would be interested

in purchasing the land he owns around the North Ridge tank for $8,000 to $10,000. Mr. Strobbe was informed that it is not the District's policy to own property for any other use than tank or booster sites.

Bennett & Dobbins will perform their audit review on August 30 and Suttle & Stalnaker is expected sometime in September. The information requested from both Bennett & Dobbins and Suttle & Stalnaker was mailed on July 30.

The 2007 GMC truck was serviced by Matheny Motor Truck Company on June 25. The left rear axle seal was leaking and separated from steel ring causing the rear end lube to leak and saturate the emergency brake. They replaced the emergency brake shoes, hub seal and axle gaskets under warranty. On July 29, John took the truck back to Matheny Motor Truck Company to have the brakes looked at again because the ABS light came on after John had used the emergency brake for the first time after the repair was done in June. Matheny Motors informed John that the brake module had went bad and needed to be replaced and the cost would be around $800.00. The part was ordered and replaced on Monday, August 2. They had also informed us that the truck was unsafe to drive and was left on their locked lot at Matheny Motors. Once the truck was picked up on August 3, John had noticed one dent and one scratch on the driver's side bed and one dent on the tailgate which is the area that had recently been repaired by Fulks. Kim called Matheny Motors to inform them of the situation and they said to come by anytime and Kevin Barns, Service Manager would take a look at it. Kim took the GMC to Matheny's on August 11 to meet with Kevin. He assessed the problem and stated Matheny's will repair the damaged areas. An appointment has been made for August 23 for the repairs.

An NJCPSD employee is contemplating moving outside the District boundaries. The NJCPSD Employee Policy does not state anything in regard to the distance from the office that maintenance personnel can reside and still be employed by the District. A decision was made that an employee can live 15 miles from the NJCPSD office and use the company vehicle. If an employee lives outside the 15 miles the employee will then provide his/her own transportation. Seldon Angus moved to approve the decision that an employee can still use the company vehicle if they live 15 miles or less from the District's office. John Lockhart second. Three yes votes unanimously approved.

The steps at the Eastwood booster have been removed due to deterioration. Kim contacted the R & J salvage yard in Parkersburg to see if they had any steps that could be used. They did not have any at this time. Treated lumber has been purchased to replace the Eastwood Booster steps.

On July 30, 2010 Kim submitted her application for notary to the Secretary of State, State of West Virginia. On August 5th the approval letter from the Secretary of State was received, and on August 6, the notary stamp was ordered. Once the Secretary of State's office has reviewed and approved my stamp, they will send the Certification for Notary. On August 18, Kim received her Certification for Notary. All requirements have been met for Kim to be a Notary.

Banks and Financing Institutions - Kimberly DeVaughn was hired as the new manager on June 22, 2010, with an employment start date of July 12, 2010. Margie Flinn's last day of employment as manager was June 30, 2010.

John Lockhart moved to add Kimberly DeVaughn to all banking and financial institutions signature cards in addition to all board members with two signatures required and to remove Margie Flinn from the signature cards. Seldon Angus second. Motion carried. Three yes votes unanimously approved.

Seldon Angus moved to approve the Resolution to remove Margie Flinn as an authorized signer and to add Kimberly DeVaughn. Frank Murrey second. Motion carried. Three yes votes unanimously approved.

The telemetry system has been down since Thursday, August 5 on the Wilding tank and the Copper Fork booster and on August 6, the 21 booster went out also. Frontier was contacted about the problem because the system tells us it is a communication failure. However, Frontier states that the problem is on our end. On August 11, Kim contacted C I Thornburg to see if the problem is in the office telemetry or phone lines. On August 12, Ken Summers with C I Thornburg came to look at the problem at all three locations. He stated that the modems needed to be replaced at all three locations. The cost would be $525.00 per modem. The modems were replaced but the problems were not corrected. If this problem was caused by the recent storms that damaged the modems, should we turn the cost into the Insurance.

John Lockhart moved to adjourn at 8.50 p.m. Seldon Angus second. Motion carried. Three yes votes unanimously approved.

_____

Frank A. Murrey, Chairman

_____

John C. Lockhart, Secretary

AFFIDAVIT OF PUBLICATION Cost of Publication 113.40

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

I, James W. Freeland, being first sworn upon my oath, do depose and say that I am publisher of Jackson Newspapers, a newspaper that I have been duly authorized by the board of directors of such corporation to execute all affidavits of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below: that such newspaper is regularly published once weekly for at least fifty weeks during the calendar year, in the municipality of Ripley, Jackson County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, that the annexed notice of Notice to Residents was duly published in said newspaper once a week for 1 successive weeks, commencing with the issue of the 2 day of March, 2010 and ending with the issue of the 2 day of March, 2010.

James W. Freeland, Publisher
Jackson Newspapers

Taken, subscribed and sworn to before me in my said county this 3 day of March, 2010.

Connie Sharp
Notary Public of Jackson County, West Virginia

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
CONNIE SHARP
245 MAPLEWOOD HEIGHTS DR.
RIPLEY, WV 25271
My commission expires February 5, 2013

NOTICE TO RESIDENTS OF NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT AND OTHER PERSONS INTERESTED IN RESOLUTION FOR PROPOSED ISSUANCE OF $550,000 SEWER Revenue BOND, Series 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND)

Pursuant to the provisions of West Virginia Code Chapter 6, Article 9A, Section 6, and in accordance with the provisions of West Virginia Code Chapter 16, Article 13A, as amended, you hereby notified that a meeting of the Public Service Board (the "Board") of the Northern Jackson County Public Service District (the "District") will be held on the 16th day of March, 2010, to consider for adoption a Resolution entitled "Resolution Authorizing the Acquisition and Construction of Certain Improvements and Extensions to the New Public Sewer Facilities of Northern Jackson County Public Service District and the Financing of the Cost Thereof, Not Otherwise Provided, Through the Issuance by the District of Not More Than $550,000 In Aggregate Principal Amount of its Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund); Providing for the Rights and Remedies of and Security for the Registered Owner of Such Bond; Authorizing Execution and Delivery of all Documents Relating to the Issuance of Such Bond; Approving, Ratifying and Confirming the Loan Agreement Relating to Such Bond; Authorizing the Sale and Providing for the Terms and Provisions of Such Bond and Adopting Other Provisions Relating Thereto" (the "Resolution") to authorize the issuance of the Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) (the "Series 2010 A Bond"), of the District in the amount of $550,000. The Bond will provide a portion of the funds to finance the cost of constructing betterments and improvements for the new sewer system of the District.

The entire amount of the principal of the Bond will be repaid from revenues collected by the District from the operation of its sewerage system. The Resolution provides provisions with respect to the interest rate for the Bond, being zero percent (0%) per annum over the term of the Bond.

A copy of the Resolution is available for examination by any interested person at the District's office during regular office hours of such office from 8:30 a.m. to 4:00 p.m., Monday through Friday.

The meeting will be held at the District's office located at 39 Gilmore Drive in Sandyville, West Virginia, on the 16th day of March, 2010, at 6:00 p.m., and any person or persons interested may appear before the Board and be heard as to whether or not the Resolution shall be put into effect. All suggestions, protests and objections to the issuance of the Bond will be heard by the Board.

Dated this 16th day of February, 2010.

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

Jackson County, West Virginia
Frank A. Murrey, ChairmanJ
ohn Lockhart- Secretary

Authority of West Virginia.

A mandatory walk-through of the facility will be held on Friday, March 19, 2010, for all vendors wishing to submit a proposal. **The meeting will begin at the Jackson County Board of Education Administrative Offices Building at #1 School Street in Ripley, West Virginia, at 9:00 a.m.** Plans and specifications can be obtained at this **mandatory pre-bid meeting.**

Qualified contractors will be required to have a 5% bid bond and are invited to submit a Proposal and Statement of Qualifications to Dave Moore, Assistant Superintendent. Deadline for submission of bids will be determined by the School Building Authority, and will be announced during the March 19th mandatory pre-bid meeting.

The successful bidder must verify the following: 1) possession of a current West Virginia Contractor's License, 2) Workers Compensation Coverage for Employees, 3) Liability Insurance, and 4) Background Check on all employees. The successful firm must also secure Performance, Material, and Payment Bonds equal to 100% of the contracted amount.

The Jackson County Board of Education reserves the right to accept or reject any and/or all proposals and waive any informality in the process.

Blaine C. Hess, Superintendent
2/25, 3/4

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August 30, 2010

Ms. Sara L. Boardman, Executive Director
West Virginia Municipal Bond Commission
1207 Quarrier Street, Suite 401
Charleston, WV 25301

Re: Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund)

Dear Sara:

Enclosed please find the New Issue Report Form prepared in connection with the above-referenced transaction and sent to you for filing in your office in regard to the same. Upon completion of the transcript, I will deliver a copy to you for your reference. In the meantime, if you have any questions concerning this transaction, please feel free to contact me.

Sincerely yours,

Bill Bragg

William K. Bragg, Jr.

WKB/aks
Enclosure

WV MUNICIPAL BOND COMMISSION
107 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM
Date of Report: August 30, 2010

ISSUE: Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund)
ADDRESS: 39 Gilmore Drive
Sandyville, WV 25275
COUNTY: Jackson
PURPOSE OF ISSUE: New Money X
ISSUE DATE: SEPTEMBER 1, 2010
CLOSING DATE: SEPTEMBER 1, 2010
ISSUE AMOUNT: $550,000
RATE: 1%
1ST DEBT SERVICE DUE: September 1, 2012
1ST PRINCIPAL DUE: September 1, 2012
1ST DEBT SERVICE AMT.:$4,330.00
PAYING AGENT: Municipal Bond Comm.

BOND COUNSEL: Goodwin & Goodwin, LLP
Contact Person: W.K. Bragg, Jr.
Phone 346-7000

LENDER: West Virginia Infrastructure and Jobs Development Council
Contact Person: James W. Ellars
Phone: (304) 558-4607

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Kim DeVaughn
Position: Manager
Phone: (304) 273-9621

---DEPOSITS TO MBC AT CLOSE---

By ___ Wire
___ Check

___ Accrued Interest: $ 0
___ Capitalized Interest: $ 0
___ Reserve Account: $ 0
___ Other: $ 0

---REFUNDS & TRANSFERS BY MBC AT CLOSE---

By ___ Wire
___ Check
___ IGT

___ To Escrow Trustee: $ N/A
___ To Issuer: $ N/A
___ To Cons. Invest. Fund: $ N/A
___ Other: _____ $_____

Notes: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS
REQUIRED: _____
TRANSFERS
REQUIRED: _____

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

ACCEPTANCE OF APPOINTMENT OF DEPOSITORY BANK

WesBanco Bank, Inc, at its office located in Ravenswood, Jackson County, West Virginia, hereby accepts appointment as Depository Bank in connection with a Resolution of Northern Jackson County Public Service District (the "District") duly adopted by the Public Service Board of the District (the "Board") on March 16, 2010, and supplemented by a Supplemental Resolution adopted by the Issuer on August 17, 2010 (collectively, the "Resolution"), authorizing issuance of Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund), dated September1, 2010, in the principal amount of $550,000, and agrees to perform all duties of Depository Bank as set forth in the Resolution.

Witness my signature as of the 1st day of September, 2010.

WESBANCO BANK, INC.

By: Rayna A. O'Dell
Branch Manager & A.V.P.

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

ACCEPTANCE OF APPOINTMENT OF REGISTRAR

WesBanco Bank, Inc, at its office located in Wheeling, Ohio County, West Virginia, hereby accepts appointment as Registrar in connection with a Resolution of Northern Jackson County Public Service District (the "District") duly adopted by the Public Service Board of the District (the "Board") on March 16, 2010, and supplemented by a Supplemental Resolution adopted by the Issuer on August 17, 2010 (collectively, the "Resolution"), authorizing the issuance of Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund), dated September 1, 2010, in the principal amount of $550,000, and agrees to perform all duties of Registrar as set forth in the Resolution.

Witness my signature as of the 1st day of September, 2010.

WESBANCO BANK, INC.

By: _____
Vice President

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 1st day of September, 2010, by and between NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision duly created under the laws of the State of West Virginia (the "Issuer"), and WESBANCO BANK, INC., at its office located in Wheeling, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $550,000 aggregate principal amount of Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund) in fully registered form (the "Bond") pursuant to a Bond Resolution adopted by the Issuer on March 16, 2010, as amended by a Supplemental Resolution adopted by the District on August 17, 2010 (collectively, the "Resolution");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Resolution provides for the appointment by the Issuer of a Registrar for the Bond; and

WHEREAS, the Issuer desires to appoint, and by the Resolution and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Resolution and to take certain other actions hereinafter set forth.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of the Registrar, all as set forth in the Resolution, such duties including, among other things, the duties to authenticate, register and deliver the Bond upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bond from federal income taxation, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation heretofore agreed by the parties and set forth in the attached invoice.

5. It is intended that this Registrar's Agreement shall carry out and implement the provisions of the Resolution with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Resolution, the terms of the Resolution shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Resolution will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon sixty (60) days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: Northern Jackson County Public Service District
Attention: Chairman
39 Gilmore Drive
Sandyville, WV 25275

REGISTRAR: WesBanco Bank, Inc.
Attention: Jan Shelburne, Vice President and Senior Trust Officer
1 Bank Plaza
Wheeling, WV 26003-3565

8. The Registrar is hereby requested and authorized to register, authenticate and deliver the Bond in accordance with the Resolution and instructions provided by the Issuer.

IN WITNESS WHEREOF, NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT and WESBANCO BANK, INC. have caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day, month and year first above-written.

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

By: Frank A Murrey
Chairman

WESBANCO BANK, INC.

By: Janet L Shelburne
Vice President and Senior Trust Officer

Exhibit A

(Bond Resolution)

$550,000
NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF REGISTRATION

I, Janet L. Shelburne, as Vice President and Senior Trust Officer, of WesBanco Bank, Inc., as Registrar (the "Registrar"), under a Registrar's Agreement between the Registrar and the Northern Jackson County Public Service District (the "District") dated as of the date hereof, hereby certify that on the 1st day of September, 2010, the Bond of the District in the principal amount of $550,000, designated "Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund)", and numbered AR-1, dated as of the date hereof, was registered as to principal and interest in the name of "The West Virginia Water Development Authority", on the books of the Registrar kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature as of the 1st day of September, 2010.

WESBANCO BANK, INC., as Registrar

By: Janet L. Shelburne
Vice President and Senior Trust Officer

CLOSING MEMORANDUM

To: **James W. Ellars**
Kim DeVaughn
Samme Gee

From: **Bill Bragg**

Date: **September 1, 2010**

Re: **Northern Jackson County Public Service District, Sewer Revenue Bond, Series 2010 A (West Virginia Infrastructure Fund)**

---

1. DISBURSEMENT TO DISTRICT

Payor: West Virginia Infrastructure and Jobs Development Council
Source: Series 2010 A Bond Proceeds
Amount: $65,625.50
Date: September 1, 2010
Form: Wire Transfer
Payee: Northern Jackson County Public Service District
Bank: WesBanco Bank, Inc., 2 Wall Street, Ravenswood, WV 26164
Routing No.: 051500562
Account No.: 0833027259
Account: Series 2010 A Bonds Construction Trust Fund

2. DISBURSEMENT TO WV WATER DEVELOPMENT AUTHORITY

Payor: West Virginia Infrastructure and Jobs Development Council
Source: Series 2010 A Bond Proceeds
Amount: $3,787.50
Date: September 1, 2010
Form: Wire Transfer
Payee: West Virginia Water Development Authority
Bank: Branch Banking and Trust Company, 223 W. Nash St., Wilson NC 27894
Routing No.: 053101121
Account No.: 1689180244
Account: BB and T Trust Uninvested Trust Cash
Attn: Trust Department
For further Credit to Water Development Authority Acct #: 1222000125

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 06/15/2010

PRODUCER (304)375-4900 FAX (304)375-2162
Bill Bailey Insurance Agency
701 Highland Avenue
P. O. Box 246
Williamstown, WV 26187

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Northern Jackson Co. PSD
1354 Gilmore Drive
Sandyville, WV 25275

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: American Alternative Insurance	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC	SP9153236-02	10/01/2009	10/01/2010	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 3,000,000 $ 3,000,000
		AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [ ] HIRED AUTOS [ ] NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
		GARAGE LIABILITY [ ] ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
		EXCESS/UMBRELLA LIABILITY [ ] OCCUR [ ] CLAIMS MADE [ ] DEDUCTIBLE [ ] RETENTION $				EACH OCCURRENCE AGGREGATE	$ $
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				[ ] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The certificate holder listed below is named as Additional Insured in regards to the policy number listed above.

CERTIFICATE HOLDER

West Virginia Infrastructure and Jobs Development Council
180 Association Drive
Charleston, WV 25311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

©ACORD CORPORATION 1988

west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, West Virginia 25304-2345
Phone: 304-926-0495
Fax: 304-926-0496

Joe Manchin III, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

August 24, 2010

FRANK MURREY
NORTHERN JACKSON COUNTY PSD
39 GILMORE DR
SANDYVILLE, WV 25275

CERTIFIED RETURN RECEIPT REQUESTED

Dear Permittee:

Enclosed please find WV/NPDES Permit Number WV0106020 dated August 24, 2010.

Also, please note the attachment to this permit which describes the annual permit fee requirement.

Finally note that copies of all future correspondence regarding the permit including copies of DMRs must be forwarded to the Field Inspector and Field Supervisor at the following address :

Department of Environmental Protection
Environmental Enforcement
2311 Ohio Avenue
Parkersburg, WV 26101

If you have any questions, please contact Rence Clevenger of this Division at (304) 926-0495.

Sincerely,

Yogesh Patel, P.E.
Assistant Director

YP:rc

Enclosures

Permit Number: WV0106020

Permittee: NORTHERN JACKSON COUNTY PSD

cc: Bureau of Public Health
Construction Assistance
Env. Insp. Supv.
Env. Insp.
Public Service Commission

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
601 57TH STREET SE
CHARLESTON, WV 25304-2345

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WATER POLLUTION CONTROL PERMIT

NPDES PERMIT NO.: WV0106020
SUBJECT: Sewage Collection System

ISSUE DATE: August 24, 2010
EFFECTIVE DATE : September 23, 2010
EXPIRATION DATE: August 23, 2013
SUPERSEDES: N/A

LOCATION: SANDYVILLE	Jackson	Middle Ohio River 2
(City)	(County)	(Drainage Basin)

See the next page for a list of Outlets.

TO WHOM IT MAY CONCERN:

This is to certify that: NORTHERN JACKSON COUNTY PSD
39 GILMORE DR
SANDYVILLE, WV 25275

is hereby granted a West Virginia NPDES Water Pollution Control Permit to:
Acquire, construct, install, operate and maintain a sanitary sewage collection system consisting of approximately 14,100 linear feet of eight (8) inch diameter gravity sewer line; 3,955 linear feet of six (6) inch diameter force main; 450 linear feet of four (4) inch diameter force main; two (2) lift stations; 92 manholes; 4 cleanouts; and all necessary appurtenances.

The sewage collection system is designed to serve approximately 435 persons in the Northern Jackson County Public Service District and convey the wastewater to the City of Ravenswood which discharge treated wastewater to Sandy Creek approximately 0.1 miles from the mouth of the Ohio River.

This permit is subject to the following terms and conditions :
The information, submitted on and with Permit Application No. WV0106020, dated the 25th day of June 2010, is all hereby made terms and conditions of this Permit with like effect as if all such permit application information were set forth herein, and with other conditions set forth in Sections B, C, and Appendix A.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

B. SCHEDULE OF COMPLIANCE

1. **The permitee shall achieve compliance with the provisions for waste treatment and the monitoring requirements specified in the permit in accordance with the following schedule :**

   Effective date of permit

2. **Reports of compliance or non-compliance with, and progress reports on interim and final requirements contained in the above compliance schedule, if any, shall be postmarked no later than 14 days following each schedule date.**

Section C - Other Requirements

1. The herein-described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected one hundred (100) year flood level and operability be maintained during the twenty-five (25) year flood level.
2. The major lift station shall be adequately protected by fencing.
3. The permittee shall not accept any new non-domestic discharges without first obtaining approval from the Director of the Division of Water and Waste Management as provided in Title 47, Series 10, Section 14 of the West Virginia Legislative Rules.
4. If any existing non-domestic discharge causes, or is suspected of causing, interference or pass through (as defined by 40 CFR 403.3) or otherwise violates any provision of 40 CFR 403, the permittee shall notify the Director of such violation or suspected violation.
5. If any existing non-domestic discharge is identified as being subject to Categorical Pretreatment Standard under 40 CFR Chapter 1, Subchapter N, and the discharge is not regulated by this permit, the permittee shall notify the Director of such identification.
6. Any future collection system extensions shall require the permittee to contact the Director to secure approval of the extension. After consideration of the complexity of the project, and the available treatment capacity at Ravenswood Wastewater Treatment Plant, the Director may require the permittee to seek approval through Modification of the Permit.
7. The requirements of Appendix A, Part II, Section 4, Upset, attached, hereto, shall not be applicable.
8. The requirements of Appendix A, Part III, Section 2, Reporting, attached, hereto, shall not be applicable.
9. Unless otherwise authorized under Section A of this permit, any discharge from any point other than a permitted treatment outfall or permitted combined sewer system is expressly prohibited. In the event there is a prohibited discharge from a sewer conveyance system, the permittee shall follow the reporting requirements contained in Appendix A, Part IV, Section 2.
10. There shall be no interconnection of storm sewers or introduction of storm water into the sanitary sewage colleciton system permitted herein.
11. The permittee may not send any wastewater to the City of Ravenswood for treatment until the City of Ravenswood modifies Permit No. WV0021989 to accept Northern Jackson County PSD's wastewater for treatment.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. WV0106020; with the plan of maintenance and method of operation thereof submitted with such application(s); and with any applicable rules and regulations promulgated by the Environmental Quality Board and the Secretary of the Department of Environmental Protection.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. WV0106020; and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and the invocation of all the enforcement procedures set forth in Chapter 22, Article 11, or 15 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Chapter 22, Article 11 and 12 and/or 15 of the Code of West Virginia and is transferable under the terms of Section 11 of Article 11.

Scott G. Mandirola, Director

Appendix A

I. MANAGEMENT CONDITIONS:

1. Duty to Comply

a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.

b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

6. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as required in Title 47, Series 10 , Section 4.6 of the West Virginia Legislative Rules.

7. Transfers

This permit is not transferrable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable specified time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;

b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;

c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any location.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22-11-12 of the Code of West Virginia.

12. Water Quality

Subject to 47 WV CSR 10.3.4.a, the effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules.

14. Liabilities

a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, 308 or 405 of the Clean Water Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years, or by both.

c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years, or by both.

d) Nothing in I.14 a), b), and c) shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11.

II. OPERATION AND MAINTENANCE:

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by the WV Bureau of Public Health Laws, W. Va. Code Chapter 16-1, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Director may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

3. Bypass

a) Definitions
   (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and
   (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of II.3.c) and II.3.d) of this permit.

c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;
   (2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in IV.2.b) of this permit.

d) Prohibition of bypass
   (1) Bypass is permitted only under the following conditions, and the Director may take enforcement action against a permittee for a bypass, unless;
      (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
      (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
      (C) The permittee submitted notices as required under II.3.c) of this permit.
   (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in II.3.d.(1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitation if the requirements of II.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
   (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
   (2) The permitted facility was at the time being properly operated;
   (3) The permittee submitted notice of the upset as required in IV.2.b) of this permit.
   (4) The permittee complied with any remedial measures required under I.3. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Director, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

III. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

a) Permittee shall submit, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s). DMR submissions shall be made in accordance with the terms contained in Section C of this permit.

b) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.

c) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E." (i.e., number exceeding).

d) Specify frequency of analysis for each parameter as number of analyses/specified period (e.g.,3/month is equivalent to 3 analyses performed every calendar month). If continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

a) The date, exact place, and time of sampling or measurement;

b) The date(s) analyses were performed;

c) The individual(s) who performed the sampling or measurement;

d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;

e) The analytical techniques or methods used, and

f) The results of such analyses. Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in III.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

7. Definitions

a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

c) "Maximum daily discharge limitation" means the highest allowable daily discharge.

d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.

e) "Grab Sample" is an individual sample collected in less than 15 minutes.

f) "is" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.

g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.

h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two (2) consecutive hours during a 24 hour day, or during the operating day if flows are of shorter duration.

i) The "monthly average fecal coliform" bacteria is the geometric average of all samples collected during the month.

j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or which a relationship to absolute volume has been obtained.

k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.

l) "Non-contact cooling water" means the water that is contained in a leak-free system, i.e., no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

IV. OTHER REPORTING

1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to Title 47, Series 11, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11. Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 47, Series 11, Section 2 of the Legislative rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

b) The following shall also be reported immediately:

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit;

(2) Any upset which exceeds any effluent limitation in the permit; and

(3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

c) The Director may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.

d) Compliance with the requirements of IV.2 of this section, shall not relieve a person of compliance with Title 47, Series 11, Section 2.

3. Reporting Requirements

a) Planned changes. The permittee shall give notice to the Director of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series 10, Title 47; or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under IV.2 of this section.

b) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Director in writing as soon as they know or have reason to believe:

(1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(A) One hundred micrograms per liter (100 ug/l);

(B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitro phenol; and for 2-methyl 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(C) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.9 of Series10, Title 47.

(D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47;

(2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(A) Five hundred micrograms per liter (500 ug/l);

(B) One milligram per liter (1 mg/l) for antimony;

(C) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7 of Series 10, Title 47;

(D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47.

(3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.

(4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in IV.2.a). Should other applicable noncompliance reporting be required, these terms and conditions will be found in Section C of this permit.

WV/NPDES Permit No.: WV0106020

NOTICE TO PERMITTEES

The 1999 regular session of the West Virginia legislature revised the Water Pollution Control Act, Chapter 22, Article 11, Section 10 of the Code of West Virginia relating to fees associated with permits. This section of the Code requires all holders of a State water pollution control permit or a national pollutant discharge elimination system permit to be assessed an annual permit fee, based upon rules promulgated by the Secretary of the Department of Environmental Protection. The Secretary has promulgated a final rule in accordance with the code revision to this effect and these rules were effective May 4, 2000. The rules establish an annual permit fee based upon the relative potential to degrade the waters of the State which, in most instances, relate to volume of discharge. However, for sewage facilities, the annual permit fee is based upon the number of customers served by the facility. You may contact the Secretary of State's Office, State Capitol Building, Charleston, WV 25305, to obtain a copy of the rules. The reference is Title 47, Legislative Rules, Department of Environmental Protection, Division of Water Resources, Series 26 Water Pollution Control Permit Fee Schedules.

Based upon the volume of discharge for which your facility is currently permitted, the number of customers served by your facility or for the category you fall within, pursuant to Section 7 of Title 47, Series 26, your annual permit fee is **$100.00**. This fee is due no later than the anniversary date of permit issuance in each year of the term of the permit or in the case of coverage under a general permit, the fee is due no later than the anniversary date of your coverage under the general permit. **You will be invoiced by this agency at the appropriate time for the fee.** Failure to submit the annual fee within ninety(90) days of the due date will render your permit void upon the date you are mailed a certified written notice to that effect.

EMERGENCY RESPONSE SPILL ALERT SYSTEM
WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

REQUIREMENTS:

Title 47, Series 11, Section 2 of the West Virginia Legislative Rules, Environmental Protection, Water Resources - Waste Management, Effective July 1, 1994.

RESPONSIBILITY FOR REPORTING:

Each and every person who may cause or be responsible for any spill or accidental discharge of pollutants into the waters of the State shall give immediate notification to the Division of Water and Waste Management's Emergency Notification Number, 1-800-642-3074. Such notification shall set forth insofar as possible and as soon thereafter as practical the time and place of such spill or discharge, type or types and quantity or quantities of the material or materials therein, action or actions taken to stop such spill or discharge and to minimize the polluting effect thereof, the measure or measures taken or to be taken in order to prevent a recurrence of any such spill or discharge and such additional information as may be requested by the Division of Water and Waste Management. This also applies to spills to the waters of the State resulting from accidents to common carriers by highway, rail and water.

It shall be the responsibility of each industrial establishment or other entity discharging directly to a stream to have available the following information pertaining to those substances that are employed or handled in its operation in sufficiently large amounts as to constitute a hazard in case of an accidental spill or discharge into a public stream:

(1) Potential toxicity in water to man, animals and aquatic life;
(2) Details on analytical procedures for the quantitative estimation of such substances in water and
(3) Suggestions on safeguards or other precautionary measures to nullify the toxic effects of a substance once it has gotten into a stream.

Failure to furnish such information as required by Section 14, Article 11, Chapter 22, Code of West Virginia may be punishable under Section 24, Article 11, Chapter 22, and/or Section 22, Article 11, Chapter 22, Code of West Virginia.

It shall be the responsibility of any person who causes or contributes in any way to the spill or accidental discharge of any pollutant or pollutants into State waters to immediately take any and all measures necessary to contain such spill or discharge. It shall further be the responsibility of such person to take any and all measures necessary to clean-up, remove and otherwise render such spill or discharge harmless to the waters of the State.

When the Director determines it necessary for the effective containment and abatement of spills and accidental discharges, the Director may require the person or persons responsible for such spill or discharge to monitor affected waters in a manner prescribed by the Director until the possibility of any adverse effect on the waters of the State no longer exists.

VOLUNTARY REPORTING BY LAW OFFICERS, U. S. COAST GUARD, LOCK MASTERS AND OTHERS:

In cases involving river and highway accidents where the responsible party may or may not be available to report the incident, law officers, U. S. Coast Guard, Lock Masters and other interested person(s) should make the report.

WHO TO CONTACT:
Notify the following number: **1-800-642-3074**

INFORMATION NEEDED:

- Source of spill or discharge
- Location of incident
- Time of incident
- Material spilled or discharged
- Amount spilled or discharged
- Toxicity of material spilled or discharged
- Personnel at the scene
- Actions initiated
- Shipper/Manufacturer identification
- Railcar/Truck identification number
- Container type

RIGHT OF APPEAL

Notice is hereby given of your right to appeal the terms and conditions of this permit which you are aggrieved by to the Environmental Quality Board by filing a NOTICE OF APPEAL on the form prescribed by such Board for this purpose, with the Board, in accordance with the provisions of Section 21, Article 11, Chapter 22 of the Code of West Virginia within thirty (30) days after the date of receipt of the above permit.

P.S.C. W. Va. No. 1

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT,
a public utility

SANDYVILLE, WEST VIRGINIA

RATES, RULES AND REGULATIONS FOR FURNISHING

SEWER AND SEWAGE DISPOSAL SERVICE

in the Eastwood and Balis Subdivisions and select surrounding areas in Jackson County, West Virginia.

Filed with THE PUBLIC SERVICE COMMISSION
of
WEST VIRGINIA

RECEIVED
2009 JUN2 AM 9 37
W VA PUBLIC SERVICE COMMISSION
SECRETARY'S OFFICE

Issued April 29, 2009

Effective for all service rendered on and after substantial completion of project or as otherwise provided herein

Issued by authority of an order of the Public Service Commission of West Virginia in Case No. 08-1739-PSD-CN final April 19, 2009 or as otherwise provided herein

Issued by NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT, a public utility

By Frank A. Murray

Chairman, NJCPSD
Title

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT (Sewer)

P.S.C. W.VA. Tariff No. 1

Original Sheet No. 2

RULES AND REGULATIONS

I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT (Sewer)

P.S.C. W.VA. Tariff No. 1

Original Sheet No. 3

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATES (customers with metered water supply)

$10.75 per 1,000 gallons of water usage.

MINIMUM CHARGE

No bill will be rendered for less than $32.25 per month, which is the equivalent of 3,000 gallons.

FLAT RATE CHARGE (customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage, $48.38.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the annual estimated charge for residential or other sewer service, or $50.00 whichever is greater.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

LEAK ADJUSTMENT

$3.10 per 1,000 gallons of water is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant.

A tap fee of $100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion of construction adjacent to the applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 is to be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

DISCONNECT/RECONNECT FEES

Whenever water service has been disconnected by the District for non-payment of sewer service, a disconnection fee of $20.00 shall be charged.

Whenever water service has been reconnected by the District for non-payment of sewer service, a reconnect fee of $20.00 shall be charged. The District's water system shall be entitled to receive these fees from the sewer system whether paid by customers or not. The District's water system shall not charge any other fees to the customers for disconnection or reconnection of water service for non-payment of sewer bills. The water utility may charge a disconnection/reconnection fee directly to its customers only if it is terminating water service for reasons other than nonpayment of a sewer bill. If water service is terminated for non-payment of both sewer and water bills, the District may impose only its water tariff and this provision will not apply.

ADMINISTRATIVE FEE

Whenever a customer pays a delinquent sewer bill to personnel of Northern Jackson County Public Service District in the course of such personnel traveling to disconnect water service for non-payment of sewer service, an administrative fee of $20.00 shall be charged.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

IC-2
(7/09)

GRANT AGREEMENT
(2003S-726)

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and the NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT (the "Governmental Agency").

RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed $1,090,000 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit B attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Authority and the Governmental Agency hereby agree as follows:

TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources. The Project budget shall not be amended unless the Governmental Agency has received the prior written consent of the Council.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority. Unless agreed to by the Council prior to the commencement of construction, the Grant shall be the last dollars expended on the Project.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Authority shall wire the approved requisition amount using the wiring instructions provided in Exhibit A, unless the Council and Authority are provided replacement instructions in writing.

5. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit B.

6. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

7. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

8. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

9. This Grant Agreement shall be governed by the laws of the State of West Virginia.

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

NORTHERN JACKSON COUNTY PUBLIC SERVICE DISTRICT

By: Frank A Murrey
Its: Chairman
Date: September 1, 2010

(SEAL)

Attest: John C Lockhart
Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: _____
Its: Executive Director
Date: September 1, 2010

(SEAL)

Attest: _____
Its: Secretary-Treasurer

[To Be Placed on Letterhead]

Exhibit A

Wiring Instructions

_____, 20__

Northern Jackson County Public Service District
39 Gilmore Drive
Sandyville, WV 25275

Payor:	West Virginia Water Development Authority
Source:	Grant Proceeds
Amount:	$_____
Date:	_____, 20__
Form:	Electronic Funds Transfer
Payee:	Northern Jackson County Public Service District
Bank:	WesBanco
Bank Contact:	Robin McGoskey
Telephone:	(304) 273-9351
Routing No.:	051500562
Account No.:	0833027259
Account Name:	Series 2010 A Bonds Construction Trust Fund

Exhibit B

Project Description

The Project consists of the installation of 13,300 linear feet of 8" gravity, 450 linear feet of 4" forced main, 3,850 linear feet 6" forced main of gathering line and two wastewater lift stations, and related appurtenances to serve approximately 119 potential customers, together with all appurtenant facilities

AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE NORTHERN JACKSON PUBLIC SERVICE DISTRICT
FOR
DESIGN AND CONSTRUCTION
ASSISTANCE
FOR THE
SILVERTON WASTEWATER COLLECTION SYSTEM PROJECT,
JACKSON COUNTY, WEST VIRGINIA

COPY

THIS AGREEMENT is entered into this 30th day of May, 2007, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Huntington District and the Northern Jackson Public Service District (hereinafter the "Non-Federal Sponsor"), represented by its Chairman.

WITNESSETH, THAT:

WHEREAS, the Secretary of the Army is authorized to provide design and construction assistance, which may be in the form of grants or reimbursements of the Federal share of project costs, for water-related environmental infrastructure and resource protection and development projects in central West Virginia (hereinafter the "Section 571 Program") pursuant to Section 571 of the Water Resources Development Act of 1999, Public Law 106-53 (hereinafter "Section 571");

WHEREAS, Section 571 provides that the Secretary of the Army may provide assistance for a water-related environmental infrastructure and resource protection and development project only if the project is publicly owned;

WHEREAS, Section 571 provides that $10,000,000 in Federal funds are authorized to be appropriated for design and construction assistance for the Section 571 Program;

WHEREAS, the U.S. Army Engineer, Huntington District (hereinafter the "District Engineer") has determined that the Silverton Wastewater Collection System Project in the areas of Silverton, Eastwood, Nuzems and Varner in Jackson County, West Virginia (hereinafter the "*Project*", as defined in Article I.A. of this Agreement) is eligible for implementation under Section 571;

WHEREAS, Section 571 provides that the Secretary of the Army shall not provide assistance for any water-related environmental infrastructure and resource protection and development projects until each non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project;

WHEREAS, Section 571 specifies the cost-sharing requirements applicable to the *Project* including that the Secretary of the Army shall afford credit, not to exceed 6 percent of the *total construction costs of the Project*, for the reasonable costs of design completed by the non-Federal interest before entering into a written agreement with the Secretary;

WHEREAS, Section 102 of the Energy and Water Development Appropriations Act, 2006, Public Law 109-103, provides that credits and reimbursements afforded for all applicable general authorities and under specific project authority shall not exceed $100,000,000 for all applicable programs and projects in each fiscal year;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into an agreement (hereinafter the "Agreement") for the provision of design and construction assistance for the *Project*;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Project* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful implementation of the *Project*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I - DEFINITIONS

A. The term "*Project*" shall mean the design and construction of approximately 26,000 linear feet of gravity sewer line, 9,000 linear feet of force main sewer line, 111 manholes, six pumping stations; and necessary appurtenances required to serve approximately 250 users and to connect those facilities to the wastewater treatment facilities of the City of Ravenswood for treatment of the waste collected in the areas of Silverton, Eastwood, Nuzems and Varner in Jackson County, West Virginia as generally described in the "Decision Document, Silverton Wastewater Collection System Project, Section 571 Central West Virginia Environmental Infrastructure Program" dated May, 2007 and approved by the Chief, Planning Branch on May, 2007.

B. The term "*total project costs*" shall mean the sum of all costs incurred by the Non-Federal Sponsor and the Government in accordance with the terms of this Agreement that the District Engineer determines are directly related to design and construction of the *Project*. Subject to the provisions of this Agreement including audits conducted in accordance with

Article X.C. of this Agreement to determine the reasonableness, allocability, and allowability of such costs, the term shall include, but is not necessarily limited to: the costs of the Non-Federal Sponsor's *pre-Agreement design work* determined in accordance with Article II.N. of this Agreement, but not to exceed 6 percent of *total construction costs of the Project*; the Non-Federal Sponsor's design costs incurred after the effective date of this Agreement; the Government's costs of review in accordance with Article II.A.1. of this Agreement; the Government's costs of preparation of environmental compliance documentation in accordance with Article II.A.2. of this Agreement; the Government's costs of inspection in accordance with Article II.A.6. of this Agreement; the Government's costs of technical assistance in accordance with Article II.A.1. and Article II.A.6. of this Agreement; the Non-Federal Sponsor's and the Government's costs of investigations to identify the existence and extent of hazardous substances in accordance with Article XIV.A.1. and Article XIV.A.2. of this Agreement; the Non-Federal Sponsor's and the Government's costs of historic preservation activities in accordance with Article XVII.A. and Article XVII.B. of this Agreement; the Non-Federal Sponsor's construction costs; the Non-Federal Sponsor's supervision and administration costs; the Non-Federal Sponsor's costs of identification of legal and institutional structures in accordance with Article II.J. of this Agreement not incurred pursuant to any other agreement for the *Project*; the Non-Federal Sponsor's and the Government's costs of participation in the Project Coordination Team in accordance with Article V of this Agreement; the Non-Federal Sponsor's costs of contract dispute settlements or awards; the value of lands, easements, rights-of-way, *relocations*, and permit costs determined in accordance with Article IV of this Agreement but not to exceed 25 percent of total project costs; the Non-Federal Sponsor's and the Government's costs of audit in accordance with Article X.B. and Article X.C. of this Agreement; and any other costs incurred by the Government pursuant to the provisions of this Agreement. The term does not include any costs of activities performed under any other agreement for the *Project*; any costs for operation, maintenance, repair, rehabilitation, or replacement of the *Project*; any costs of establishment and maintenance of legal and institutional structures in accordance with Article II.J. of this Agreement; any costs of *betterments*; any costs incurred in advertising and awarding any construction contracts prior to the effective date of this Agreement; any construction costs incurred prior to the effective date of this Agreement; any interest penalty paid in accordance with Article VI.B.4. of this Agreement; any costs of dispute resolution under Article VII of this Agreement; the Government's costs for data recovery activities in accordance with Article XVII.D. and Article XVII.E. of this Agreement; or the Non-Federal Sponsor's costs of negotiating this Agreement.

C. The term "*period of design and construction*" shall mean the time from the effective date of this Agreement to the date that construction of the *Project* is complete, as determined by the Government, or the date that this Agreement is terminated in accordance with Article II.E. or Article XIII or Article XIV.C. of this Agreement, whichever is earlier.

D. The term "*highway*" shall mean any highway, roadway, street, or way, including any bridge thereof, that is owned by a public entity.

E. The term "*relocation*" shall mean providing a functionally equivalent facility to the owner of a utility, cemetery, *highway*, railroad, or public facility when such action is authorized

in accordance with applicable legal principles of just compensation. Providing a functionally equivalent facility may take the form of alteration, lowering, raising, or replacement and attendant demolition of the affected facility or part thereof.

F. The term "*betterment*" shall mean a difference in the design or construction of an element of the *Project* that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the design or construction of that element. The term does not include any design or construction for features not included in the *Project* as defined in paragraph A. of this Article.

G. The term "*fiscal year*" shall mean one year beginning on October 1 and ending on September 30.

H. The term "*Federal program funds*" shall mean funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.

I. The term "*sufficient invoice*" shall mean submission of all of the following three items: (1) a written certification by the Non-Federal Sponsor to the Government that it has made specified payments to contractors, suppliers, or employees for performance of work in accordance with this Agreement, or a written certification by the Non-Federal Sponsor to the Government that it has received bills from contractors, suppliers, or employees for performance of work in accordance with this Agreement; (2) copies of all relevant invoices and evidence of such payments or bills received; and (3) a written request for reimbursement for the amount of such specified payments or bills received that identifies those costs that have been paid or will be paid with *Federal program funds*.

J. The term "*Section 571 Program Limit*" shall mean the amount of Federal funds authorized to be appropriated for the Section 571 Program. As of the effective date of this Agreement, such amount is $10,000,000.

K. The term "*Section 102 Limit*" shall mean the annual limit on credits and reimbursements imposed by Section 102 of the Energy and Water Development Appropriations Act, 2006, Public Law 109-103.

L. The term "*pre-Agreement design work*" shall mean the work performed prior to the effective date of this Agreement by the Non-Federal Sponsor that is directly related to design of the *Project* and that was not performed pursuant to any other agreement for the *Project*.

M. The term "*total construction costs of the Project*" shall mean *total project costs* minus: the value of lands, easements, rights-of-way, and *relocations* and the costs of permits included in *total project costs* as determined in accordance with Article IV of this Agreement; and the costs attributable to design of the *Project* included in *total project costs* as determined in accordance with Article II.C. and Article II.N. of this Agreement.

ARTICLE II - OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR

A. Using its funds, the Non-Federal Sponsor expeditiously shall design and construct the *Project* in accordance with Federal laws, regulations, and policies.

1. The Non-Federal Sponsor shall require all contractors to whom it awards design contracts to provide 30 percent and 100 percent design information to enable in-progress review of the design. The Government may participate in the review of the design at each stage of completion and may provide technical assistance to the Non-Federal Sponsor on an as-needed basis until the end of the *period of design and construction*. The Government shall perform a final review to verify that the design is complete and is necessary for the *Project*. Upon completion of design, the Non-Federal Sponsor shall furnish the District Engineer with copies of the completed design.

2. Using information developed by the Non-Federal Sponsor, the Government shall develop and coordinate as required, an Environmental Assessment and Finding of No Significant Impact or an Environmental Impact Statement and Record of Decision, as necessary, to inform the public regarding the environmental impacts of the *Project* in accordance with the National Environmental Policy Act of 1969 (hereinafter "NEPA"). The Non-Federal Sponsor shall not issue the solicitation for the first construction contract for the *Project* or commence construction of the *Project* using the Non-Federal Sponsor's own forces until all applicable environmental laws and regulations have been complied with, including, but not limited to NEPA and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341).

3. The Non-Federal Sponsor shall obtain all permits and licenses necessary for the design and construction of the *Project* and, in the exercise of its rights and obligations under this Agreement, shall comply with all applicable Federal, state, and local laws, regulations, ordinances, and policies including the laws and regulations specified in Article XI of this Agreement. As necessary to ensure compliance with such laws, regulations, ordinances, and policies, the Non-Federal Sponsor shall include appropriate provisions in its contracts for the design and construction of the *Project*.

4. The Non-Federal Sponsor shall afford the Government the opportunity to review and comment on the solicitations for all contracts for the *Project*, including relevant plans and specifications, prior to the Non-Federal Sponsor's issuance of such solicitations. To the extent possible, the Non-Federal Sponsor shall afford the Government the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Government with notification of a contract modification is not possible prior to execution of the contract modification, the Non-Federal Sponsor shall provide such notification in writing at the earliest date possible. To the extent possible, the Non-Federal Sponsor also shall afford the Government the opportunity to review and comment on all contract claims prior to resolution thereof. The Non-Federal Sponsor shall consider in good faith the comments of the Government, but the contents of solicitations, award of contracts or commencement of design or construction using the Non-Federal Sponsor's own forces, execution

of contract modifications, resolution of contract claims, and performance of all work on the *Project* shall be exclusively within the control of the Non-Federal Sponsor.

5. At the time the Non-Federal Sponsor furnishes a contractor with a notice of acceptance of completed work for each contract for the *Project*, the Non-Federal Sponsor shall furnish a copy thereof to the Government.

6. The Government may perform periodic inspections to verify the progress of construction and that the work is being performed in a satisfactory manner. In addition, the Government may provide technical assistance to the Non-Federal Sponsor on an as-needed basis until the end of the *period of design and construction*. Further, the Government shall perform a final inspection to verify the completion of construction of the entire *Project* or completed portion thereof as the case may be. The Non-Federal Sponsor hereby gives the Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for the purpose of performing such inspections.

B. In accordance with Article III of this Agreement, the Non-Federal Sponsor shall provide all lands, easements, and rights-of-way, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, and shall perform or ensure performance of all *relocations* that the Non-Federal Sponsor and the Government jointly determine to be required or to be necessary for construction, operation, and maintenance of the *Project*. In addition, the Non-Federal Sponsor shall obtain all permits necessary for construction, operation, and maintenance of the *Project* on publicly owned or controlled lands.

C. The Government shall determine and include in *total project costs* any costs incurred by the Non-Federal Sponsor that the District Engineer determines are directly related to design and construction of the *Project*, subject to the conditions and limitations of this paragraph.

1. Pursuant to paragraph A.6. of this Article, all work performed by the Non-Federal Sponsor for the *Project* is subject to on-site inspection and determination by the Government that the work was accomplished in a satisfactory manner and is suitable for inclusion in the *Project*.

2. The Non-Federal Sponsor's costs for design and construction that may be eligible for inclusion in *total project costs* shall be subject to an audit in accordance with Article X.C. of this Agreement to determine the reasonableness, allocability and allowability of such costs.

3. No costs shall be included in *total project costs* for any construction of the *Project* that was performed prior to compliance with all applicable environmental laws and regulations, including, but not limited to NEPA and Section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341).

4. In the performance of all work for the *Project*, the Non-Federal Sponsor must comply with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti- Kickback Act (formerly 40 U.S.C. 276c)). Notwithstanding any other provision of this Agreement, inclusion of costs for construction in *total project costs* may be withheld, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

5. The Non-Federal Sponsor's costs for design and construction that may be eligible for inclusion in *total project costs* pursuant to this Agreement are not subject to interest charges, nor are they subject to adjustment to reflect changes in price levels between the time the work is completed and the time the costs are included in *total project costs*.

6. The Government shall not include in *total project costs* any costs paid by the Non-Federal Sponsor using *Federal program funds* unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

D. The Government shall reimburse the Non-Federal Sponsor, in accordance with Article VI.B. of this Agreement, the amount necessary so that the Federal contribution towards *total project costs* equals 75 percent; however, any reimbursement by the Government is subject to the availability of funds and is limited by the *Section 571 Program Limit*.

E. Notwithstanding any other provision of this Agreement, Federal financial participation in the *Project* is limited by the following provisions of this paragraph.

1. As of the effective date of this Agreement, $7,241,000 of Federal funds have been provided by the Congress of the United States (hereinafter the "Congress") for the Section 571 Program of which $1,500,000 is currently projected to be available for the *Project*. The Government makes no commitment to request Congress to provide additional Federal funds for the Section 571 Program or the *Project*. Further, the Government's financial participation in the *Project* is limited to the Federal funds that the Government makes available to the *Project*.

2. In the event the Government projects that the amount of Federal funds the Government will make available to the *Project* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Project* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities in accordance with Article XVII.D. and Article XVII.E. of this Agreement that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project*, the Government's future

performance under this Agreement shall be suspended and the parties shall proceed in accordance with Article XIII.B. of this Agreement. However, if the Government cannot make available sufficient Federal funds to meet the Federal share of *total project costs* in the then-current *fiscal year* solely due to the *Section 102 Limit*, only the Government's future performance related to reimbursement pursuant to paragraph D. of this Article shall be suspended.

3. If the Government determines that the total amount of Federal funds provided by Congress for the Section 571 Program has reached the *Section 571 Program Limit*, and the Government projects that the Federal funds the Government will make available to the *Project* within the *Section 571 Program Limit* will not be sufficient to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities in accordance with Article XVII.D. and Article XVII.E. of this Agreement, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project* within the *Section 571 Program Limit*, the parties shall terminate this Agreement and proceed in accordance with Article XIII of this Agreement.

F. During the *period of design and construction*, the Non-Federal Sponsor shall prepare and furnish to the Government for review a proposed Operation, Maintenance, Repair, Rehabilitation and Replacement Manual (hereinafter the "OMRR&R Manual"). The failure of the Non-Federal Sponsor to prepare an OMRR&R Manual acceptable to the Government shall not relieve the Non-Federal Sponsor of its responsibilities for operation, maintenance, repair, rehabilitation, and replacement of the entire completed *Project*, or any completed portion thereof as the case may be, in accordance with the provisions of this Agreement.

G. Upon completion of construction and final inspection by the Government in accordance with paragraph A.6. of this Article, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the entire *Project*, or a completed portion thereof as the case may be, in accordance with Article VIII of this Agreement. Further, after completion of all contracts for the *Project*, copies of all of the Non-Federal Sponsor's Written Notices of Acceptance of Completed Work for all contracts for the *Project* that have not been provided previously shall be provided to the Government.

H. Upon conclusion of the *period of design and construction*, the Government shall conduct an accounting, in accordance with Article VI.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.

I. The Non-Federal Sponsor and the Government, in consultation with appropriate Federal and State officials, shall develop a facilities or resource protection and development plan. Such plan shall include necessary design, completion of all necessary NEPA compliance, preparation of appropriate engineering plans and specifications, preparation of an OMRR&R Manual, and any other matters related to design and construction of the *Project* in accordance with this Agreement.

J. The Non-Federal Sponsor shall identify, establish, and maintain such legal and institutional structures as are necessary to ensure the effective long-term operation of the *Project*. The Non-Federal Sponsor shall provide to the Government a description of such legal and institutional structures and such descriptions shall be included in the OMRR&R Manual prepared by the Non-Federal Sponsor. The Non-Federal Sponsor's costs of identification of such legal and institutional structures shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs. The Government shall have no obligation under this Agreement for any costs of establishment and maintenance of such legal and institutional structures.

K. The Non-Federal Sponsor shall not use *Federal program funds* to meet any of its obligations for the *Project* under this Agreement unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

L. The Non-Federal Sponsor may request the Government to acquire lands, easements, or rights-of-way or to perform *relocations* for the *Project* on behalf of the Non-Federal Sponsor. Such requests shall be in writing and shall describe the services requested to be performed or provided. If in its sole discretion the Government elects to perform or provide the requested services or any portion thereof, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with this Agreement. In the event of conflict between such a writing and this Agreement, this Agreement shall control. The Non-Federal Sponsor shall be solely responsible for all costs of the services performed or provided by the Government under this paragraph and shall pay all such costs in accordance with Article VI.D. of this Agreement. Notwithstanding the acquisition of lands, easements, or rights-of-way or performance of *relocations* by the Government, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for any costs of cleanup and response in accordance with Article XIV.C. of this Agreement.

M. In the event that the Non-Federal Sponsor elects to include *betterments* in the design or construction of the *Project* during the *period of design and construction*, the Non-Federal Sponsor shall notify the Government in writing and describe the *betterments* it intends to design and construct. The Non-Federal Sponsor shall be solely responsible for all costs due to *betterments*, including costs associated with obtaining permits therefor, and shall pay all such costs without reimbursement by the Government.

N. The Government shall determine and include in *total project costs* the reasonable costs incurred by the Non-Federal Sponsor for *pre-Agreement design work*, subject to the conditions and limitations of this paragraph, that have not been incurred pursuant to any other agreement for the *Project* but not to exceed 6 percent of *total construction costs of the Project*. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the amount of costs to be included in *total project costs* for *pre-Agreement design work*.

1. *Pre-Agreement design work* shall be subject to a review by the Government to verify that the work was accomplished in a satisfactory manner and is necessary for the *Project*.

2. Where the Non-Federal Sponsor's cost for completed *pre-Agreement design work* is expressed as fixed costs plus a percentage of construction costs, the Non-Federal Sponsor shall renegotiate such costs with its Architect-Engineer based on actual costs.

3. The Non-Federal Sponsor's costs for *pre-Agreement design work* that may be eligible for inclusion in *total project costs* shall be subject to an audit in accordance with Article X.C. of this Agreement to determine the reasonableness, allocability and allowability of such costs.

4. The Non-Federal Sponsor's costs for *pre-Agreement design work* that may be eligible for inclusion in *total project costs* pursuant to this paragraph are not subject to interest charges, nor are they subject to adjustment to reflect changes in price levels between the time the *pre-Agreement design work* was completed and the time the costs are included in *total project costs*.

5. The Government shall not include in *total project costs* any costs for *pre-Agreement design work* paid by the Non-Federal Sponsor using *Federal program funds* unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

ARTICLE III - LANDS, EASEMENTS, RIGHTS-OF-WAY, RELOCATIONS, AND COMPLIANCE WITH PUBLIC LAW 91-646, AS AMENDED

A. The Non-Federal Sponsor and the Government jointly shall determine the lands, easements, and rights-of-way required for construction, operation, and maintenance of the *Project*, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material. Upon reaching such determination, the Government shall provide written confirmation to the Non-Federal Sponsor thereof including a description of the lands, easements, and rights-of-way jointly determined to be required. Prior to the issuance of the solicitation for each contract for construction of the *Project*, or prior to the Non-Federal Sponsor incurring any financial obligations for construction of a portion of the *Project* using the Non-Federal Sponsor's own forces, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way the Non-Federal Sponsor and the Government jointly determine the Non-Federal Sponsor must provide for that work and shall certify in writing to the Government that said interests have been acquired. Furthermore, prior to the end of the *period of design and construction*, the Non-Federal Sponsor shall acquire all lands, easements, and rights-of-way required for construction, operation, and maintenance of the *Project*. The Non-Federal Sponsor shall ensure that lands, easements, and rights-of-way required for the *Project* and that were provided by the Non-Federal Sponsor are retained in public ownership for uses compatible with the authorized purposes of the *Project*.

B. The Non-Federal Sponsor and the Government jointly shall determine the *relocations* necessary for construction, operation, and maintenance of the *Project*, including those necessary to enable the borrowing of material or the disposal of dredged or excavated material. Upon reaching such determination, the Government shall provide written confirmation to the Non-Federal Sponsor thereof including a description of the *relocations* jointly determined to be necessary. Prior to the issuance of the solicitation for each contract for construction of the *Project*, or prior to the Non-Federal Sponsor incurring any financial obligations for construction of a portion of the *Project* using the Non-Federal Sponsor's own forces, the Non-Federal Sponsor shall prepare or ensure the preparation of plans and specifications for, and perform or ensure the performance of, all *relocations* the Non-Federal Sponsor and the Government jointly determine to be necessary for that work and certify in writing to the Government that said work has been performed. Furthermore, prior to the end of the *period of design and construction*, the Non-Federal Sponsor shall perform or ensure performance of all *relocations* necessary for construction, operation, and maintenance of the *Project*.

C. The Non-Federal Sponsor shall comply with the applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, as amended (42 U.S.C. 4601-4655), and the Uniform Regulations contained in 49 C.F.R. Part 24, in acquiring lands, easements, and rights-of-way required for construction, operation, and maintenance of the *Project*, including those required for *relocations*, the borrowing of material, or the disposal of dredged or excavated material, and shall inform all affected persons of applicable benefits, policies, and procedures in connection with said Act.

ARTICLE IV - VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS AND COSTS OF PERMITS

A. The Government shall include in *total project costs* the value of the lands, easements, and rights-of-way that the Non-Federal Sponsor and the Government jointly determine must be provided by the Non-Federal Sponsor pursuant to Article III.A. of this Agreement and the value of the *relocations* that the Non-Federal Sponsor and the Government jointly determine must be performed by the Non-Federal Sponsor or for which it must ensure performance pursuant to Article III.B. of this Agreement. The Government also shall include in *total project costs* the reasonable costs incurred by the Non-Federal Sponsor that are associated with obtaining permits pursuant to Article II.B. of this Agreement that are necessary for construction, operation, and maintenance of the *Project* on publicly owned or controlled lands. However, the Government shall not include in *total project costs* the value of any lands, easements, rights-of-way, or *relocations* that have been provided previously as an item of cooperation for another Federal project. Further, the Government shall not include in *total project costs* the value of lands, easements, rights-of-way, or *relocations* that were acquired or performed using *Federal program funds* or the costs of obtaining permits paid using *Federal program funds* unless the Federal agency providing the Federal portion of such funds verifies in writing that reimbursement for the value and costs of such items is expressly authorized by Federal law. Finally, no value or costs of such items shall be included in *total project costs* pursuant to this Article, and no reimbursement shall be provided to the Non-Federal Sponsor, for any value or costs in excess of 25 percent of *total project costs*.

B. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the value of any contribution provided pursuant to Article III.A. or Article III.B. of this Agreement and to determine the reasonable costs incurred by the Non-Federal Sponsor that are associated with obtaining permits pursuant to Article II.B. of this Agreement. Upon receipt of such documents, the Government in a timely manner shall determine the value of such contributions and the reasonable costs for obtaining such permits and include in *total project costs* the amount of such value and costs that does not exceed 25 percent of *total project costs*.

C. For the sole purpose of determining the value to be included in *total project costs* in accordance with this Agreement and except as otherwise provided in paragraph E. of this Article, the value of lands, easements, and rights-of-way, including those required for *relocations*, the borrowing of material, and the disposal of dredged or excavated material, shall be the fair market value of the real property interests, plus certain incidental costs of acquiring those interests, as determined in accordance with the provisions of this paragraph.

1. Date of Valuation. The fair market value of lands, easements, or rights-of-way owned by the Non-Federal Sponsor on the effective date of this Agreement shall be the fair market value of such real property interests as of the date the Non-Federal Sponsor awards the first construction contract for the *Project*, or, if the Non-Federal Sponsor performs the construction using its own forces, the date that the Non-Federal Sponsor begins construction of the *Project*. The fair market value of lands, easements, or rights-of-way acquired by the Non-Federal Sponsor after the effective date of this Agreement shall be the fair market value of such real property interests at the time the interests are acquired.

2. General Valuation Procedure. Except as provided in paragraph C.3. or paragraph C.5. of this Article, the fair market value of lands, easements, or rights-of-way shall be determined in accordance with the provisions of this paragraph.

a. The Non-Federal Sponsor shall obtain, for each real property interest, an appraisal that is prepared by a qualified appraiser who is acceptable to the Non-Federal Sponsor and the Government. The Non-Federal Sponsor shall provide a copy of each appraisal to the Government. The appraisal must be prepared in accordance with the applicable rules of just compensation, as specified by the Government. The fair market value shall be the amount set forth in the Non-Federal Sponsor's appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's appraisal, the Non-Federal Sponsor may obtain a second appraisal, and the fair market value shall be the amount set forth in the Non-Federal Sponsor's second appraisal, if such appraisal is approved by the Government. In the event the Government does not approve the Non-Federal Sponsor's second appraisal, the Non-Federal Sponsor chooses not to obtain a second appraisal, or the Non-Federal Sponsor does not provide the first appraisal as required in this paragraph, the Government shall obtain an appraisal, and the fair market value shall be the amount set forth in the Government's appraisal, if such appraisal is approved by the Non-Federal Sponsor. In the event the Non-Federal Sponsor does not approve the Government's appraisal, the Government,

after consultation with the Non-Federal Sponsor, shall consider the Government's and the Non-Federal Sponsor's appraisals and determine an amount based thereon, which shall be deemed to be the fair market value.

b. Where the amount paid or proposed to be paid by the Non-Federal Sponsor for the real property interest exceeds the amount determined pursuant to paragraph C.2.a. of this Article, the Government, at the request of the Non-Federal Sponsor, shall consider all factors relevant to determining fair market value and, in its sole discretion, after consultation with the Non-Federal Sponsor, may approve in writing an amount greater than the amount determined pursuant to paragraph C.2.a. of this Article, but not to exceed the amount actually paid or proposed to be paid. If the Government approves such an amount, the fair market value shall be the lesser of the approved amount or the amount paid by the Non-Federal Sponsor, but no less than the amount determined pursuant to paragraph C.2.a. of this Article.

3. Eminent Domain Valuation Procedure. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted after the effective date of this Agreement, the Non-Federal Sponsor, prior to instituting such proceedings, shall submit to the Government notification in writing of its intent to institute such proceedings and an appraisal of the specific real property interests to be acquired in such proceedings. The Government shall have 60 calendar days after receipt of such a notice and appraisal within which to review the appraisal, if not previously approved by the Government in writing.

a. If the Government previously has approved the appraisal in writing, or if the Government provides written approval of, or takes no action on, the appraisal within such 60 day period, the Non-Federal Sponsor shall use the amount set forth in such appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

b. If the Government provides written disapproval of the appraisal, including the reasons for disapproval, within such 60 day period, the Government and the Non-Federal Sponsor shall consult in good faith to promptly resolve the issues or areas of disagreement that are identified in the Government's written disapproval. If, after such good faith consultation, the Government and the Non-Federal Sponsor agree as to an appropriate amount, then the Non-Federal Sponsor shall use that amount as the estimate of just compensation for the purpose of instituting the eminent domain proceeding. If, after such good faith consultation, the Government and the Non-Federal Sponsor cannot agree as to an appropriate amount, then the Non-Federal Sponsor may use the amount set forth in its appraisal as the estimate of just compensation for the purpose of instituting the eminent domain proceeding.

c. For lands, easements, or rights-of-way acquired by eminent domain proceedings instituted in accordance with paragraph C.3. of this Article, fair market value shall be either the amount of the court award for the real property interests taken, to the extent the Non-Federal Sponsor and the Government jointly determined such interests are required for construction, operation, and maintenance of the *Project*, or the amount of any stipulated settlement or portion thereof that the Government approves in writing.

4. Incidental Costs. For lands, easements, or rights-of-way acquired by the Non-Federal Sponsor within a five year period preceding the effective date of this Agreement, or at any time after the effective date of this Agreement, the value of the interest shall include the documented incidental costs of acquiring the interest, as determined by the Government, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs. Such incidental costs shall include, but not necessarily be limited to, closing and title costs, appraisal costs, survey costs, attorney's fees, plat maps, mapping costs, actual amounts expended for payment of any relocation assistance benefits provided in accordance with Article III.C. of this Agreement, and other payments by the Non-Federal Sponsor for items that are generally recognized as compensable, and required to be paid, by applicable state law due to the acquisition of a real property interest in accordance with Article III of this Agreement. The value of the interests provided by the Non-Federal Sponsor in accordance with Article III.A. of this Agreement shall also include the documented costs of obtaining appraisals prepared for review by the Government pursuant to paragraph C.2.a. of this Article subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

5. Waiver of Appraisal. Except as required by paragraph C.3. of this Article, the Government may waive the requirement for an appraisal pursuant to this paragraph if it determines that an appraisal is unnecessary because the valuation is uncomplicated and that the estimated fair market value of the real property interest is $10,000 or less based upon a review of available data. In such event, the Government and the Non-Federal Sponsor must agree in writing to the value of such real property interest in an amount not in excess of $10,000.

D. After consultation with the Non-Federal Sponsor, the Government shall determine the value of *relocations* in accordance with the provisions of this paragraph.

1. For a *relocation* other than a *highway*, the value shall be only that portion of *relocation* costs that the Government determines is necessary to provide a functionally equivalent facility, reduced by depreciation, as applicable, and by the salvage value of any removed items.

2. For a *relocation* of a *highway*, the value shall be only that portion of *relocation* costs that would be necessary to accomplish the *relocation* in accordance with the design standard that the State of West Virginia would apply under similar conditions of geography and traffic load, reduced by the salvage value of any removed items.

3. *Relocation* costs shall include, but not necessarily be limited to, actual costs of performing the *relocation*; planning, engineering and design costs; supervision and administration costs; and documented incidental costs associated with performance of the *relocation*, as determined by the Government. *Relocation* costs shall not include any costs due to *betterments*, as determined by the Government, nor any additional cost of using new material when suitable used material is available. *Relocation* costs shall be subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

4. The value to be included in *total project costs* for *relocations* performed within the *Project* boundaries is subject to satisfactory compliance with applicable Federal labor laws covering non-Federal construction, including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)). Notwithstanding any other provision of this Agreement, inclusion of the value of *relocations* in *total project costs* may be denied, in whole or in part, as a result of the Non-Federal Sponsor's failure to comply with its obligations under these laws.

E. Where the Government, on behalf of the Non-Federal Sponsor pursuant to Article II.L. of this Agreement, acquires lands, easements, or rights-of-way or performs *relocations*, the value to be included in *total project costs* in accordance with this Agreement shall be the costs of such work performed or provided by the Government that are paid by the Non-Federal Sponsor in accordance with Article VI.D. of this Agreement. In addition, the value to be included in *total project costs* in accordance with this Agreement shall include the documented costs incurred by the Non-Federal Sponsor in accordance with the terms and conditions agreed upon in writing pursuant to Article II.L. of this Agreement subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

F. The Government shall include in *total project costs* the reasonable costs incurred by the Non-Federal Sponsor pursuant to Article II.B. of this Agreement that are associated with obtaining permits necessary for construction, operation, and maintenance of the *Project* on publicly owned or controlled lands, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

ARTICLE V - PROJECT COORDINATION TEAM

A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 calendar days after the effective date of this Agreement, shall appoint named senior representatives to a Project Coordination Team. Thereafter, the Project Coordination Team shall meet regularly until the end of the *period of design and construction*. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Project Coordination Team.

B. The Government's Project Manager and the Non-Federal Sponsor's counterpart shall keep the Project Coordination Team informed of the progress of design and construction and of significant pending issues and actions, and shall seek the views of the Project Coordination Team on matters that the Project Coordination Team generally oversees.

C. Until the end of the *period of design and construction*, the Project Coordination Team shall generally oversee the *Project*, including matters related to: design; completion of all necessary NEPA coordination; plans and specifications; scheduling; real property and *relocation* requirements; real property acquisition; contract awards and modifications; contract costs; the

application of and compliance with 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)) for *relocations* and the construction portion of the *Project*; the investigations to identify the existence and extent of hazardous substances in accordance with Article XIV.A. of this Agreement; historic preservation activities in accordance with Article XVII of this Agreement; the Government's cost projections; final inspection of the entire *Project* or completed portions thereof as the case may be; preparation of the proposed OMRR&R Manual; anticipated requirements and needed capabilities for performance of operation, maintenance, repair, rehabilitation, and replacement of the *Project* including issuance of permits; and other matters related to the *Project*. This oversight of the *Project* shall be consistent with a project management plan developed by the Government and the Non-Federal Sponsor.

D. The Project Coordination Team may make recommendations to the Non-Federal Sponsor on matters related to the *Project* that the Project Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Non-Federal Sponsor in good faith shall consider the recommendations of the Project Coordination Team. The Non-Federal Sponsor, having the legal authority and responsibility for design and construction of the *Project*, has the discretion to accept or reject, in whole or in part, the Project Coordination Team's recommendations except as otherwise required by the provisions of this Agreement, including compliance with applicable Federal, State, or local laws or regulations.

E. The Non-Federal Sponsor's costs of participation in the Project Coordination Team shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs. The Government's costs of participation in the Project Coordination Team shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VI - METHOD OF PAYMENT

A. The Non-Federal Sponsor shall provide the Government with such documents as are sufficient to enable the Government to maintain current records and provide to the Non-Federal Sponsor current projections of costs, financial obligations, contributions provided by the parties, the value included in *total project costs* of lands, easements, rights-of-way, *relocations*, and permit costs determined in accordance with Article IV of this Agreement, and the costs included in *total project costs* for the *pre-Agreement design work* determined in accordance with Article II.N. of this Agreement.

1. As of the effective date of this Agreement, *total project costs* are projected to be $2,000,000; the Government's share of *total project costs* is projected to be $1,500,000; the Non-Federal Sponsor's share of *total project costs* is projected to be $500,000; *total project costs*

to be incurred by the Government are projected to be $25,000; *total project costs* to be incurred by the Non-Federal Sponsor are projected to be $1,975,000; total reimbursements in accordance with paragraph B.2. of this Article are projected to be $1,475,000; the value included in *total project costs* of lands, easements, rights-of-way, *relocations*, and permit costs determined in accordance with Article IV of this Agreement is projected to be $16,000; the costs included in *total project costs* for the *pre-Agreement design work* determined in accordance with Article II.N. of this Agreement are projected to be $90,000; the Government's share of financial obligations for data recovery activities pursuant to Article XVII.E. of this Agreement is projected to be $1,000; the Non-Federal Sponsor's share of financial obligations for data recovery activities pursuant to Article XVII.E. of this Agreement is projected to be $0; and the Government's total financial obligations to be incurred for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor and the Non-Federal Sponsor's contribution of funds for such obligations required by Article II.L. of this Agreement are projected to be $0. These amounts are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.

2. By July 2007 and by each quarterly anniversary thereof until the conclusion of the *period of design and construction* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of the following: *total project costs*; the Government's share of *total project costs*; the Non-Federal Sponsor's share of *total project costs*; *total project costs* incurred by the Government; *total project costs* incurred by the Non-Federal Sponsor; total reimbursements paid to the Non-Federal Sponsor; the value included in *total project costs* of lands, easements, rights-of-way, *relocations*, and permit costs determined in accordance with Article IV of this Agreement; the costs included in *total project costs* for the *pre-Agreement design work* determined in accordance with Article II.N. of this Agreement; the Government's share of financial obligations for data recovery activities pursuant to Article XVII.E. of this Agreement; the Non-Federal Sponsor's share of financial obligations for data recovery activities pursuant to Article XVII.E. of this Agreement; and the Government's total financial obligations to be incurred for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor and the Non-Federal Sponsor's contribution of funds for such obligations required by Article II.L. of this Agreement.

B. The Government, subject to the availability of funds, shall reimburse the Non-Federal Sponsor, in accordance with the provisions of this paragraph, the amount required pursuant to Article II.D. of this Agreement.

1. Periodically, but not more frequently than once every 30 calendar days, the Non-Federal Sponsor shall provide the Government with a *sufficient invoice* for costs the Non-Federal Sponsor has incurred for the *Project*.

2. Upon receipt of such *sufficient invoice*, the Government shall review the costs identified therein and shall determine: (a) the amount to be included in *total project costs*, subject to the limitations in Article II.C. of this Agreement; (b) the total costs incurred by the parties to

date (including the value of lands, easements, rights-of-way, and *relocations*, and the costs of permits determined in accordance with Article IV of this Agreement); (c) each party's share of *total project costs* and the costs of data recovery activities in accordance with Article XVII.E. of this Agreement incurred by the parties to date; (d) the costs incurred by each party to date; (e) the total amount of reimbursements the Government has made to date in accordance with this paragraph; (f) the balance of Federal funds available for the *Project*, as of the date of such review; (g) the amount of reimbursement, if any, due to the Non-Federal Sponsor; and (h) the amount that actually will be paid to the Non-Federal Sponsor (hereinafter the "payment amount") if the amount of reimbursement determined above cannot be fully paid due to an insufficiency of Federal funds or the limitations of the *Section 571 Program Limit* or the *Section 102 Limit*.

3. Within 30 calendar days after receipt of the *sufficient invoice* provided in accordance with paragraph B.1. of this Article (hereinafter the "payment period"), the Government shall: furnish the Non-Federal Sponsor written notice of the determinations made in accordance with paragraph B.2. of this Article; provide an explanation, if necessary, of why the payment amount is less than the amount of reimbursement determined due to the Non-Federal Sponsor; and make a payment to the Non-Federal Sponsor equal to the payment amount.

4. If the payment amount is not paid by the end of the payment period, the designated payment office shall credit to the Non-Federal Sponsor's account an interest penalty on the payment amount, without request from the Non-Federal Sponsor. Unless prescribed by other Federal authority, the interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the first day after the end of the payment period.

a. The interest penalty shall accrue daily from the first day after the end of the payment period through the date on which the payment is made. Accruals shall be compounded at 30 calendar day intervals through the date on which the payment is made.

b. The interest penalty shall not accrue, nor be compounded, during suspension of all of the Government's future performance or during suspension of only the Government's future performance to provide reimbursement. Further no interest penalty shall accrue, nor be compounded, upon termination of this Agreement under Article XIII of this Agreement.

C. Upon conclusion of the *period of design and construction* and resolution of all relevant claims and appeals and eminent domain proceedings, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting from being conducted in a timely manner, the Government shall conduct an interim accounting and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall amend the interim accounting to complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The interim or final accounting, as applicable, shall determine *total project*

costs and the costs of any data recovery activities. In addition, for each set of costs, the interim or final accounting, as applicable, shall determine each party's required share thereof, and each party's total contributions thereto as of the date of such accounting.

1. Should the interim or final accounting, as applicable, show that the Government's total required shares of *total project costs* and the costs of any data recovery activities exceed the Government's total contributions provided thereto, the Government, no later than 90 calendar days after completion of the interim or final accounting, as applicable, shall make a payment to the Non-Federal Sponsor, subject to the availability of funds and as limited by the *Section 571 Program Limit* and the *Section 102 Limit*, in an amount equal to the difference.

2. Should the interim or final accounting, as applicable, show that the total contributions provided by the Government for *total project costs* and the costs of any data recovery activities exceed the Government's total required shares thereof, the Non-Federal Sponsor shall refund the excess amount to the Government within 90 calendar days of the date of completion of such accounting by delivering a check payable to "FAO, USAED, Huntington" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government. In the event the Government is due a refund and funds are not available to refund the excess to the Government, the Non-Federal Sponsor shall seek such appropriations as are necessary to make the refund.

D. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.L. of this Agreement for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor in accordance with the provisions of this paragraph.

1. Not less than 60 calendar days prior to the scheduled date for the first financial obligation for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and of the full amount of funds the Government determines to be required from the Non-Federal Sponsor to cover the costs of such work. No later than 30 calendar days prior to the Government incurring any financial obligation for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor, the Non-Federal Sponsor shall provide the Government with the full amount of the funds required to cover the costs of such work by delivering a check payable to "FAO, USAED, Huntington" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited the required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by presenting the Government with an irrevocable letter of credit acceptable to the Government for the required funds, or by providing an Electronic Funds Transfer of the required funds in accordance with procedures established by the Government.

2. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover the Government's financial obligations for acquisition of lands, easements, or rights-of-way or performance of *relocations*

for the *Project* on behalf of the Non-Federal Sponsor as they are incurred. If at any time the Government determines that the Non-Federal Sponsor must provide additional funds to pay for such work, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of the additional required funds through any of the payment mechanisms specified in paragraph D.1. of this Article.

3. At the time the Government conducts the interim or final accounting, as applicable, the Government shall conduct an accounting of the Government's financial obligations incurred for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor and furnish the Non-Federal Sponsor with written notice of the results of such accounting. If outstanding relevant claims and appeals or eminent domain proceedings prevent a final accounting of such work from being conducted in a timely manner, the Government shall conduct an interim accounting of such work and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals and eminent domain proceedings are resolved, the Government shall amend the interim accounting to complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. Such interim or final accounting, as applicable, shall determine the Government's total financial obligations for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor and the Non-Federal Sponsor's contribution of funds provided thereto as of the date of such accounting.

a. Should the interim or final accounting, as applicable, show that the total obligations for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor exceed the total contribution of funds provided by the Non-Federal Sponsor for such work, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Huntington" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.

b. Should the interim or final accounting, as applicable, show that the total contribution of funds provided by the Non-Federal Sponsor for acquisition of lands, easements, or rights-of-way or performance of *relocations* for the *Project* on behalf of the Non-Federal Sponsor exceeds the total obligations for such work, the Government, subject to the availability of funds, shall refund the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund and funds are not available to refund the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund.

ARTICLE VII - DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VIII – OPERATION, MAINTENANCE, REPAIR, REHABILITATION, AND REPLACEMENT (OMRR&R)

A. Upon completion of construction and final inspection by the Government in accordance with Article II.A.6. of this Agreement, the Non-Federal Sponsor, pursuant to Article II.G. of this Agreement, shall operate, maintain, repair, rehabilitate, and replace the entire *Project*, or a completed portion thereof as the case may be, at no cost to the Government. The Non-Federal Sponsor shall conduct its operation, maintenance, repair, rehabilitation, and replacement responsibilities in a manner compatible with the *Project's* authorized purposes and in accordance with specific directions prescribed by the Government in the interim or final OMRR&R Manual and any subsequent amendments thereto.

B. The Non-Federal Sponsor hereby gives the Government a right to enter, at reasonable times and in a reasonable manner, upon property that the Non-Federal Sponsor now or hereafter owns or controls for access to the *Project* for the purpose of inspection, if the Government determines an inspection to be necessary. If an inspection shows that the Non-Federal Sponsor for any reason is failing to perform its obligations under this Agreement, the Government shall send a written notice describing the non-performance to the Non-Federal Sponsor.

ARTICLE IX – HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from design, construction, operation, maintenance, repair, rehabilitation, and replacement of the *Project* and any *betterments*, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE X - MAINTENANCE OF RECORDS AND AUDIT

A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to this Agreement.

These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section 33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, or other evidence in accordance with these procedures and for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence were required. To the extent permitted under applicable Federal laws and regulations, the Government and the Non-Federal Sponsor shall each allow the other to inspect such books, records, documents, or other evidence.

B. In accordance with 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by Office of Management and Budget (OMB) Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the *Project* shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

C. In accordance with 31 U.S.C. 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

ARTICLE XI - FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and the Government shall comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto; Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and all applicable Federal labor standards requirements including, but not limited to, 40 U.S.C. 3141-3148 and 40 U.S.C. 3701-3708 (revising, codifying and enacting without substantive change the provisions of the Davis-Bacon Act (formerly 40 U.S.C. 276a *et seq.*), the Contract Work Hours and Safety Standards Act (formerly 40 U.S.C. 327 *et seq.*) and the Copeland Anti-Kickback Act (formerly 40 U.S.C. 276c)).

ARTICLE XII - RELATIONSHIP OF PARTIES

A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.

B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

ARTICLE XIII - TERMINATION OR SUSPENSION

A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate this Agreement or suspend the Government's future performance under this Agreement.

B. In the event all of the Government's future performance under this Agreement or only the Government's future performance to provide reimbursement is suspended pursuant to Article II.E.2. of this Agreement such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient Federal funds are available to meet the Federal share of *total project costs* and the Federal share of costs for data recovery activities in accordance with Article XVII.D. and Article XVII.E. of this Agreement the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.

C. In the event that the Government and the Non-Federal Sponsor determine to suspend future performance under this Agreement in accordance with Article XIV.C. of this Agreement, such suspension shall remain in effect until the Government and the Non-Federal Sponsor agree to proceed or to terminate this Agreement. In the event that the Government suspends future performance under this Agreement in accordance with Article XIV.C. of this Agreement due to failure to reach agreement with the Non-Federal Sponsor on whether to proceed or to terminate this Agreement, or the failure of the Non-Federal Sponsor to provide funds to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under Article XIV.C. of this Agreement, such suspension shall remain in effect until: 1) the Government and Non-Federal Sponsor reach agreement on how to proceed or to terminate this Agreement; 2) the Non-Federal Sponsor provides funds necessary to pay for cleanup and response costs and otherwise discharges its responsibilities under Article XIV.C. of this Agreement; or 3) the Government terminates this Agreement in accordance with the provisions of Article XIV.C. of this Agreement.

D. If after completion of the design portion of the *Project* the parties mutually agree in writing not to proceed with construction of the *Project*, the parties shall conclude their activities

relating to the *Project* and conduct an accounting in accordance with Article VI.C. of this Agreement.

E. In the event that this Agreement is terminated pursuant to this Article or Article II.E. or Article XIV.C. of this Agreement, both parties shall conclude their activities relating to the *Project* and conduct an accounting in accordance with Article VI.C. of this Agreement. The Government may reserve a percentage of total Federal funds made available for the *Project* as a contingency to pay costs of termination. Notwithstanding such termination, the Non-Federal Sponsor may continue with design and construction of the *Project*, at no cost to the Government.

F. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article or Article II.E. or Article XIV.C. of this Agreement shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE XIV - HAZARDOUS SUBSTANCES

A. After execution of this Agreement and coordination with the Government, the Non-Federal Sponsor shall perform, or ensure performance of, any investigations for hazardous substances that the Government or the Non-Federal Sponsor determines to be necessary to identify the existence and extent of any hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (hereinafter "CERCLA") (42 U.S.C. 9601-9675), that may exist in, on, or under lands, easements, and rights-of-way that either the Non-Federal Sponsor and the Government jointly determine pursuant to Article III of this Agreement, or that the Non-Federal Sponsor otherwise determines, to be required for construction, operation, and maintenance of the *Project*. However, for lands, easements, and rights-of-way that the Government determines to be subject to the navigation servitude, only the Government shall perform such investigations unless the District Engineer provides the Non-Federal Sponsor with prior specific written direction, in which case the Non-Federal Sponsor shall perform such investigations in accordance with such written direction.

1. All actual costs incurred by the Non-Federal Sponsor for such investigations for hazardous substances in, on, or under any lands, easements, or rights-of-way that the Non-Federal Sponsor and the Government jointly determine to be required for construction, operation, and maintenance of the *Project*, pursuant to Article III of this Agreement, shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

2. All actual costs incurred by the Government for such investigations for hazardous substances shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

B. In the event it is discovered through any investigation for hazardous substances or other means that hazardous substances regulated under CERCLA exist in, on, or under any lands, easements, or rights-of-way that either the Non-Federal Sponsor and the Government jointly determine pursuant to Article III of this Agreement, or that the Non-Federal Sponsor otherwise determines, to be required for construction, operation, and maintenance of the *Project*, the Non-Federal Sponsor and the Government, in addition to providing any other notice required by applicable law, shall provide prompt written notice to each other, and the Non-Federal Sponsor shall not proceed with the acquisition of the real property interests until the parties agree that the Non-Federal Sponsor should proceed.

C. The Government and the Non-Federal Sponsor shall determine whether to initiate construction of the *Project*, or, if already in construction, whether to continue with construction of the *Project*, suspend future performance under this Agreement, or terminate this Agreement, in any case where hazardous substances regulated under CERCLA are found to exist in, on, or under any lands, easements, or rights-of-way that either the Non-Federal Sponsor and the Government jointly determine pursuant to Article III of this Agreement, or that the Non-Federal Sponsor otherwise determines, to be required for construction, operation, and maintenance of the *Project*. Should the Government and the Non-Federal Sponsor determine to initiate or continue with construction of the *Project* after considering any liability that may arise under CERCLA, the Non-Federal Sponsor shall be responsible, as between the Government and the Non-Federal Sponsor, for the costs of cleanup and response, including the costs of any studies and investigations necessary to determine an appropriate response to the contamination. Such costs shall not be considered a part of *total project costs*. In the event the Non-Federal Sponsor does not reach agreement with the Government on whether to proceed or to terminate this Agreement under this paragraph, or fails to provide any funds necessary to pay for cleanup and response costs or to otherwise discharge the Non-Federal Sponsor's responsibilities under this paragraph upon direction by the Government, the Government, in its sole discretion, may either terminate this Agreement or suspend its future performance under this Agreement, including reimbursement pursuant to Article II.D. of this Agreement.

D. The Non-Federal Sponsor and the Government shall consult with each other in accordance with Article V of this Agreement in an effort to ensure that responsible parties bear any necessary cleanup and response costs as defined in CERCLA. Any decision made pursuant to paragraph C. of this Article shall not relieve any third party from any liability that may arise under CERCLA.

E. As between the Government and the Non-Federal Sponsor, the Non-Federal Sponsor shall be considered the operator of the *Project* for purposes of CERCLA liability. To the maximum extent practicable, the Non-Federal Sponsor shall operate, maintain, repair, rehabilitate, and replace the *Project* in a manner that will not cause liability to arise under CERCLA.

ARTICLE XV - NOTICES

A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or sent by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:

Chairman
Northern Jackson Public Service District
1354 Gilmore Drive
Sandyville, West Virginia 25275-9318

If to the Government:

District Engineer
Huntington District
Corps of Engineers
502 Eighth Street
Huntington, West Virginia 25701-2070

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XVI - CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XVII - HISTORIC PRESERVATION

A. The Government shall ensure compliance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f; hereinafter "Section 106") prior to initiation of construction by the Non-Federal Sponsor. At the Government's request, the Non-Federal Sponsor shall prepare information, analyses, and recommendations as required by Section 106 and implementing regulations. Any costs incurred by the Non-Federal Sponsor relating to compliance with this paragraph shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs. Any costs incurred by the

Government relating to compliance with this paragraph shall be included in *total project costs* and shared in accordance with the provisions of this Agreement.

B. The Non-Federal Sponsor shall perform any identification, survey, evaluation, or mitigation (except for data recovery activities) of historic properties the Government determines necessary for the *Project*, in accordance with this paragraph.

1. The Non-Federal Sponsor shall ensure that its studies are conducted by qualified archaeologists, historians, architectural historians and historic architects, as appropriate, who meet, at minimum, the Secretary of the Interior's Professional Qualifications Standards. The Non-Federal Sponsor shall submit study plans and reports to the Government for review and approval and shall be responsible for resolving any deficiencies.

2. In the event the Government determines that mitigation (except for data recovery activities) should be undertaken due to possible adverse effects to significant archeological or historical properties, the Non-Federal Sponsor shall formulate a plan in consultation with the Government and any other parties involved in the development of a Memorandum of Agreement executed in accordance with Section 106.

3. The Non-Federal Sponsor shall be responsible for implementing mitigation (except for data recovery activities) prior to the initiation of any construction activities affecting historic properties.

4. Any costs of identification, survey, evaluation, and mitigation (except for data recovery activities) of historic properties incurred by the Non-Federal Sponsor pursuant to paragraph B. of this Article shall be included in *total project costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

C. The Non-Federal Sponsor shall include provisions in all of its construction contracts for the protection of cultural resources discovered during construction. These provisions shall include, at a minimum, the requirement to cease all work in the immediate area of a discovered cultural resource until the situation is properly evaluated, and the requirement to immediately provide verbal and written notice to the Non-Federal Sponsor and Government in the event of such discovery. Upon receipt of notice that cultural resources have been discovered, the Government, pursuant to its responsibilities under the National Historic Preservation Act, must authorize further action or study before construction may continue. If the Government concludes that such discovery warrants consultation under the National Historic Preservation Act, the Non-Federal Sponsor shall participate as a consulting party. In such a case, construction shall not continue until the Government sends written notification to the Non-Federal Sponsor. Where the Non-Federal Sponsor elects to perform the construction using its own forces, the same procedures shall be followed.

D. The Government, as it determines necessary for the *Project*, shall perform any data recovery activities associated with historic preservation. As specified in Section 7(a) of Public

Law 86-523, as amended by Public Law 93-291 (16 U.S.C. 469c(a)), the costs of data recovery activities associated with historic preservation for this *Project* and all other projects implemented pursuant to the Section 571 Program shall be borne entirely by the Government up to the statutory limit of one percent of the total amount authorized to be appropriated to the Government for the Section 571 Program. None of the costs of data recovery activities shall be included in *total project costs*.

E. The Government shall not incur costs for data recovery activities that exceed the statutory one percent limit specified in paragraph D. of this Article unless and until the Assistant Secretary of the Army (Civil Works) has waived that limit, and the Secretary of the Interior has concurred in the waiver, in accordance with Section 208(3) of Public Law 96-515, as amended (16 U.S.C. Section 469c-2(3)). Any costs of data recovery activities that exceed the one percent limit shall not be included in *total project costs* but shall be shared between the Non-Federal Sponsor and the Government consistent with the cost sharing requirements of the Section 571 Program, as follows: 25 percent will be borne by the Non-Federal Sponsor and 75 percent will be borne by the Government.

ARTICLE XVIII - THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

BY: Dana R. Hurst
DANA R. HURST
Colonel, Corps of Engineers
District Engineer

DATE: 5/30/07

NORTHERN JACKSON PUBLIC SERVICE DISTRICT

BY: Frank A Murrey
FRANK MURREY
Chairman

DATE: 5-30-07

CERTIFICATE OF AUTHORITY

I, Michael I. Spiker, do hereby certify that I am the principal legal officer of the Northern Jackson Public Service District, that the Northern Jackson Public Service District is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Northern Jackson Public Service District in connection with the Silverton Wastewater Collection System Project in the areas of Silverton, Eastwood, Nuzems and Varner in Jackson County, West Virginia, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the Northern Jackson Public Service District have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 30 day of May 2007.

Michael I. Spiker
Attorney for the Northern Jackson
Public Service District

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Frank A Murrey

Frank Murrey, Chairman
Northern Jackson Public Service District

DATE: 05-30-07

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Section

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§ 31-15A-1. Short title

This article shall be known and may be cited as the "West Virginia Infrastructure and Jobs Development Act."

Acts 1994, 1st Ex. Sess., c. 26.

§ 31-15A-2. Definitions

For purposes of this article:

(a) "Bond" or "infrastructure revenue bond" means a revenue bond, note, or other obligation issued by the water development authority pursuant to this article, including bonds to refund such bonds and notes to renew such notes, and notes in anticipation of and payable from the proceeds of such bonds.

(b) "Code" means the code of West Virginia, one thousand nine hundred thirty-one, as amended;

(c) "Cost" means, as applied to any project to be financed, in whole or in part, with infrastructure revenues or funds otherwise provided pursuant to this article, the cost of planning, acquisition, improvement and construction of the project; the cost of preliminary design and analysis, surveys, borings; the cost of environmental, financial, market and engineering feasibility studies, assessments, applications, approvals, submissions or clearances; the cost of preparation of plans and specifications and other engineering services; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and any other interests required for the acquisition, repair, improvement or construction of the project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of excavation, grading, shaping or treatment of earth, demolishing or removing any buildings or structures; the cost of constructing any buildings or other improvements; the cost of all pumps, tanks, vehicles, apparatus and other machinery, furnishings and equipment; loan or origination fees and all finance charges and interest incurred prior to and during the construction and for no more than six months after completion of construction; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, repairing, improving or constructing any project; the cost of placing any project in operation; and all other costs and expenses of any kind or nature incurred or to be incurred by the project sponsor developing the project that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project: Provided, That costs shall not include any amounts related to the ongoing operations of the owner or operator, depreciation thereof or any other cost which the council or the water development authority has not determined to be consistent with the purposes and objectives of this article;

(d) "Council" means the West Virginia infrastructure and jobs development council created in section three of this article;

(e) "Division of environmental protection" means the division of environmental protection established under article one, chapter twenty-two of this code, or any successor to all or any substantial part of its powers and duties;

(f) "Division of health" means the division of health created in article one, chapter sixteen of this code, or any successor to all or any substantial part of its powers and duties;

(g) "Economic development authority" means the economic development authority established under article fifteen, chapter thirty-one of the code, or any successor to all or any substantial part of its powers and duties;

(h) "Emergency project" means a project which the council has determined: (1) Is essential to the immediate economic development of an area of the state; and

(2) will not likely be developed in that area if construction of the project is not commenced immediately;

(i) "Governmental agency" means any county; municipality; watershed improvement district; assessment district; soil conservation district; sanitary district; public service district; drainage district; regional governmental authority and any other state governmental agency, entity, political subdivision or public corporation or agency authorized to acquire, construct or operate water or wastewater facilities or infrastructure projects;

(j) "Housing development fund" means the West Virginia housing development fund established under article eighteen of this chapter, or any successor to all or any substantial part of its powers and duties;

(k) "Infrastructure fund" means the West Virginia infrastructure fund created and established in section nine of this article;

(*l*) "infrastructure project" means a project in the state which the council determines is likely to foster and enhance economic growth and development in the area of the state in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes, including, without limitation, tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including facilities owned or leased by this state or any other project sponsor, and includes, without limitation:

(1) the process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part thereof or interest therein; and

(2) preparing land for construction and making, installing or constructing improvements on the land, including water or wastewater facilities or any part thereof, steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site;

(m) "Infrastructure revenue" means all amounts appropriated by the Legislature; all amounts deposited into the infrastructure fund; any amounts received, directly or indirectly, from any source for the use of all or any part of any project completed pursuant to this article; and any other amounts received by the state treasurer, council or the water development authority for the purposes of this article;

The council shall construe a population increase evidenced by the last two decennial censuses in a county in which a project is proposed, as a factor supporting the conclusion that a need exists for projects in that county.

(o) "Project" means any wastewater facility, water facility project or any combination thereof, constructed or operated or to be constructed or operated by a project sponsor;

(p) "Project sponsor" means any governmental agency or person, or any combination thereof, including, but not limited to, any public utility, which intends to plan, acquire, construct, improve or otherwise develop a project;

(q) "Public service commission" means the public service commission of West Virginia created and established under section three, article one, chapter twenty-four of this code, or any successor to all or any substantial part of its powers and duties;

(r) "Person" means any individual, corporation, partnership, association, limited liability company or any other form of business organization;

(s) "Public utility" means any person or persons, or association of persons, however associated, whether incorporated or not, including, without limitation, any governmental agency, operating a wastewater facility or water facility as a public service, which is regulated by the public service commission as a public utility under chapter twenty-four of this code or which is required to file its tariff with the public service commission;

(t) "State development office" means the West Virginia development office established under article two, chapter five-b of this code, or any successor to all or any substantial part of its powers and duties;

(u) "State infrastructure agency" means the division of health, division of environmental protection, housing development fund, public service commission, state development office, water development authority, economic development authority and any other state agency, division, body, authority, commission, instrumentality or entity which now or in the future receives applications for the funding of, and provides funding or technical assistance to, the planning, acquisition, construction or improvement of a project;

(v) "Waste water facility" means all facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, wastewater, and the residue thereof; facilities for the temporary or permanent impoundment of wastewater, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport wastewater together with the equipment and furnishings therefor or thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor;

(w) "Water development authority" means the West Virginia water development authority continued pursuant to the provisions of article one, chapter

(x) "Water facility" means all facilities, land and equipment used for or in connection with the collection and/or storage of water, both surface and underground, transportation of water, storage of water, treatment of water and distribution of water all for the purpose of providing potable, sanitary water suitable for human consumption and use.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-3. West Virginia infrastructure and jobs development council continued; members of council; staff of council

(a) The West Virginia infrastructure and jobs development council is hereby continued. The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties shall be considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose.

(b) The council shall consist of eleven members, including the executive director of the housing development fund or his or her designee, the director of the division of environmental protection or his or her designee, the director of the economic development authority or his or her designee, the director of the water development authority or his or her designee, the executive director of the state development office or his or her designee, the director of the division of health or his or her designee, the chairman of the public service commission or his or her designee, and four members representing the general public: Provided, That there shall be at least one member representing the general public from each congressional district: Provided, however, That after the expiration of the term of office of the members first appointed as representatives of the general public, no more than one member representing the general public may be a resident of the same county. The governor shall appoint the public members of the council who shall serve three-year staggered terms. The commissioner of the division of highways, the executive director of the state rail authority, two members of the West Virginia Senate, two members of the West Virginia House of Delegates, one representative of the board of directors of the state college system and one representative of the board of trustees of the university of West Virginia shall serve as advisory members of the council. The governor shall appoint the legislative members of the council: Provided, further That no more than three of the legislative members may be of the same political party. The governor shall appoint the representatives of the governing boards from a list of three names submitted by each governing board. The advisory members shall be ex officio, nonvoting members of the council.

(c) The council shall annually elect one of its members as chairman, and shall appoint a secretary, who need not be a member of the council and who shall keep records of its proceedings. Six members of the council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the council.

No vacancy in the membership of the council impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

(d) No member of the council who serves by virtue of his or her office shall receive any compensation or reimbursement of expenses for serving as a member. The members of the council who represent the general public shall receive reimbursement for actual expenses incurred in the service of the council.

(e) The council shall meet at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business, and shall meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the economic development authority shall not be subject to council review with regard to any action taken pursuant to the authority established in article fifteen, chapter thirty-one of this code nor shall the governor's civil contingent fund be subject to council review with regard to projects or infrastructure projects funded through the governor's civil contingent fund.

(f) The water development authority shall provide office space for the council, and each governmental agency represented on the council shall provide staff support for the council in the manner determined by the council from time to time.

(g) The council shall invite to all its meetings one or more representatives of the United States department of agriculture, rural economic community development, the United States economic development agency and the United States army corps of engineers or any successors thereto. The council shall also invite such other appropriate parties as may be necessary to effectuate the purposes of this article.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995.

§ 31-15A-4. Development of guidelines and preliminary application for funding assistance

(a) To implement and carry out the intent of this article, the council shall promulgate legislative rules in accordance with article three, chapter twenty-nine-a of this code to develop comprehensive, uniform guidelines for use by the council and other state infrastructure agencies in evaluating any request by a project sponsor for funding assistance to plan, acquire, construct, improve or otherwise develop a project or infrastructure project. The guidelines shall include the following factors: (1) the public health benefits of the project or infrastructure project; (2) the economic development benefits of the project or infrastructure project; (3) the degree to which the project or infrastructure project will correct deficiencies in the compliance of water supply or sewage treatment facilities with state or federal laws, regulations or standards; (4) the degree to which the project or infrastructure project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan developed pursuant to section six of this article; (5) the cost effectiveness of the project or infrastructure project as compared with

alternatives which achieve substantially the same public health or economic development benefits, including the consideration of providing maximum feasible fire protection; (6) the availability of alternative sources of funding which could finance all or a part of the project and infrastructure project, and the need for the assistance of the council to finance the project or infrastructure project or attract other sources of funding; (7) the applicant's ability to operate and maintain the system if the project or infrastructure project is approved; (8) the degree to which the project or infrastructure project achieves other state or regional planning goals; (9) the estimated date upon which the project or infrastructure project could commence if funding were available and the estimated completion date of the project or infrastructure project; and (10) such other considerations as the council may consider necessary or appropriate to accomplish the purpose and intent of this article.

(b) The council shall create a preliminary application form which shall be used by all project sponsors requesting funding assistance from state infrastructure agencies to plan, acquire, construct, improve or otherwise develop an infrastructure project or project. The preliminary application form shall contain all information required by all state infrastructure agencies that will be required to issue permits and/or certificates regarding the project or infrastructure project. The preliminary application shall require the project sponsor to set forth the type and proposed location of the infrastructure project or project; the estimated total cost of the project; the amount of funding assistance required and the specific uses of the funding; other sources of funding available or potentially available for the infrastructure project or project; information demonstrating the need for the infrastructure project or project and that the proposed funding of the project is the most economically feasible and viable alternative to completing the project or infrastructure project; and such other information as the council considers necessary to enable it to recommend the type of project or infrastructure project financing, in terms of the kind, amount and source of funding, which the project sponsor should pursue and which the state infrastructure agency or agencies should consider an appropriate investment of public funds, and to otherwise carry out the intent of this article.

Acts 1994, 1st Ex. Sess., c. 26.

§ 31-15A-5. Requirements for project funding assistance; review of project preliminary applications by council

(a) No project sponsor may apply for or receive any loan, loan guarantee, grant or other funding assistance for a project or infrastructure project from any state infrastructure agency (i) unless the project sponsor requiring the funding assistance first submits a completed preliminary application to the council on the form prepared for such purpose by the council pursuant to section four of this article, and (ii) except as may be recommended by the council after consideration of the preliminary application: Provided, That any project sponsor which has an infrastructure project or project with either

acceptable bids or all funding in place on the effective date of this act is not required to comply with the provisions of this section.

(b) The council shall, within thirty days of receipt of each completed preliminary application submitted to it, review the preliminary application and either (i) make a written recommendation as to the infrastructure project or project financing, in terms of the kind, amount and source of funding, which the project sponsor submitting the application should pursue and which the state infrastructure agency or agencies should consider an appropriate investment of public funds, or (ii) if the council determines that (1) the proposed project or infrastructure project is not eligible for funding assistance from any state infrastructure agency, or (2) the proposed project or infrastructure project is not otherwise an appropriate or prudent investment of state funds, the council shall recommend that the project sponsor not seek funding from any state infrastructure agency. A project sponsor shall include the preliminary application and the council's recommendations in any application to a state infrastructure agency.

(c) The council shall provide a copy of its recommendation with respect to each preliminary application, together with a copy of the preliminary application, to all appropriate state infrastructure agencies, which shall take into account the council's recommendations with respect to a project or infrastructure project before taking any action with respect to the project. No state infrastructure agency shall take any action inconsistent with the recommendation of the council unless the governing body of the agency, or the head of the agency if it has no governing body, expressly finds and determines that the recommendation is not in the best interest of the state or the area in which the proposed infrastructure project or project is to be located.

(d) In reviewing each preliminary application, the council shall use the engineering, financial and technical expertise of the respective staffs of the state infrastructure agencies represented on the council so as to recommend for funding those projects or infrastructure projects which are consistent with the purposes and intent of this article and with the policies and priorities of this state generally. The council may include in its findings a recommendation that a state infrastructure agency consider technical reports on the project prepared by other infrastructure agencies or by any federal agency.

Acts 1994, 1st Ex. Sess., c. 26.

§ 31-15A-6. Powers, duties and responsibilities of the council generally; comprehensive assessment

(a) In addition to the powers set forth elsewhere in this article, the council is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes and intent of this article. The council shall have the power and capacity to:

(1) Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any infrastructure project or project;

(2) Periodically prepare a list of infrastructure projects or projects which cannot meet the established funding guidelines of the various state infrastructure agencies, other than the housing development fund, but which are consistent with the mandates of this article and recommend to the water development authority that it make a grant or loan to the project sponsors from the infrastructure fund to finance the cost of one or more such projects or infrastructure projects;

(3) Do all other acts necessary and proper to carry out the powers expressly granted to the authority in this article; and

(4) To make and execute contracts, commitments and obligations and other instruments necessary or convenient for the exercise of its powers.

(b) The council shall develop a comprehensive statewide inventory of water supply systems and sewage treatment systems and an assessment of current and future needs by the first day of July, one thousand nine hundred ninety-six. The assessment shall identify the areas of the state which do not have adequate public water or sewage systems and offer recommendations for the construction of new facilities or the extension or expansion of existing facilities to meet the identified needs. The council shall include in the assessment an identification of the obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendation as the council considers appropriate regarding the obstacles, issues or problems identified. This comprehensive inventory and assessment shall be updated at least once in every three year period after the initial assessment and inventory is completed.

(c) The council shall study the viability of the consolidation of public service districts throughout the state: Provided, That the study shall encompass not only public service districts but also any and all entities which provide or supply water and sewer service to the general public: Provided, however, That the council shall, in the preparation of the study, consult with the public service district division of the public service commission and representatives of the West Virginia rural water association and the West Virginia association of public service districts, as needed. The council shall report their findings and conclusions on or before the sixteenth of January of the year one thousand nine hundred ninety-five to the governor, speaker of the house of delegates and president of the senate.

Acts 1994, 1st Ex. Sess., c. 26.

§ 31–15A–7. Current and prospective planning; roads and highways; report to division of highways

(a) The council shall take into account the current and prospective infrastructure needs in relation to plans of the division of highways for the development and building of new roads. Upon completion of an environmental impact study, the commissioner of highways shall provide the council with plans for any and all new roads. In a timely manner, the council shall advise the

commissioner of the division of highways on the feasibility of the expansion of new or existing water and sewer lines concomitant to the construction of the new roads.

(b) The council has the authority to appoint local infrastructure planning teams. The local infrastructure planning teams may consist of the following: A designee of the division of highways from the region where the new road is being built; a designee of the division of highways from the central state office; a designee from the environmental engineers division of the department of health and human resources; a designee from the local developmental authority where the new road is being built; a designee from the regional developmental authority in the area where the new road is being built; a designee from the public service commission; a designee from the division of environmental protection; a designee from the county commission where the new road is being built who shall serve as chairperson of the planning team; a citizen of the county where the new road is being built to be chosen by the county commission; and the elected state delegates and senators from the area where the new road is being built. In order to avoid delay of any highway project, immediately upon appointment of a local infrastructure planning team, the director of the division of highways shall submit to the council a time frame within which the planning team must act and within which the planning team must submit any plans, maps, recommendations or reports developed pursuant to this subsection. The local infrastructure planning team shall meet prior to the development and building of a new road. Members of the local infrastructure planning team shall only receive payment for actual expenses incurred. The local infrastructure planning team shall advise the commissioner of the division of highways on the feasibility of an infrastructure plan. The local infrastructure planning team shall meet to develop an infrastructure plan that includes an assessment study of existing water and sewer lines and a feasibility study on future development and laying of water and sewer lines. After these studies are completed, a developmental map shall be drawn of the proposed road route with overlays of the proposed water and sewer lines. These studies and the map shall be presented to the commissioner of the division of highways and shall be used by the commissioner in the planning, developing and building of the road.

(c) The water development authority shall establish a restricted account within the infrastructure fund to be expended for the construction of water and sewage lines as may be recommended by the council in accordance with this article and specifically, in accordance with the plan developed under subsection (b) of this section. The reserve account shall be known as the "infrastructure road improvement reserve account". The council and the division of highways may enter into agreements to share the cost of financing projects approved in accordance with this section from moneys available in the infrastructure road reserve account and moneys available from the state road fund. Annually, the council may direct the water development authority to transfer funds from the infrastructure fund in an amount not to exceed one million dollars to the

restricted account: Provided, That at no time may the balance of the restricted account exceed one million dollars.

(d) For the purposes of this section the term "new" means a road right-of-way being built for the first time.

(e) After the construction of water and sewer lines adjacent to the new road, these new lines shall be turned over to existing utilities by expansion of boundaries of public service districts or shall be main extensions from the municipality.

Acts 1994, 1st Ex. Sess., c. 26.

§ 31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project

(a) If the council determines a project to be an emergency and the emergency project will be funded solely with grant money for the extension of an existing certificated water facility or wastewater facility, and if the council finds in its recommendation that the construction and acquisition of the emergency project will have no effect on the public utility's customer rates and will have no significant effect on its operational costs as a result of the project cost, then the emergency project is exempt from the requirement to obtain a certificate of public convenience and necessity under section eleven, article two, chapter twenty-four of this code. If the public utility is a public service district, it is exempt from the approval of the public service commission required under section twenty-five, article thirteen-a, chapter sixteen of this code.

(b) Any public utility, and any other entity that will operate as a public utility, must obtain a certificate of public convenience and necessity pursuant to section eleven, article two, chapter twenty-four of this code for any emergency project that is not exempt under subsection (a) of this section. The public service commission shall render its final decision on any application for a certificate within one hundred twenty days of the filing of the application: Provided, That the thirty-day prefiling requirement is not required. If the project sponsor is a public service district, then the project will be exempted from the approval requirements of section twenty-five, article thirteen-a, chapter sixteen of this code.

(c) Projects that are not emergency projects are subject to the requirements of section eleven, article two, chapter twenty-four of this code to the extent they would be otherwise.

(d) The North Fork Hughes River watershed project, proposed to enhance economic growth and development through tourism as provided in subsection (*l*), section two of this article and to include a water facility project as defined in subsection (n), section two of this article, is hereby specifically exempted from any requirement imposed by this article, except that the provisions of subsection (a) of this section are specifically made applicable to the project.

The project is hereby specifically authorized and the public land corporation shall have and may exercise the power of eminent domain and all authority otherwise prescribed by law to acquire necessary land and rights-of-way, to include approximately four hundred seventy-eight acres, in connection with the project. Funding for the project shall be provided by the federal government from the Appalachian regional commission through the United States soil conservation service. Upon completion of the project, the property acquired shall be transferred to the state park system. The commissioner of the division of tourism and parks or the successor to the commissioner's powers and duties is directed to expand the boundaries of North Bend state park to include the project area and to operate the expanded park property, including improved recreational facilities, from funds appropriated for that purpose.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-9. Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements

(a) The water development authority shall create and establish a special revolving fund of moneys made available by appropriation, grant, contribution or loan to be known as the "West Virginia Infrastructure Fund". This fund shall be governed, administered and accounted for by the directors, officers and managerial staff of the water development authority as a special purpose account separate and distinct from any other moneys, funds or funds owned and managed by the water development authority. The infrastructure fund shall consist of sub-accounts, as deemed necessary by the council or the water development authority, for the deposit of: (1) Infrastructure revenues; (2) any appropriations, grants, gifts, contributions, loan proceeds or other revenues received by the infrastructure fund from any source, public or private; (3) amounts received as payments on any loans made by the water development authority to pay for the cost of a project or infrastructure project; (4) insurance proceeds payable to the water development authority or the infrastructure fund in connection with any infrastructure project or project; (5) all income earned on moneys held in the infrastructure fund; (6) all funds deposited in accordance with section four of article fifteen-b; and (7) all proceeds derived from the sale of bonds issued pursuant to article fifteen-b of this chapter.

Any money collected pursuant to this section shall be paid into the West Virginia infrastructure fund by the state agent or entity charged with the collection of the same, credited to the infrastructure fund, and used only for purposes set forth in this article or article fifteen-b.

Amounts in the infrastructure fund shall be segregated and administered by the water development authority separate and apart from its other assets and programs. Amounts in the infrastructure fund may not be transferred to any other fund or account or used, other than indirectly, for the purposes of any other program of the water development authority, except that the water development authority may use funds in the infrastructure fund to reimburse

itself for any administrative costs incurred by it and approved by the council in connection with any loan, loan guarantee, grant or other funding assistance made by the water development authority pursuant to this article.

(b) Notwithstanding any provision of this code to the contrary, amounts in the infrastructure fund shall be deposited by the water development authority in one or more banking institutions: Provided, That any moneys so deposited shall be deposited in a banking institution located in this state. The banking institution shall be selected by the water development authority by competitive bid. Pending the disbursement of any money from the infrastructure fund as authorized under this section, the water development authority shall invest and reinvest the moneys subject to the limitations set forth in article eighteen, chapter thirty-one of this code.

(c) To further accomplish the purposes and intent of this article and article fifteen-b of this chapter, the water development authority may pledge infrastructure revenues and from time to time establish one or more restricted accounts within the infrastructure fund for the purpose of providing funds to guarantee loans for infrastructure projects or projects: Provided, That for any fiscal year the water development authority may not deposit into the restricted accounts more than twenty percent of the aggregate amount of infrastructure revenues deposited into the infrastructure fund during the fiscal year. No loan guarantee shall be made pursuant to this article unless recourse under the loan guarantee is limited solely to amounts in the restricted account or accounts. No person shall have any recourse to any restricted accounts established pursuant to this subsection other than those persons to whom the loan guarantee or guarantees have been made.

(d) Each loan, loan guarantee, grant or other assistance made or provided by the water development authority shall be evidenced by a loan, loan guarantee, grant or assistance agreement between the water development authority and the project sponsor to which the loan, loan guarantee, grant or assistance shall be made or provided, which agreement shall include, without limitation and to the extent applicable, the following provisions:

(1) The estimated cost of the infrastructure project or project, the amount of the loan, loan guarantee or grant or the nature of the assistance, and in the case of a loan or loan guarantee, the terms of repayment and the security therefor, if any;

(2) The specific purposes for which the loan or grant proceeds shall be expended or the benefits to accrue from the loan guarantee or other assistance, and the conditions and procedure for disbursing loan or grant proceeds;

(3) The duties and obligations imposed regarding the acquisition, construction, improvement or operation of the project or infrastructure project; and

(4) The agreement of the governmental agency to comply with all applicable federal and state laws, and all rules and regulations issued or imposed by the water development authority or other state, federal or local bodies regarding the acquisition, construction, improvement or operation of the infrastructure project or project and granting the water development authority the right to

appoint a receiver for the project or infrastructure if the project sponsor should default on any terms of the agreement.

(e) Any resolution of the water development authority approving loan, loan guarantee, grant or other assistance shall include a finding and determination that the requirements of this section have been met.

(f) The interest rate on any loan to governmental, quasi-governmental, or not for profit project sponsors for projects made pursuant to this article shall not exceed three percent per annum. Due to the limited availability of funds available for loans for projects, it is the public policy of this state to prioritize funding needs to first meet the needs of governmental, quasi-governmental and not for profit project sponsors and to require that loans made to for-profit entities shall bear interest at the current market rates. Therefore, no loan may be made by the council to a for-profit entity at an interest rate which is less than the current market rate at the time of the loan agreement.

(g) The water development authority shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to the receipts, disbursements, contracts, leases, assignments, loans, grants and all other matters relating to the financial operation of the infrastructure fund, including the operating of any sub-account within the infrastructure fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Legislature's joint committee on government and finance.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995.

Acts 1990, c. 2, abolished the office of commissioner of finance and administration and transferred all duties and powers to the secretary of administration. See § 5A-1-2.

§ 31-15A-10. Recommendations by council for expenditures of funds by loan, grant or for engineering assistance

(a) To further accomplish the purpose and intent of this article, the water development authority shall use the moneys in the infrastructure fund created pursuant to section nine of this article, upon receipt of one or more recommendations from the council pursuant to section five of this article, to make loans, with or without interest, loan guarantees or grants and to provide other assistance, financial, technical or otherwise, to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor: Provided, That any moneys disbursed from the infrastructure fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. No loan, loan guarantee, grant or other assistance shall be made or provided except upon a determination by the council that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of this article, based upon an application submitted to the council: Provided,

however, That no grant shall be made to a project sponsor that is not a governmental agency or a not for profit corporation under the provisions of section 501(c) of the Internal Revenue Code of 1986, as amended. Applications for loans, loan guarantees, grants or other assistance may be submitted by a project sponsor for one or more infrastructure projects on preliminary application forms prepared by the council pursuant to section four of this article. Any recommendation of the council approving a loan, loan guarantee, grant or other assistance shall include a finding and determination by the council that the requirements of this section have been met. The council shall base any decisions to loan money for projects to project sponsors pursuant to this article solely on the need of the project sponsors.

(b) The council has the authority in its sole discretion to make grants to project sponsors if it finds that: (1) The level of rates for the users would otherwise be an unreasonable burden given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents funding of the project except through grants: Provided, That no project sponsor shall receive infrastructure grant money in an amount in excess of fifty percent of the total cost of the project. Therefore, the council may consider the economic or financial conditions of the area to be served. As a condition for receipt of a grant under this subsection, the council may require, in addition to any other conditions, that the applicant pursue other state or federal grant or loan programs. Upon a recommendation by the council, the water development authority shall provide the grant in accordance with the recommendation. The council shall develop criteria to be considered in making grants to project sponsors which shall require consideration of the economic or financial conditions of the area to be served and the availability of other funding sources. The council shall adopt procedural rules regarding the manner in which grants will be awarded in conformity with this section. The procedural rules shall be adopted pursuant to article three, chapter twenty-nine-a of this code.

(c) Notwithstanding any other provision of this article to the contrary, the council shall apply a mandatory minimum end user utility rate that must be met by the project sponsor before funding assistance may be awarded. The mandatory minimum end utility rate shall be based upon a uniform statewide percentage of the median household income in a particular geographic area and said rate shall not exceed six tenths of one percent: Provided, That funding assistance made from the proceeds of any general obligation bonds and revenue bonds issued after the fifteenth day of March, one thousand ninety-eight, after transfers required to make the state match for the water and wastewater revolving loan programs pursuant to article two, chapter twenty-two-c and article thirteen-c, chapter sixteen of this code, shall be provided by the council on a pro rata basis divided equally among the congressional districts of this state as delineated in accordance with section three, article two, chapter one of this code: Provided, however, That infrastructure projects as defined in subsection (1), section two of this article shall be subject to pro rata distribution. When determining median household income of a geographic area of the

project to be served, the council shall consider any surveys of the income of the households that will be served by the project.

(d) No loan or grant funds may be made available for a project if the project to be funded will provide subsidized services to certain users in the service area of the project.

(e) Notwithstanding any other provision of this article to the contrary, engineering studies and requirements imposed by the council for preliminary applications shall not exceed those engineering studies and requirements which are necessary for the council to determine the economic feasibility of the project. If the council determines that the engineering studies and requirements for the preapplication would impose an undue hardship on any project sponsor, the council may provide funding assistance to project sponsors to defray the expenses of the preapplication process from moneys available in the infrastructure fund for making loans: Provided, That the council may only provide funding assistance in an amount equal to five thousand dollars or fifty percent of the total preapplication cost of the project, whichever amount is greater. If the project is ultimately approved for a loan by the council, the amount of funding assistance provided to the project sponsor for the preapplication process shall be included in the total amount of the loan to be repaid by the project sponsor. If the project is not ultimately approved by the council, then the amount of funding assistance provided to the project sponsor will be considered a grant by the council and the total amount of the assistance shall be forgiven. In no event may the amount of funding assistance provided to all project sponsors exceed, in the aggregate, one hundred thousand dollars annually.

(f) The council shall report to the governor, the speaker of the House of Delegates and the president of the Senate during each regular and interim session of the Legislature, on its activities and decisions relating to distribution or planned distribution of grants and loans under the criteria to be developed pursuant to this article.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-11. Reservation of funds for projects and infrastructure projects

Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection (n), section two of this article. Twenty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (*l*), section two of this article. Project sponsors of infrastructure projects shall follow the application process as established by this article: Provided, That notwithstanding any provision of this article to the contrary, all applications for any infrastructure project shall be submitted to the council for

community and economic development, or its successor, for review, recommendation and approval regarding infrastructure project funding.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-12. Additional powers of water development authority

To accomplish the purpose and intent of this article, the water development authority is hereby empowered, in addition to all other powers granted to it under this code, upon approval of the council, to (1) enter into agreements or other transactions with any federal or state agency in connection with any infrastructure project or project; (2) receive or administer on behalf of any federal or state agency grants, subsidies or other payments to be applied to the costs of any infrastructure project or project financed in whole or in part or otherwise assisted by the water development authority, including, but not limited to, payments to be applied to operating costs and debt service or obligations of any project sponsor; (3) receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions are made; (4) establish and amend the criteria and qualifications for making loans, loan guarantees or grants, or providing any other assistance, for any infrastructure project or project, and the terms of any loans, loan guarantee, grant or assistance agreement for any project; and (5) do all things which are necessary to further the purposes and intent of this article.

Acts 1994, 1st Ex. Sess., c. 26.

§ 31-15A-13. Prohibition on funds inuring to the benefit of or being distributable to water development board; transactions between the water development board and officers having certain interests in such transactions

No part of the infrastructure fund or the West Virginia infrastructure revenue debt service fund shall inure to the benefit of or be distributable to the water development board directors or officers of the water development authority except that the water development authority is authorized and empowered to pay reasonable compensation, other than to members of the water development board, including the chairman, vice chairman, secretary-treasurer for services rendered and to make loans and exercise its other powers as previously specified in furtherance of its corporate purpose: Provided, That no loans shall be made, and no property shall be purchased or leased from, or sold, leased or otherwise disposed of, to any water development board member or officer of the water development authority.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-14. Termination or dissolution

Upon the termination or dissolution of the water development authority, all rights and properties of the water development authority with respect to the

infrastructure fund shall pass to and be vested in the state, subject to the rights of lienholders and other creditors.

Acts 1994, 1st Ex. Sess., c. 26.

§ 31-15A-15. Projects not to be considered public improvements; competitive bid requirements

(a) No project or infrastructure project acquired, constructed, maintained or financed, in whole or in part, by the water development authority shall be considered to be a "public improvement" within the meaning of the provisions of article five-a, chapter twenty-one of this code as a result of the financing.

(b) The state and its subdivisions shall, except as provided in subsection (c) of this section, solicit competitive bids and require the payment of prevailing wage rates as provided in article five-a, chapter twenty-one of this code for every project or infrastructure project funded pursuant to this article exceeding twenty-five thousand dollars in total cost.

Following the solicitation of the bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: Provided, That the state and its subdivisions may reject all bids and solicit new bids on the project.

(c) This section does not:

(1) Apply to work performed on construction or repair projects not exceeding a total cost of fifty thousand dollars by regular full-time employees of the state or its subdivisions: Provided, That no more than fifty thousand dollars shall be expended on an individual project in a single location in a twelve-month period;

(2) Prevent students enrolled in vocational educational schools from being used in the construction or repair projects when such use is a part of the students' training program;

(3) Apply to emergency repairs to building components and systems: Provided, That the term "emergency repairs" means repairs that, if not made immediately, will seriously impair the use of the building components and systems or cause danger to those persons using the building components and systems; or

(4) Apply to any situation where the state or a subdivision of the state comes to an agreement with volunteers, or a volunteer group, by which the governmental body will provide construction or repair materials, architectural, engineering, technical or any other professional services and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body: Provided, That the total cost of the construction or repair projects does not exceed fifty thousand dollars.

(d) The provisions of subsection (b) of this section do not apply to privately owned projects or infrastructure projects constructed on lands not owned by the state or a subdivision of the state.

Acts 1994, 1st Ex. Sess., c. 26; Acts 2001, c. 45, eff. 90 days after April 14, 2001.

Historical and Statutory Notes

Acts 2001, c. 45 rewrote this section which as enacted provided:

"(a) No project or infrastructure project acquired, constructed, maintained or financed in whole or in part by the water development authority shall be considered to be a "public improvement" within the meaning of the provisions of article five-a, chapter twenty-one of this code, as a result of such financing.

"(b) The state and its subdivisions shall, except as provided in this subsection, solicit competitive bids and require the payment of prevailing wage rates as provided in article five-a, chapter twenty-one of this code for every project or infrastructure project funded pursuant to this article exceeding twenty-five thousand dollars in total cost. Following the solicitation of the bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: Provided, That the state and its subdivisions may reject all bids and solicit new bids on the project. Nothing in this subsection applies to work performed on construction or repair projects not exceeding a total cost of twenty-five thousand dollars by regular full-time employees of the state or its subdivisions, nor shall anything in this subsection prevent students enrolled in vocational educational schools from being utilized in the construction or repair projects when such use is a part of the students' training program. Nothing in this subsection applies to emergency repairs to building components and systems: Provided, however, That the term "emergency repairs" means repairs that if not made immediately will seriously impair the use of the building components and systems or cause danger to those persons using the building components and systems. This subsection shall not apply to any situation where the state or a subdivision thereof comes to an agreement with volunteers, or a volunteer group, whereby the governmental body will provide construction or repair materials, architectural, engineering, technical or any other professional services and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body: Provided further, That the total cost of the construction or repair projects does not exceed twenty-five thousand dollars.

"(c) The provisions of subsection (b) of this section shall not apply to privately owned projects or infrastructure projects constructed on lands not owned by the state or a subdivision of the state."

§ 31-15A-16. Dedication of severance tax proceeds

(a) There shall be dedicated an annual amount from the collections of the tax collected pursuant to article thirteen-a, chapter eleven of this code for the construction, extension, expansion, rehabilitation, repair and improvement of water supply and sewage treatment systems and for the acquisition, preparation, construction and improvement of sites for economic development in this state as provided in this article.

(b) Notwithstanding any other provision of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-five, the first sixteen million dollars of the tax collected pursuant to article thirteen-a, chapter eleven of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three, article fifteen-b of this chapter: Provided, That beginning on the first day of July, one thousand nine hundred ninety-eight, the first twenty-four million dollars of the tax annually collected pursuant to article thirteen-a of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three, article fifteen-b of this chapter.

(c) Notwithstanding any provision of subsection (b) of this section to the contrary: (1) none of the collections from the tax imposed pursuant to section six, article thirteen-a, chapter eleven of this code shall be so dedicated or deposited; and (2) the portion of the tax imposed by article thirteen-a, chapter eleven and dedicated for purposes of medicaid and the division of forestry

pursuant to section twenty-a of said article thirteen-a shall remain dedicated for the purposes set forth in said section twenty-a.

(d) On or before the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-five, the council, by resolution, shall certify to the treasurer and the water development authority the principal and interest coverage ratio and amount for the following fiscal year on any infrastructure general obligation bonds issued pursuant to the provisions of article fifteen-b of this chapter.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-17. Water development authority empowered to issue infrastructure revenue bonds and refunding bonds; creation of infrastructure revenue debt service fund; funding of infrastructure revenue debt service fund; requirements and manner of such issuance

(a) To accomplish the purpose and intent of this article, the water development authority is hereby empowered at the written request of the council to issue from time to time infrastructure revenue bonds of the state in such principal amounts as the council deems necessary to make loans and loan guarantees and other forms of financial assistance to project sponsors for one or more projects or infrastructure projects: Provided, That the water development authority may not issue any such bonds, other than refunding bonds, unless the council by resolution determines that the aggregate cost of the projects or infrastructure projects expected to be constructed during any annual period exceeds (1) the projected annual infrastructure revenues for the same period, and (2) the principal and interest payments not otherwise pledged to the infrastructure revenue debt service fund that are due the water development authority on all outstanding loans previously made by the water development authority pursuant to the provisions of this article.

(b) The proceeds of infrastructure revenue bonds shall be used solely for the purpose of making loans and loan guarantees and other forms of financial assistance to sponsors of one or more projects or infrastructure projects, and shall be deposited in one or more special accounts with the trustee under the trust agreement securing such bonds and disbursed from time to time for projects or infrastructure projects in accordance with this article: Provided, That notwithstanding any provision of this code to the contrary, twenty percent of the funds deposited in the special account shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (*l*), section two, of this article.

(c) The water development authority may not authorize the disbursement of any proceeds of infrastructure revenue bonds unless it has received documentation from the council pursuant to the provisions of section ten of this article.

(d) There is hereby created in the water development authority a special fund which shall be designated and known as the "West Virginia Infrastructure

Revenue Debt Service Fund," into which shall be transferred solely from the loan repayments deposited in the infrastructure fund the amounts certified by the director of the water development authority as necessary to pay the principal, premium, if any, and interest on infrastructure revenue bonds and any reserve requirements, subject to the terms of any agreement with the holders of the infrastructure revenue bonds. All amounts deposited in the West Virginia infrastructure revenue debt service fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any infrastructure revenue bonds authorized by this article: Provided, That amounts on deposit in the fund may be used to establish or maintain reserves created for the purposes of securing such infrastructure revenue bonds. The pledge shall be valid and binding from the time the pledge is made, and the West Virginia infrastructure revenue debt service fund so pledged shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the water development authority irrespective of whether the parties have notice thereof.

(e) Except as may otherwise be expressly provided in this article or by resolution of the water development authority, every issue of infrastructure revenue bonds shall be special obligations of the water development authority payable solely from amounts in the West Virginia infrastructure revenue debt service fund, and the reserves created for this purpose by the water development authority, without preference or priority among the bonds regardless of when issued, subject only to any agreements with the holders of any bonds to the contrary. All such bonds are hereby declared to be negotiable instruments.

(f) Infrastructure revenue bonds shall be authorized by resolution of the water development authority. These bonds shall bear such dates and shall mature at such times, in case of any note or renewal thereof not exceeding five years from the date of issue of the original note, and in the case of any bond not exceeding fifty years from the date of issue, as the resolution may provide. Infrastructure revenue bonds shall bear interest at a rate or rates, including variable rates, shall be taxable or tax-exempt, shall be in the denominations, shall be in registered form, shall carry the registration privileges, shall be payable in the medium and place of payment, and shall be subject to the terms of redemption as the water development authority may authorize. Infrastructure revenue bonds may be sold by the water development authority at public or private sale at the price the water development authority determines in consultation with the council. Infrastructure revenue bonds shall be executed by the chairman and the vice chairman of the water development authority, either or both of whom may use a facsimile signature. The official seal of the water development authority or a facsimile thereof shall be affixed thereto or printed thereon and attested by manual or facsimile signature by the secretary-treasurer of the water development authority. If any officer whose signature, or a facsimile of whose signature appears on any infrastructure revenue bond ceases to be such officer before delivery of such bond, such signature or

facsimile is nevertheless sufficient for all purposes to the same extent as if he or she had remained in office until such delivery, and if the seal of the water development authority has been changed after a facsimile has been imprinted on such bond, the facsimile will continue to be sufficient for all purposes.

(g) Any resolution authorizing any infrastructure revenue bonds may contain provisions, subject to any agreement with bondholders or noteholders which may then exist, which agreements shall be part of the contract with the holder thereof, with respect to the pledge of or other use and disposition of amounts in the infrastructure revenue debt service fund; the setting aside of reserve funds; the disposition of any assets of the water development authority; limitations on the purpose to which the proceeds of sale of bonds may be applied; the authorization of notes issued in anticipation of the issuance of bonds; an agreement of the water development authority to do all things necessary for the authorization, issuance and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding bonds and the renewal of outstanding notes; the procedures, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated; the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given; and any other matter which in any way affects the security for or protection of the bonds.

(h) In the event that the sum of all reserves pledged to the payment of the bonds is less than the minimum reserve requirements established in any resolution or resolutions authorizing the issuance of the bonds, the chairman or the director of the water development authority shall certify, on or before the first day of December of each year, the amount of such deficiency to the governor of the state for inclusion, if the governor shall so elect, of the amount of such deficiency in the budget to be submitted to the next session of the Legislature for appropriation to the water development authority to be pledged for payment of such bonds: Provided, That the Legislature shall not be required to make any appropriations so requested, and the amount of such deficiencies shall not constitute a debt or liability of the state.

(i) Neither the officers or board members of the water development authority, nor any person executing the infrastructure revenue bonds, shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31–15A–18. Trustee for holders of infrastructure revenue bonds; contents of trust agreement

(a) Any infrastructure revenue bonds issued by the water development authority under this article shall be secured by a trust agreement between the water development authority and a corporate trustee, which trustee may be any trust company or banking institution having the powers of a trust company within this state.

(b) Any trust agreement may pledge or assign the infrastructure revenue debt service fund. Any trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including the provisions contained in section seventeen of this article, and covenants setting forth the duties of the water development authority in respect to the payment of the principal of and interest, charges and fees on loans made to, or bond purchases from, governmental agencies from the proceeds of the bonds, and the custody, safeguarding and application of all moneys. Any banking institution or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of the infrastructure debt service fund shall furnish such indemnifying bonds or pledge securities as are required by the water development authority. The trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee and may restrict individual rights of action by bondholders and noteholders as customarily provided in trust agreements or trust indentures securing similar bonds and notes. The trust agreement may contain such other provisions as the water development authority deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as part of the cost of the construction, renovation, repair, improvement or acquisition of a project or infrastructure project.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-19. Legal remedies of infrastructure revenue bondholders or noteholders and trustees

Any holder of infrastructure revenue bonds issued pursuant to this article and the trustee under any trust agreement, except to the extent the rights given by this article may be restricted by the applicable resolution or trust agreement, may by civil action, mandamus or other proceedings protect and enforce any rights granted under the laws of this state or granted under this article, by the trust agreement or by the resolution in the issuance of the bonds, and may enforce and compel the performance of all duties required by this article, pursuant to the trust agreement or resolution, to be performed by the water development authority or any officer thereof.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-20. Infrastructure revenue bonds lawful investments

All infrastructure revenue bonds issued pursuant to this article shall be lawful investments for banking institutions, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations, trust companies, and insurance companies, including domestic for life and domestic not for life insurance companies.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-21. Purchase and cancellation of infrastructure revenue bonds

(a) The water development authority, subject to such agreements with noteholders or bondholders as may then exist, shall have the power, from any funds available therefor, to purchase or redeem infrastructure revenue bonds of the water development authority.

(b) If the infrastructure revenue bonds are then redeemable, the price of the purchase shall not exceed the redemption price then applicable, plus accrued interest to the next interest payment date thereon. If the infrastructure revenue bonds are not then redeemable, the price of the purchase shall not exceed the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption, plus accrued interest to such date. Upon purchase or redemption, the bonds shall be canceled.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-22. Refunding revenue bonds

Any infrastructure revenue bonds issued pursuant to the provisions of this article and at any time outstanding may at any time and from time to time be refunded by the water development authority by the issuance of its refunding revenue bonds in an amount it deems necessary to refund the principal of the bonds to be refunded, together with any unpaid interest thereon, to provide additional funds for the water development authority to accomplish the purpose of this article, and to pay any premiums and commissions necessary to be paid in connection therewith. Any refunding may be effected whether the infrastructure revenue bonds to be refunded shall have then matured or shall thereafter mature: Provided, That the holders of any infrastructure revenue bonds so to be refunded shall not be compelled without their consent to surrender their infrastructure revenue bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding revenue bonds issued pursuant to this article shall be payable from the West Virginia infrastructure revenue debt service fund, and shall be subject to the provisions contained in section seventeen of this article, and shall be secured in accordance with the provisions of sections seventeen and eighteen of this article.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-23. Infrastructure revenue bonds not debt of state, county, municipality or any political subdivision

Infrastructure revenue bonds issued pursuant to the provisions of this article shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state. The holders or owners thereof shall have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon. The bonds shall be payable solely from the

revenues and funds pledged for their payment as authorized by this article. All such bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 31-15A-24. Infrastructure revenue bonds exempt from taxation

The exercise of the powers granted to the water development authority by this article will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience and welfare and for the enhancement of their residential, agricultural, recreational, economic, commercial and industrial opportunities and is for a public purpose. As the construction, acquisition, repair or renovation of projects or infrastructure projects will constitute the performance of essential governmental functions, the water development authority shall not be required to pay any taxes or assessments upon any project or upon any property acquired or used by the water development authority or upon the income therefrom. The infrastructure revenue bonds and all interest and income thereon shall be exempt from all taxation by this state, or any county, municipality, political subdivision or agency thereof, except estate taxes.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

as may be necessary for the protection of the prior rights of the holders of bonds issued erent times under the provisions of this section or section eleven-a, article six, chapter this code. The bonds issued pursuant to this section shall be separate from all other which may be or have been issued from time to time under the provisions of section -a, article six, chapter five of this code. The Education, Arts, Sciences and Tourism ervice Fund shall be pledged solely for the repayment of bonds issued pursuant to this and section eleven-a, article six, chapter five of this code. On or prior to May 1 of ear, commencing May 1, 2010, the authority shall certify to the state lottery director ncipal and interest and coverage ratio requirements for the following fiscal year on any bonds or refunding revenue bonds issued pursuant to this section, and for which deposited in the Education, Arts, Sciences and Tourism Debt Service Fund have been , or will be pledged, for repayment pursuant to this section.

fter the authority has issued bonds authorized by this section, and after the require- f all funds have been satisfied, including coverage and reserve funds established in on with the bonds issued pursuant to this section, any balance remaining in the on, Arts, Sciences and Tourism Debt Service Fund may be used for the redemption of the outstanding bonds issued under this section which, by their terms, are then ble or for the purchase of the outstanding bonds at the market price, but not to he price, if any, at which redeemable, and all bonds redeemed or purchased shall be tely canceled and shall not again be issued.

e authority shall expend sixty percent of the bond proceeds, net of issuance costs, funds and refunding costs, for certified capital improvement projects at state ns of higher education. The Higher Education Policy Commission shall submit a list of projects which will receive funds from the bond proceeds to the Governor on January 1, 2010. Thereafter, the Governor shall certify to the authority on or ebruary 1, 2010, a list of those capital improvement projects at state institutions of ucation which will receive funds from the proceeds of bonds issued pursuant to this Once certified, the list may not thereafter be altered or amended other than by enactment.

authority shall expend the balance of the bond proceeds for certified projects at s, the capitol complex, other state facilities or tourism sites. The secretary of the nt of administration, the director of the division of natural resources, the director of Virginia development office and a representative of the capitol building commission, the secretary of the department of administration, who shall be selected by the lding commission shall submit a proposed list of projects which will receive funds bond proceeds to the Governor on or before January 1, 2010. Thereafter, the shall certify to the authority on or before February 1, 2010, a list of those capital nt projects at state parks, the state capitol complex, other state facilities or es which will receive funds from the proceeds of bonds issued pursuant to this nce certified, the list may not thereafter be altered or amended other than by enactment.

t Ex. Sess., c. 14, eff. June 2, 2009.

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

	Section	
West Virginia Infrastructure and Jobs Development Council continued; members of council; staff of council.	31-15A-11.	Reservation of funds for projects and infrastructure projects.
	31-15A-16.	Dedication of severance tax proceeds.
Powers, duties and responsibilities of the council generally; comprehensive assessment.	31-15A-17a.	Infrastructure revenue bonds payable from A. James Manchin Fund.

§ 31–15A–3. West Virginia Infrastructure and Jobs Development Council continued; members of council; staff of council

(a) The West Virginia infrastructure and Jobs Development Council is continued. The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties shall be considered and held to be, and are determined to be, essential governmental functions and for a public purpose.

(b) The council shall consist of thirteen members, including:

(1) The Governor or designee;

(2) The Executive Director of the Housing Development Fund or his or her designee;

(3) The director of the Division of Environmental Protection or his or her designee;

(4) The director of the Economic Development Authority or his or her designee;

(5) The Director of the Water Development Authority or his or her designee;

(6) The Director of the Division of Health or his or her designee;

(7) The chairman of the Public Service Commission or his or her designee; and

(8) Six members representing the general public: *Provided,* That there shall be at least one member representing the general public from each congressional district. No more than one member representing the general public may be a resident of the same county.

(c) The Governor shall appoint the public members of the Council who shall serve three-year staggered terms.

(d) The Commissioner of the Division of Highways, the Executive Director of the state rail authority, two members of the West Virginia Senate, two members of the West Virginia House of Delegates, the Chancellor of the Higher Education Policy commission and the Chancellor of the West Virginia Council for Community and Technical College Education serve as advisory members of the council. The advisory members shall be ex officio, nonvoting members of the Council.

(e) The Governor shall appoint the legislative members of the council: *Provided* That no more than three of the legislative members may be of the same political party.

(f) The Governor shall appoint the representatives of the governing boards from a list of three names submitted by each governing board.

(g) The Governor or designee shall serve as chairman and the council shall annually appoint a vice chairperson and shall appoint a secretary, who need not be a member of the Council and who shall keep records of its proceedings. Seven members of the Council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the Council. A vacancy in the membership of the council does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

(h) A member of the Council who serves by virtue of his or her office does not receive compensation or reimbursement of expenses for serving as a member. The public members are reimbursed for actual expenses incurred in the service of the Council in a manner consistent with guidelines of the travel management office of the Department of Administration.

(i) The Council meets at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business and may meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the Economic Development Authority is not subject to council review with regard to any action taken pursuant to the authority established in article fifteen, chapter thirty-one of this code. The Governor's civil contingent fund is not subject to council review with regard to projects or infrastructure projects funded through the Governor's Civil Contingent Fund.

ater Development Authority shall provide office space for the council and each l agency represented on the council shall provide staff support for the council in letermined appropriate by the council.

ouncil shall invite to each meeting one or more representatives of the United rtment of Agriculture, Rural Economic Community Development, the United omic Development Agency and the United States Army Corps of Engineers or rs thereto. The council shall invite other appropriate parties as is necessary to e purposes of this article.

Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 2005, 1st Ex. Sess., c. 3, eff. Acts 2009, c. 221, eff. April 10, 2009.

Historical and Statutory Notes

st Ex. Sess., c. 3, rewrote (b); in (c), he governor or designee shall serve nd the council shall annually appoint rson" for "The council shall annually ts members as chairman"; rewrote nonsubstantive changes throughout Prior to revision, (b) and (d) read:

ouncil shall consist of eleven mem- the executive director of the hous- ent fund or his or her designee, the division of environmental protection lesignee, the director of the economic authority or his or her designee, the water development authority or his ee, the executive director of the state office or his or her designee, the ne division of health or his or her chairman of the public service com- or her designee, and four members the general public: Provided, That at least one member representing ublic from each congressional district: ever, That after the expiration of the of the members first appointed as es of the general public, no more than representing the general public may of the same county. The governor the public members of the council ve three-year staggered terms. The of the division of highways, the exec- of the state rail authority, two mem- Vest Virginia Senate, two members of ginia House of Delegates, one repre- the board of directors of the state n and one representative of the board the university of West Virginia shall isory members of the council. The ll appoint the legislative members of Provided further, That no more than legislative members may be of the l party. The governor shall appoint atives of the governing boards from a names submitted by each governing advisory members shall be ex officio, mbers of the council."

ember of the council who serves by or her office shall receive any compen- nbursement of expenses for serving as The members of the council who rep- eneral public shall receive reimburse- ment for actual expenses incurred in the service of the council."

Acts 2009, c. 221, rewrote this section, which formerly read:

"(a) The West Virginia infrastructure and jobs development council is hereby continued. The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties shall be considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose.

"(b) The council shall consist of eleven members, including the governor or designee, the executive director of the housing development fund or his or her designee, the director of the division of environmental protection or his or her designee, the director of the economic development authority or his or her designee, the director of the water development authority or his or her designee, the director of the division of health or his or her designee, the chairman of the public service commission or his or her designee, and four members representing the general public: *Provided*, That there shall be at least one member representing the general public from each congressional district: *Provided, however*, That after the expiration of the term of office of the members first appointed as representatives of the general public, no more than one member representing the general public may be a resident of the same county. The governor shall appoint the public members of the council who shall serve three-year staggered terms. The commissioner of the division of highways, the executive director of the state rail authority, two members of the West Virginia Senate, two members of the West Virginia House of Delegates, the chancellor of the higher education policy commission and the chancellor of the West Virginia council for community and technical college education serve as advisory members of the council. The governor shall appoint the legislative members of the council: *Provided further*, That no more than three of the legislative members may be of the same political party. The governor shall appoint the representatives of the governing boards from a list of three names submitted by each governing board. The advisory members shall be ex officio, nonvoting members of the council.

"(c) The governor or designee shall serve as chairman and the council shall annually appoint a

vice chairperson and shall appoint a secretary, who need not be a member of the council and who shall keep records of its proceedings. Six members of the council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the council. A vacancy in the membership of the council does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

"(d) A member of the council who serves by virtue of his or her office does not receive compensation or reimbursement of expenses for serving as a member. The public members are reimbursed for actual expenses incurred in the service of the council in a manner consistent with guidelines of the travel management office of the department of administration.

"(e) The council meets at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business and may meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the economic development authority is not subject to council review with regard to any action taken pursuant to the authority established in article fifteen, chapter thirty-one of this code. The governor's civil contingent fund is not subject to council review with regard to projects or infrastructure projects funded through the governor's civil contingent fund.

"(f) The water development authority shall provide office space for the council and each governmental agency represented on the council shall provide staff support for the council in the manner determined appropriate by the council.

"(g) The council shall invite to each meeting one or more representatives of the United States department of agriculture, rural economic community development, the United States economic development agency and the United States army corps of engineers or any successors thereto. The council shall invite such other appropriate parties as is necessary to effectuate the purposes of this article."

§ 31-15A-6. Powers, duties and responsibilities of the council generally; comprehensive assessment

(a) In addition to the powers set forth elsewhere in this article, the council is granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes and intent of this article. The council shall have the power and capacity to:

(1) Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any infrastructure project or project;

(2) Periodically prepare a list of infrastructure projects or projects which cannot meet the established funding guidelines of the various state infrastructure agencies, other than the Housing Development Fund, but which are consistent with the mandates of this article and recommend to the Water Development Authority that it make a grant or loan to the project sponsors from the infrastructure fund to finance the cost of one or more such projects or infrastructure projects;

(3) Do all other acts necessary and proper to carry out the powers expressly granted to the authority in this article; and

(4) Make and execute contracts, commitments and obligations and other instruments necessary or convenient for the exercise of its powers.

(b) The council shall develop a comprehensive statewide inventory of water supply systems and sewage treatment systems and an assessment of current and future needs. The assessment shall identify the areas of the state which do not have adequate public water or sewage systems and offer recommendations for the construction of new facilities or the extension or expansion of existing facilities to meet the identified needs. The council shall include in the assessment an identification of the obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendation as the council considers appropriate regarding the obstacles, issues or problems identified. This comprehensive inventory and assessment shall be updated at least once in every three-year period after the initial assessment and inventory is completed in 1996.

(c) The council shall study the viability of the consolidation of public service districts throughout the state. The council shall report their findings and conclusions on or before January 16, 1995 to the Governor, Speaker of the House of Delegates and President of the Senate.

Acts 1994, 1st Ex. Sess., c. 26; Acts 2009, c. 221, eff. April 10, 2009.

Historical and Statutory Notes

c. 221, rewrote this section, which

ition to the powers set forth else- article, the council is hereby granted, exercise all powers necessary or) carry out and effectuate the pur- ent of this article. The council shall r and capacity to:

e consultation services to project onnection with the planning, acquisi- nent, construction or development of ture project or project;

ically prepare a list of infrastructure ojects which cannot meet the estab- ; guidelines of the various state infra- ncies, other than the housing devel- but which are consistent with the this article and recommend to the oment authority that it make a grant project sponsors from the infrastruc- finance the cost of one or more such frastructure projects;

other acts necessary and proper to e powers expressly granted to the his article; and

and execute contracts, commitments ns and other instruments necessary or r the exercise of its powers.

ouncil shall develop a comprehensive ventory of water supply systems and ment systems and an assessment of future needs by the first day of July, d nine hundred ninety-six. The assessment shall identify the areas of the state which do not have adequate public water or sewage systems and offer recommendations for the construction of new facilities or the extension or expansion of existing facilities to meet the identified needs. The council shall include in the assessment an identification of the obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendation as the council considers appropriate regarding the obstacles, issues or problems identified. This comprehensive inventory and assessment shall be updated at least once in every three-year period after the initial assessment and inventory is completed.

"(c) The council shall study the viability of the consolidation of public service districts throughout the state: Provided, That the study shall encompass not only public service districts but also any and all entities which provide or supply water and sewer service to the general public: Provided, however, That the council shall, in the preparation of the study, consult with the public service district division of the public service commission and representatives of the West Virginia rural water association and the West Virginia association of public service districts, as needed. The council shall report their findings and conclusions on or before the sixteenth of January of the year one thousand nine hundred ninety-five to the governor, speaker of the house of delegates and president of the senate."

-11. Reservation of funds for projects and infrastructure projects

ercent of the funds deposited in the West Virginia infrastructure fund shall be or the purpose of providing funding for the cost of projects as defined in subsection two of this article. Twenty percent of the funds deposited in the West Virginia ire fund shall be dedicated for the purpose of providing funding for costs of ire projects as defined in subsection (*l*), section two of this article. Project f infrastructure projects shall follow the application process as established by this *ovided*, That notwithstanding any provision of this article to the contrary, all s for any infrastructure project shall be submitted to the executive director of the nia development office for review, recommendation and approval regarding infra- roject funding.

st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998; Acts 2005, 1st Ex. ff. Jan. 29, 2005.

Historical and Statutory Notes

, 1st Ex. Sess., c. 3, in the last sen- ituted "executive director of the West velopment office" for "council for community and economic development, or its successor".

-16. Dedication of severance tax proceeds

e shall be dedicated an annual amount from the collections of the tax collected to article thirteen-a, chapter eleven of this code for the construction, extension, rehabilitation, repair and improvement of water supply and sewage treatment nd for the acquisition, preparation, construction and improvement of sites for levelopment in this state as provided in this article.

(b) Notwithstanding any other provision of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-five, the first sixteen million dollars of the tax collected pursuant to article thirteen-a, chapter eleven of this code shall be deposited to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund created pursuant to section three, article fifteen-b of this chapter: *Provided*, That beginning on the first day of July, one thousand nine hundred ninety-eight, the first twenty-four million dollars of the tax annually collected pursuant to article thirteen-a of this code shall be deposited to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund created pursuant to section three, article fifteen-b of this chapter.

(c) Notwithstanding any provision of subsection (b) of this section to the contrary: (1) None of the collections from the tax imposed pursuant to section six, article thirteen-a, chapter eleven of this code shall be so dedicated or deposited; and (2) the portion of the tax imposed by article thirteen-a, chapter eleven and dedicated for purposes of medicaid and the Division of Forestry pursuant to section twenty-a of said article thirteen-a shall remain dedicated for the purposes set forth in said section twenty-a.

(d) On or before the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-five, the council, by resolution, shall certify to the treasurer and the water development authority the principal and interest coverage ratio and amount for the following fiscal year on any infrastructure general obligation bonds issued pursuant to the provisions of article fifteen-b of this chapter.

(e) Notwithstanding any provision of this article to the contrary, the tax on coalbed methane remitted by the Tax Commissioner for deposit in the West Virginia Infrastructure Fund pursuant to section twenty-a, article thirteen-a, chapter eleven of this code shall be distributed as follows: (1) Seventy-five percent of the moneys so deposited shall be distributed for infrastructure projects in the various counties of this state in which the coalbed methane was produced, and (2) the remaining twenty-five percent of the moneys so deposited shall be distributed equally to the various counties of this state in which no coalbed methane was produced for infrastructure projects. Moneys shall be distributed to each coalbed methane producing county in direct proportion to the amount of tax paid by the county using information provided by the Tax Commissioner as required in section twenty-a, article thirteen-a, chapter eleven of this code.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 1998, c. 180, eff. 90 days after March 14, 1998; Acts 2008, c. 213, eff. June 7, 2008.

Historical and Statutory Notes

Acts 2008, c. 213, added subsec. (e).

§ 31–15A–17a. Infrastructure revenue bonds payable from A. James Manchin Fund

Notwithstanding any other provision of this code to the contrary, the Water Development Authority may issue, in accordance with the provisions of section seventeen of this article, infrastructure revenue bonds payable from the A. James Manchin Fund created by section nine, article fifteen-a, chapter twenty-two of this code and such other sources as may be legally pledged for such purposes other than the West Virginia Infrastructure Revenue Debt Service Fund created by section seventeen of this article.

Acts 2003, c. 251, eff. 90 days after March 8, 2003; Acts 2005, c. 199, eff. 90 days after April 9, 2005.

ARTICLE 15C

BROADBAND DEPLOYMENT

Section		Section	
31–15C–1.	Legislative findings and purpose.	31–15C–4.	Powers and duties of the council generally.
31–15C–2.	Definitions.	31–15C–5.	Creation of the Broadband Deployment Fund.
31–15C–3.	Broadband Deployment Council established; members of council; administrative support.		

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

16–13A–1. Legislative findings.
16–13A–1a. Jurisdiction of the public service commission.
16–13A–1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16–13A–1c. General purpose of districts.
16–13A–2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State.
16–13A–3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16–13A–3a. Removal of members of public service board.
16–13A–4. Board chairman; members' compensation; procedure; district name.
16–13A–5. General manager of board.
16–13A–6. Employees of board.
16–13A–7. Acquisition and operation of district properties.
16–13A–8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16–13A–9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16–13A–9a. Limitations with respect to foreclosure.
16–13A–10. Budget.
16–13A–11. Accounts; audit.
16–13A–12. Disbursement of district funds.
16–13A–13. Revenue bonds.
16–13A–14. Items included in cost of properties.
16–13A–15. Bonds may be secured by trust indenture.
16–13A–16. Sinking fund for revenue bonds.
16–13A–17. Collection, etc., of revenues and enforcement of covenants; default; suit, etc., by bondholder or trustee to compel performance of duties; appointment and powers of receiver.
16–13A–18. Operating contracts.
16–13A–18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
16–13A–19. Statutory mortgage lien created; foreclosure thereof.
16–13A–20. Refunding revenue bonds.
16–13A–21. Complete authority of article; liberal construction; district to be public instrumentality; tax exemption.
16–13A–22. Validation of prior acts and proceedings of county courts for creation of districts, inclusion of additional territory, and appointment of members of district boards.
16–13A–23. Validation of acts and proceedings of public service boards.
16–13A–24. Acceptance of loans, grants or temporary advances.
16–13A–25. Borrowing and bond issuance; procedure.

§ 16–13A–1. Legislative findings

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been

unable to obtain public utility services. To further this effort, and to insure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

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

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1986, c. 81.

Cross References

County courts, authority to make grants for water and sewer systems, see § 7–1–3t.

Administrative Code References

Sewer utilities regulations, see W. Va. Code St. R. § 150–5–1 et seq.

Library References

Counties ⇐18.
Municipal Corporations ⇐5, 6.
Public Utilities ⇐145.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Notes of Decisions

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Validity 1

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6,

§ 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇐ 123(3); Statutes ⇐ 123(5)

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 4056; Municipal Corporations ⇐ 4

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 4416; Municipal Corporations ⇐ 408(1)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 2355; Municipal Corporations ⇐ 4

2. In general

A public service district may be created for the purpose of furnishing water or sewer services, or both water and sewer services. Code, 16–13A–1. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇐ 5

Creation and operation of water or sanitary districts or authorities by issuance of revenue bonds payable from revenues are authorized. Code, 16–13A–1 et seq. State ex rel. Appalachian Power Co. v. Gainer, 1965, 143 S.E.2d 351, 149 W.Va. 740. Health ⇐ 369; Waters And Water Courses ⇐ 183.5

A county court may use Federal Revenue Sharing Funds for ordinary and necessary maintenance and operating expenses for sewage disposal, sanitation, and pollution abatement, and ordinary and necessary capital expenditures authorized by law but may not use such funds for matching purposes under any other federal-aid program. 55 W.Va. Op.Atty.Gen. 116 (June 27, 1973) 1973 WL 159152.

3. Construction and application

A public service district is a public corporation and does not come within constitutional provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇐ 80(3)

4. Eminent domain powers

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A–1, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ⇐ 32

Condemnation by public service district is not a taking of private property for private use in violation of applicable constitutional provision. Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ⇐ 13

5. Property of public service district

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⇐ 2289

6. Rates and charges for service

Relief under Federal Securities Act of 1933 was not adequate or sufficient remedy for relief sought by corporations holding sewer revenue bonds of public service district in mandamus proceeding to compel district to establish and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariff reflecting such charges with Public Service Commission, and any relief afforded under provisions of federal statute could not supersede relief which could be granted in mandamus proceeding. Securities Act of 1933, § 1 et seq., 15 U.S.C.A. § 77a et seq.; Code, 16–13A–1 et seq. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 3(8)

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operation-

Note 6

al and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 110

It was ministerial duty of chairman of public service board of public service district to sign revenue bonds and to assist in effectuating their issuance, and in view of constitutionality of statute authorizing creation of the public service board, relator's showing of legal right to require performance of such duty, was sufficient and writ of mandamus would issue. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇐ 103

7. Creation and enforcement of liens

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⇐ 712(7)

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⇐ 14.6; Municipal Corporations ⇐ 712(7); Waters And Water Courses ⇐ 203(14)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇐ 222; Municipal Corporations ⇐ 225(1)

8. Admissibility of evidence

Extrinsic evidence relating to background and negotiations with regard to forming a public service district were not admissible in regard to construction of a contract for furnishing of water, where contract language was clear and unambiguous that district was to furnish water as customer should require. Berkeley County Public Service Dist. v. Vitro Corp. of America, 1968, 162 S.E.2d 189, 152 W.Va. 252. Evidence ⇐ 448

9. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇐ 190

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

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

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

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

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

Acts 1986, c. 81.

Library References

Public Utilities ⇐145. Westlaw Topic No. 317A.

C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Notes of Decisions

In general 1

1. **In general**

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24–1–1 et seq., 24–2–3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇐ 123

Legislature sought to establish in Public Service Commission (PSC) governmental entity which would protect public from unfair rates and practices by public utilities and also ensure that public utilities are given competitive return for their stockholders. Code, 24–2–3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇐ 123; Public Utilities ⇐ 129

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

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

Acts 1986, c. 81; Acts 1994, c. 61.

Cross References

Public Service Commission, participation in studies, see § 24–1–1b.

Library References

Counties ⇐18, 47.
Westlaw Topic No. 104.
C.J.S. Counties §§ 31, 70 to 73.

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

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with: (1) The diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills"); (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"); or (4) the collection, control or disposal of stormwater (herein sometimes referred to as "stormwater system" or "stormwater systems"), or (5) the management, operation, maintenance and control of stormwater and stormwater systems (herein sometimes referred to as "stormwater management program" or "stormwater management programs"). As used in this article "stormwater system" or "stormwater systems" means a stormwater system in its entirety or any integral part thereof used to collect, control or dispose of stormwater, and includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations: Provided, That the term "stormwater system" or "stormwater systems" does not include highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways. As used in this article "stormwater management program" or "stormwater management programs" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and includes, but is not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforce-

ment and any other activities required by state and federal law: Provided, however, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇐18.
Gas ⇐12.
Municipal Corporations ⇐5, 6.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 104, 190, 268, 405.

C.J.S. Counties § 31.
C.J.S. Gas §§ 43 to 45.
C.J.S. Municipal Corporations § 11.
C.J.S. Waters §§ 483, 543 to 581.

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

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

except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

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

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

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing

the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

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

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

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

(h) A list of all districts and their current board members shall be filed by the county commission with the Secretary of State and the Public Service Commission by the first day of July of each year.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1967, c. 105; Acts 1975, c. 140; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1995, c. 125, eff. 90 days after March 11, 1995; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2005, c. 195, eff. 90 days after April 9, 2005.

Library References

Counties ⇐47.
Municipal Corporations ⇐6.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 70 to 73.
C.J.S. Municipal Corporations § 11.

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇐ 123(3); Statutes ⇐ 123(5)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24.

State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 2355; Municipal Corporations ⇐ 4

2. Creation of public service districts

Where notice, hearing and order with respect to creation of public service district considered only the question of furnishing water, such district was created only for the purposes of furnishing water services, and had no power to condemn real estate for sewerage facilities. Code, 16-13A–1, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Eminent Domain ⇐ 32

Where public service district was created for purpose of furnishing water services, county court had authority to add sewerage services to the facilities of the district under appropriate proceedings. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇐ 270

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇐ 222; Municipal Corporations ⇐ 225(1)

3. District boundaries

Public service district statute that allowed county commission to designate district's boundaries did not also empower commission to make service territories exclusive, displacing Public Service Commission's (PSC) authority to determine service rights. Code, 16–13A–2. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Counties ⇐ 47

4. Notice of hearing

Provisions of statute, with respect to creation of public service districts, which relate to the filing of the petition or motion of the county court, the description of the territory to be embraced, and like provisions are mandatory; but, despite use of the word "shall," the requirements for posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇐ 12(3); Municipal Corporations ⇐ 12(6)

Though record with respect to creation of public service district was silent with respect to posting of notice of hearing and as to whether hearing was not more than 40 nor less than 20 days after his fixing the date for hearing as provided by statute, there was substantial compliance with statute where hearing was set some time prior to the date of the hearing, there was publication of notice more than ten days prior to the date of the hearing as required, and there were no objections either before, during or after the hearing to the creation of the district or to the procedures employed in its creation. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇐ 12(6)

5. Number of voters within district

Public service district was not void because there were not 100 legal voters owning property within the district. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇐ 6

6. Costs

Costs of proceeding whereby constitutionality of statute authorizing creation of public service districts was tested would not be taxed against defendant who was chairman of public service board and who, honestly and in good faith, though mistakenly, endeavored to perform his duty in refusing to sign revenue bonds, and each litigant would pay his own costs. Acts 1953, c. 147. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Mandamus ⇐ 190

7. Referendum

A public service district, once created by county court, not subject to referendum on issue to continue or be abolished. 52 W.Va. Op.Atty. Gen. 33 (August 11, 1966) 1966 WL 87428.

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

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into

contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

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

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

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

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

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

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

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

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six

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

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

The members of the board, and the chair, secretary and treasurer thereof, shall make available to the county commission, at all times, all of its books and records pertaining to the district's operation, finances and affairs, for inspection and audit. The board shall meet at least monthly.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1983, c. 166; Acts 1986, c. 81; Acts 1994, c. 61; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Law Review and Journal Commentaries

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

"Yes, West Virginia, there is a special priority for the purchase money mortgage:" The recognition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Counties ⇐18.
Municipal Corporations ⇐6.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

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1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary

for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

2. Standard of care

Public service district owes duty of reasonable care to avoid damage to property of others with respect to maintenance of water lines. McCloud v. Salt Rock Water Public Service Dist., 2000, 533 S.E.2d 679, 207 W.Va. 453. Waters And Water Courses ⇐ 205

3. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⇐ 55; Judges ⇐ 21

4. Removal of members

Public Service District board member can be removed by majority vote of registered voters. 51 W.Va. Op.Atty.Gen. 564 (November 10, 1965) 1965 WL 92492.

5. Criminal responsibility of members

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇐ 60

6. Sale of water

Public Service Districts may sell, at wholesale, bulk water to other municipal corporations. 51 W.Va. Op.Atty.Gen. 739 (March 16, 1966) 1966 WL 87469.

7. Tort Claims Act

Tort Claims Act's protection extended to public service districts, under the Act's definition of political subdivision, which included the term "public service districts," despite general authorization for public service districts to "sue and be sued," in the Public Health statutes. Zirkle v. Elkins Road Public Service Dist., 2007, 655 S.E.2d 155. Waters And Water Courses ⇐ 183.5

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

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

Acts 1963, c. 75; Acts 1971, c. 72; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties ⇐45.
Public Utilities ⇐145.
Westlaw Topic Nos. 104, 317A.

C.J.S. Counties § 67.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

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1. Criminal responsibility of members

Upon becoming member of county commission, person who is pecuniarily interested in proceeds of any contract or service with public service district violates criminal conflict of interest statute; by virtue of that position, that person has some voice, influence, or control over continuation of contract. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇐ 60

2. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⇐ 55; Judges ⇐ 21

3. Sufficiency of evidence

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇐ 60

Conflict of interest indictment against county commissioner was sufficient even though it did not characterize commissioner's interest as pecuniary, and commissioner was not entitled to bill of particulars. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇐ 60

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

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

(b) Salaries of the board members are:

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

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

(3) For districts with two thousand customers or more, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five

dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

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

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

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

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

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

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

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

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

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

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

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful

misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: *Provided,* That such name change will not be effective until approved by the public service commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2000, c. 199, eff. 90 days after March 11, 2000; Acts 2005, c. 196, eff. 90 days after April 8, 2005.

Library References

Counties ⇐68, 87.
Municipal Corporations ⇐161.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 107 to 118, 128.
C.J.S. Municipal Corporations §§ 372 to 390.

Notes of Decisions

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1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

§ 16–13A–5. General manager of board

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

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

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or

another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water, sewer or stormwater system or public service district from which such water, sewer or stormwater service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service.

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇐65, 68.
Municipal Corporations ⇐149, 161.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties §§ 101 to 103, 107 to 118.
C.J.S. Municipal Corporations §§ 361 to 366, 368, 372 to 390.

§ 16–13A–6. Employees of board

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

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ⇐65, 68, 87.
Municipal Corporations ⇐149, 161, 170.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties §§ 101 to 103, 107 to 118, 128.
C.J.S. Municipal Corporations §§ 361 to 366, 368, 372 to 405.

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent

possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

Acts 1953, c. 147; Acts 1967, c. 105; Acts 1981, c. 124; Acts 1982, c. 24; Acts 1986, c. 81; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇐107.
Municipal Corporations ⇐711.
Public Utilities ⇐114.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 147.
C.J.S. Municipal Corporations § 1535.
C.J.S. Public Utilities §§ 5 to 9, 202 to 207.

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

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

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

and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

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

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways: Provided, however, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof.

Acts 1953, c. 147; Acts 1980, c. 60; Acts 1981, c. 124; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇐103, 104.
Eminent Domain ⇐6, 16.
Municipal Corporations ⇐221, 224.
Westlaw Topic Nos. 104, 148, 268.

C.J.S. Counties §§ 143 to 144, 147.
C.J.S. Municipal Corporations §§ 873 to 880.
C.J.S. Property § 17.

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying wa-

ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇐ 123(3); Statutes ⇐ 123(5)

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⇐ 2289

2. In general

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 2510

3. Eminent domain powers

Although construction of new facility proposed by utility will often require taking of private property through eminent domain, absent express statutory language Public Service Commission (PSC) has no duty to review and decide issues that are inherent in eminent domain proceeding. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities ⇐ 114

Statute providing that private property may be taken or damaged for a number of specified purposes is consonant with organic law and is constitutional. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ⇐ 3

4. Valuation of property

Although landowner is competent to give estimate of value of property in eminent domain proceeding, that valuation is not conclusive; government agency may rely on appraisal report concerning estimated value of property to be taken. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Evidence ⇐ 568(4)

5. Environmental assessment

Whether construction of sewage lagoons would constitute "nuisance" does not defeat Public Service Commission's (PSC) jurisdiction to issue certificate of public convenience and necessity; while PSC may assess environmental considerations, chief inquiry by PSC is need of public for project. Code, 24–2–11. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⇐ 708

6. Connections with sewers or drains

City, rather than sewer and water districts, was entitled to provide sewer and water services to newly developed tract that was within districts' boundaries, but was annexed to city, where such services were not previously furnished to tract. Code, 16–13A–8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⇐ 712(1); Waters And Water Courses ⇐ 201

If a tract of real estate located within a public service district has been annexed into a municipality, then, as between the municipality and the public service district, the municipality has the superior right to extend water and/or sewer service which were not being previously furnished to the tract by the public service district, and under those circumstances, a public service district would need the consent of the municipality and the Public Service Commission (PSC) in order to provide such service. Code, 16–13A–8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⇐ 712(1); Waters And Water Courses ⇐ 201; Waters And Water Courses ⇐ 202

7. Public corporation

A public service district is a public corporation and does not come within constitutional provision which in substance provides that all corporations shall be created by general laws and which is applicable to private corporations. Acts 1953, c. 147, § 1 et seq.; Const. art. 11, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇐ 80(3)

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

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management,

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

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

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

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

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

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

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight, article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or fifty dollars, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or fifty dollars and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or fifty dollars. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or fifty dollars

has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the public service commission may prescribe: *Provided,* That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of twenty days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent.

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

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the division of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where

there is gravity flow or transportation by any other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the division of health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

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

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

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and munici-

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

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven, article eleven, chapter twenty-two of this code, is exempt from the provisions of this section.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003.

Law Review and Journal Commentaries

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

"Yes, West Virginia, there is a special priority for the purchase money mortgage:" The recognition of purchase money mortgage priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

Library References

Gas ⇐14.6.
Municipal Corporations ⇐712.
Waters and Water Courses ⇐203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

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Validity 1

1. Validity

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 4416; Municipal Corporations ⇐ 408(1)

2. Takings

Public service district's requiring property owner to connect onto its sewer system and to abandon private sewer system located on property was not a taking of private property without just compensation. Const. Art. 3, § 9; Code, 16–13A–9; U.S.C.A. Const.Amend. 5. Kingmill Valley Public Service Dist. v. River-

view Estates Mobile Home Park, Inc., 1989, 386 S.E.2d 483, 182 W.Va. 116. Eminent Domain ⇐ 2.18

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 2510

3. Public service district liens

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⇐ 14.6; Municipal Corporations ⇐ 712(7); Waters And Water Courses ⇐ 203(14)

Public service district's failure to docket notice of lien prior to date purchaser recorded deed of trust prevented district from enforcing sewer lien against purchaser. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Municipal Corporations ⇐ 712(7)

If owner, tenant or occupant of garage apartment did not receive notice that public service district's sewer facilities were available for apartment, district would have been without statutory authority to impose charges and a lien against apartment for sewer services, though the apartment was on a lot containing another dwelling which was properly subject to sewer service charges. Code, 16–13A–9, 16–13A–21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Municipal Corporations ⇐ 712(7)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇐ 222; Municipal Corporations ⇐ 225(1)

4. Rates and charges for service

Statute clearly and unambiguously gives Public Service Commission (PSC) power to reduce or increase utility rates whenever it finds that existing rate is unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provision of legislation governing Commission. Code, 24–1–1 et seq., 24–2–3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇐ 123

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 110

Duty imposed on public service district, a public corporation and political subdivision of state, to establish rates and charges sufficient to pay cost of maintenance, operation and depreciation of properties of district and principal of and interest on all bonds issued by district is nondiscretionary duty which may be enforced by mandamus. Code, 16–13A–9. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 80

5. Notice of availability of sewer service

Issue of fact as to whether owner or tenant had received notice that public service district's sewer services were available for garage apartment, so as to allow imposition of sewer service charges and a lien against apartment, was not appropriate for resolution in mandamus proceeding. Code, 16–13A–9, 16–13A–21. Rhodes v. Malden Public Service Dist., 1983, 301 S.E.2d 601, 171 W.Va. 645. Mandamus ⇐ 174

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

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that

the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought.

Acts 1982, c. 74.

Library References

Gas ⇐14.6.
Municipal Corporations ⇐712.
Waters and Water Courses ⇐203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

§ 16–13A–10. Budget

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

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ⇐154.5.
Municipal Corporations ⇐879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

Notes of Decisions

In general 1

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1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 110

§ 16–13A–11. Accounts; audit

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders

pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine, chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

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

Acts 1953, c. 147; Acts 1981, c. 124; Acts 1986, c. 81.

Library References

Counties ⇐154.5.
Municipal Corporations ⇐879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

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

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

Acts 1953, c. 147; Acts 1981, c. 124.

Library References

Counties ⇐158.
Municipal Corporations ⇐883.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 198.
C.J.S. Municipal Corporations §§ 1626, 1635.

§ 16–13A–13. Revenue bonds

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

Acts 1953, c. 147; Acts 1970, c. 11; Acts 1970, c. 12; Acts 1970, 1st Ex. Sess., c. 2; Acts 1980, c. 33; Acts 1981, 1st Ex. Sess., c. 2; Acts 1989, c. 174.

Library References

Counties ⇐174.
Municipal Corporations ⇐911.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 218.
C.J.S. Municipal Corporations §§ 1647 to 1649.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 110

Two acts amending same Code section in same manner except as to maximum interest rate of bonds, enacted on same date at same legislative session, and impossible to determine which passed after the other, that having lower maximum interest rate will govern. 53 W.Va. Op.Atty.Gen. 418 (April 8, 1970) 1970 WL 116579.

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

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

Acts 1953, c. 147; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇐154.5.
Municipal Corporations ⇐879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

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

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable

and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee.

Acts 1953, c. 147.

Library References

Counties ⇐183.
Municipal Corporations ⇐950(15).
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 222.
C.J.S. Municipal Corporations §§ 1708 to 1709.

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

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

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

Acts 1953, c. 147.

Library References

Counties ⇐186.5.
Municipal Corporations ⇐951.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1704 to 1705.

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

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided.

Acts 1953, c. 147.

Library References

Counties ⇐188.
Municipal Corporations ⇐937, 955.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.
C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

Corporations holding sewer revenue bonds of public service district, a public corporation and political subdivision of state, had right by mandamus to enforce and compel district and members of the Public Service Board to establish, charge and collect rates for services rendered by district sufficient to provide for all operational and maintenance expenses, to pay, when due, principal and interest of revenue bonds issued by district, and to file tariffs reflecting such charges with Public Service Commission. Code, 16–13A–1 et seq., 16–13A–9, 16–13A–10, 16–13A–13, 16–13A–17. State ex rel. Allstate Ins. Co. v. Union Public Service Dist., 1966, 151 S.E.2d 102, 151 W.Va. 207. Mandamus ⇐ 110

§ 16–13A–18. Operating contracts

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

Acts 1953, c. 147.

Library References

Counties ⇐114.
Municipal Corporations ⇐328.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 161.
C.J.S. Municipal Corporations §§ 1027 to 1029.

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

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

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

Acts 1963, c. 75; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1997, c. 160, eff. 90 days after April 10, 1997; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇐110.
Municipal Corporations ⇐225.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 147.
C.J.S. Municipal Corporations §§ 882 to 892.

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

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

Acts 1953, c. 147.

Library References

Counties ⇐188.
Municipal Corporations ⇐937, 955.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.
C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇐ 222; Municipal Corporations ⇐ 225(1)

§ 16–13A–20. Refunding revenue bonds

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding

bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded.

Acts 1953, c. 147.

Library References

Counties ⇐175.
Municipal Corporations ⇐913.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties § 218.
C.J.S. Municipal Corporations §§ 1647 to 1648, 1651.

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

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

Acts 1953, c. 147; Acts 1986, c. 81; Acts 1994, c. 61.

Library References

Counties ⇐18.
Municipal Corporations ⇐5.
Taxation ⇐2316, 3519.
Westlaw Topic Nos. 104, 268, 371.
C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 2
Validity 1

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1. Validity

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 4056; Municipal Corporations ⇐ 4

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional

delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇐ 2355; Municipal Corporations ⇐ 4

2. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇐ 222; Municipal Corporations ⇐ 225(1)

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⇐ 123(3); Statutes ⇐ 123(5)

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

All acts and proceedings taken by any county court of this State purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect, for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article.

Acts 1958, c. 14; Acts 1960, c. 19.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties ⇐18.
Municipal Corporations ⇐5.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

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

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

Acts 1958, c. 14; Acts 1960, c. 19; Acts 1965, c. 134.

W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.

Library References

Counties ⇐47.
Municipal Corporations ⇐166.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 70 to 73.
C.J.S. Municipal Corporations §§ 369 to 371.

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

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

advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

Acts 1958, c. 14; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 118; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⇐149.
Municipal Corporations ⇐864(3).
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 185, 187.
C.J.S. Municipal Corporations §§ 1583 to 1585, 1587.

Notes of Decisions

In general 1

1. **In general**

The borrowing by PSD's of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. 62 W.Va. Op.Atty.Gen. 27 (May 6, 1988) 1988 WL 483331.

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

(a) Notwithstanding any other provisions of this article to the contrary, a public service district may not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four of this article without the prior consent and approval of the Public Service Commission: *Provided*, That approval of funding set forth in section eleven, article two, chapter twenty-four of this code or this section is not required if the funding is for a project which has received a certificate of public convenience and necessity after the eighth day of July, two thousand five, from the commission and where the cost of the project changes but the change does not affect the rates established for the project.

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

(1) Experience with the same engineering firm; or

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

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

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

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

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

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

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

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in accordance with the provision of chapter twenty-four of this code when a public service district is seeking to acquire or construct public service property.

Acts 1969, 1st Ex. Sess., c. 6; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1996, c. 213, eff. 90 days after March 9, 1996; Acts 1997, c. 159, eff. 90 days after April 12, 1997; Acts 2003, c. 184, eff. 90 days after March 7, 2003; Acts 2005, c. 193, eff. 90 days after April 9, 2005; Acts 2006, c. 190, eff. 90 days after March 10, 2006.

Library References

Counties ⇐114.
Municipal Corporations ⇐270.
Public Utilities ⇐145.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 161.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Research References

ALR Library

101 ALR 5th 287, Remedies for Sewage Treatment Plant Alleged or Deemed to be Nuisance.

Notes of Decisions

In general 1
Certificate of public convenience and necessity 2

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1. In general

Proposed sewage treatment project complied with buffer zone requirements where all parties acknowledged that distance of proposed sewage lagoons from property owners' home was further than minimum buffer-zone requirement of 300 feet; Public Service Commission relied on ample evidence in record to support claim that proposed location was both cost-effective and environmentally sound. Code, 16–13A–25, 24–2–11, 24–2–11(a). Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⇐ 708

2. Certificate of public convenience and necessity

Public Service district must obtain certificate of public convenience and necessity before it can acquire or construct public service property. Code, 16–13A–25. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities ⇐ 113

Protection or the Environmental Quality Board and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: *Provided,* That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the rights, powers and duties of the municipality and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article.

(k) The jurisdiction and authority provided by this section does not extend to highways, road and drainage easements and stormwater facilities constructed, owned or operated by the West Virginia Division of Highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements and/or stormwater facilities constructed, owned and/or operated by the West Virginia Division of Highways.

(*l*) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26, has the authority to enact ordinances or regulations which allow for the issuance of orders, the right to enter properties and the right to impose reasonable fines and penalties regarding correction of violations of municipal stormwater ordinances or regulations within the municipal watershed served by the municipal stormwater system, as long as such rules, regulations, fines or actions are not contrary to any rules or orders of the Public Service Commission.

(m) Notice of a violation of a municipal stormwater ordinance or regulation shall be served in person to the alleged violator or by certified mail, return receipt requested. The notice shall state the nature of the violation, the potential penalty, the action required to correct the violation and the time limit for making the correction. Should a person, after receipt of proper notice, fail to correct the violation of the municipal stormwater ordinance or regulation, the municipality may make or have made the corrections of the violation and bring the party into compliance with the applicable stormwater ordinance or regulation. The municipality may collect the costs of correcting the violation from the person by instituting a civil action, as long as such actions are not contrary to any rules or orders of the Public Service Commission.

(n) A municipality which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2008, c. 202, eff. March 8, 2008.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

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

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

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district.

rd shall establish rates, fees and charges for the services and facilities it furnishes, all be sufficient at all times, notwithstanding the provisions of any other law or laws, .e cost of maintenance, operation and depreciation of the public service properties and of and interest on all bonds issued, other obligations incurred under the provisions urticle and all reserve or other payments provided for in the proceedings which ed the issuance of any bonds under this article. The schedule of the rates, fees and may be based upon:

ıe consumption of water or gas on premises connected with the facilities, taking into ation domestic, commercial, industrial and public use of water and gas;

ıe number and kind of fixtures connected with the facilities located on the various ;;

ıe number of persons served by the facilities;

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

ay be determined on any other basis or classification which the board may determine r and reasonable, taking into consideration the location of the premises served and re and extent of the services and facilities furnished. However, no rates, fees or for stormwater services may be assessed against highways, road and drainage ts or stormwater facilities constructed, owned or operated by the West Virginia of Highways.

here water, sewer, stormwater or gas services, or any combination thereof, are all d to any premises, the schedule of charges may be billed as a single amount for the e of the charges. The board shall require all users of services and facilities d by the district to designate on every application for service whether the applicant is or an owner of the premises to be served. If the applicant is a tenant, he or she te the name and address of the owner or owners of the premises to be served by the Notwithstanding the provisions of section eight, article three, chapter twenty-four of e to the contrary, all new applicants for service shall deposit the greater of a sum two twelfths of the average annual usage of the applicant's specific customer class or ars, with the district to secure the payment of service rates, fees and charges in the ey become delinquent as provided in this section. If a district provides both water er service, all new applicants for service shall deposit the greater of a sum equal to fths of the average annual usage for water service or fifty dollars and the greater of a ıal to two twelfths of the average annual usage for wastewater service of the t's specific customer class or fifty dollars. In any case where a deposit is forfeited to rice rates, fees and charges which were delinquent at the time of disconnection or ion of service, no reconnection or reinstatement of service may be made by the until another deposit equal to the greater of a sum equal to two twelfths of the usage for the applicant's specific customer class or fifty dollars has been remitted to rict. After twelve months of prompt payment history, the district shall return the to the customer or credit the customer's account at a rate as the Public Service sion may prescribe: *Provided*, That where the customer is a tenant, the district is not to return the deposit until the time the tenant discontinues service with the district. er any rates, fees, rentals or charges for services or facilities furnished remain unpaid riod of twenty days after the same become due and payable, the user of the services lities provided is delinquent and the user is liable at law until all rates, fees and are fully paid. The board may, under reasonable rules promulgated by the Public Commission, shut off and discontinue water or gas services to all delinquent users of ater or gas facilities, or both, ten days after the water or gas services become nt.

the event that any publicly or privately owned utility, city, incorporated town, other al corporation or other public service district included within the district owns and separately water facilities, sewer facilities or stormwater facilities and the district d operates another kind of facility either water or sewer, or both, as the case may be, district and the publicly or privately owned utility, city, incorporated town or other al corporation or other public service district shall covenant and contract with each shut off and discontinue the supplying of water service for the nonpayment of sewer

or stormwater service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission.

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

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

(e) The owner, tenant or occupant of any real property may be determined and declared to be served by a stormwater system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26; (2) the district's authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is

the Municipal Separate Storm Sewer System's designated service area. It is eby found, determined and declared that the mandatory use of the stormwater ecessary and essential for the health and welfare of the inhabitants and residents ict and of the state. The district may charge and the owner, tenant or occupant he rates, fees and charges for stormwater services established under this article hirty-day notice of the availability of the stormwater system has been received by

An entity providing stormwater service shall provide a tenant a report of the fee charged for the entire property and, if appropriate, that portion of the fee to l to the tenant.

elinquent fees, rates and charges of the district for either water facilities, sewer as facilities or stormwater systems or stormwater management programs are liens mises served of equal dignity, rank and priority with the lien on the premises of ty, school and municipal taxes. In addition to the other remedies provided in this blic service districts are granted a deferral of filing fees or other fees and costs to the bringing and maintenance of an action in magistrate court for the collection ent water, sewer, stormwater or gas bills. If the district collects the delinquent lus reasonable costs, from its customer or other responsible party, the district shall e magistrate the normal filing fee and reasonable costs which were previously In addition, each public service district may exchange with other public service list of delinquent accounts: *Provided,* That an owner of real property may not be for the delinquent rates or charges for services or facilities of a tenant, nor may ttach to real property for the reason of delinquent rates or charges for services or f a tenant of the real property, unless the owner has contracted directly with the vice district to purchase the services or facilities.

thing in this section to the contrary notwithstanding, any establishment, as defined three, article eleven, chapter twenty-two of this code, now or hereafter operating its ge disposal system pursuant to a permit issued by the Department of Environmen- tion, as prescribed by section eleven of said article is exempt from the provisions of n.

ublic service district which has been designated by the Environmental Protection s an entity to serve a West Virginia Separate Storm Sewer System community shall n annual report detailing the collection and expenditure of rates, fees or charges and available for public review at the place of business of the governing body and the er utility main office.

c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days ch 8, 2003; Acts 2008, c. 202, eff. March 8, 2008.

A-15. Bonds may be secured by trust indenture

United States Code Annotated

Indenture Act of 1939, see 15 U.S.C.A. t seq.

ARTICLE 13D

REGIONAL WATER AND WASTEWATER AUTHORITY ACT

3D-11. Bonds may be secured by trust indenture

United States Code Annotated

Indenture Act of 1939, see 15 U.S.C.A. et seq.