

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**BOND TRANSCRIPT**

Closing Date: June 18, 2015

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**BOND RESOLUTION**

**Authorizing**

**NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)**

Adopted: June 11, 2015

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## NORTH BECKLEY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWER TREATMENT AND DISTRIBUTION FACILITIES OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$2,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, 2015 SERIES B (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF NORTH BECKLEY PUBLIC SERVICE DISTRICT:

### ARTICLE I

#### STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Bond Resolution (together with any order or resolution supplemental hereto or amendatory hereof, this "Resolution") 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 as follows:

A. North Beckley Public Service District (the "Issuer") is a public service district and a public corporation and political subdivision of the State of West Virginia, located in Raleigh County of said State. Under the provisions of Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended, the Issuer is authorized and empowered to issue revenue bonds for the purposes of any additions, betterments and improvements to the System (as hereinafter defined).

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that the Issuer acquire, construct, improve and extend the existing public sewerage facilities of the Issuer including, but not limited to, the construction of a new sewer collection system to replace the existing sewer collection system of the Stanaford Acres subdivision and line extensions to the System (collectively, the "Project"), which constitute properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the existing public sewerage system of the Issuer, the Project and any further additions, betterments, improvements or extensions thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineer (as hereinafter defined), which plans and specifications have heretofore been filed with the Issuer.

C. The estimated maximum cost of the construction and acquisition of the Project is approximately \$2,369,862, of which approximately \$2,354,862 will be permanently financed by the 2015 Series B Bonds herein authorized. The remaining cost will be funded with a \$15,000 contribution from the Issuer.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund) (the "2015 Series B Bonds"), in an aggregate principal amount not to exceed \$2,500,000, to (i) permanently finance a portion of the costs of acquisition and construction of the Project, and (ii) pay costs of issuing the 2015 Series B Bonds. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Said costs shall be deemed to include (i) the cost of all property rights, easements and franchises deemed necessary or convenient therefor; (ii) engineering and legal expenses; (iii) interest, if any, upon the 2015 Series B Bonds 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; (iv) amounts which may be deposited in the Reserve Accounts (as hereinafter defined); (v) expenses for estimates of costs and revenues and for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; (vi) administrative expenses, commitment fees, fees and expenses of the Authority (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the 2015 Series B Bonds 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 the Project in operation, and the performance of the things herein required or permitted, in connection with any thereof (collectively, "Costs of the Project"); provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the 2015 Series B Bonds or the repayment of indebtedness, incurred by the Issuer for such purposes shall be deemed part of the Costs of the Project.

E. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the Operating Expenses of the System, the principal of and interest on the Prior Bonds (as hereinafter defined) and the 2015 Series B Bonds, and to make payments into all fund and accounts and other payments provided for herein and in the Prior Resolutions (as hereinafter defined).

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

G. The Issuer has outstanding its (i) Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898 (the "Series 1999 Bonds"), (ii) Sewerage System Revenue Bonds, Series 2003 A, dated September 29, 2003 (West Virginia SRF Program), issued in the original aggregate principal amount of \$5,307,741 (the "Series 2003 A Bonds") and (iii) Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated October 29, 2009, issued in the original aggregate principal amount of \$4,544,324 (the "Series 2009 A Bonds"), (iv) Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated October 29, 2009, issued in the original aggregate principal amount of \$2,415,521 (the "Series 2009 B Bonds"), and (v) Sewer Revenue Bonds, 2015 Series A (Branch Banking and Trust Company), dated May 7, 2015, issued in the original aggregate principal amount of \$210,000 (the "2015 Series A Bonds" and together with the Series 1999 Bonds, the Series 2003 A Bonds, the Series 2009 A Bonds and the Series 2009 B Bonds, collectively, the "Prior Bonds").

The 2015 Series B Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements for issuance of bonds on a parity with the Prior Bonds and the resolutions authorizing the Prior Bonds and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. Prior to the issuance of the 2015 Series B Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the 2015 Series B Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all covenants of the Prior Bonds and the Prior Resolutions.

H. It is in the best interests of the Issuer that the 2015 Series B Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement (the "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 Issuer and the Authority, to be approved hereby if not previously approved by resolution of the Issuer.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to the authorization of the acquisition and construction of the Project, the operation of the System, and the issuance of the 2015 Series B Bonds, or will have so complied prior to the issuance of the 2015 Series B Bonds, including, among other things, 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 PSC (as hereinafter defined) by final order, the time for rehearing and appeal of which will either have expired prior to issuance of the 2015 Series B Bonds or such final order will not be subject to appeal or rehearing.

J. 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. Resolution Constitutes Contract. In consideration of the acceptance of the 2015 Series B Bonds by those who shall be Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of the 2015 Series B Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond or 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. All capitalized terms used in this Resolution and not otherwise defined herein shall have the following meanings in this Resolution 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 of this Resolution.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the 2015 Series B Bonds, or any other agency, board or department of the State that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the Council under the Act.

“Bondholder,” “Holder of the Bonds,” “Holder,” “Registered Owner,” “Owner” or any similar term, whenever used herein with respect to an Outstanding Bond or Bonds, means the person in whose name such Bond is registered.

“Bond Register” means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

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

“Bonds” means, collectively, the 2015 Series B Bonds, the Prior Bonds and any additional Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution or another resolution of the Issuer.

“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.

“Chairman” or “Authorized Officer” means the Chairman of the Governing Body of the Issuer or any other officer or person of the Issuer specifically designated by resolution of the Governing Body of the Issuer.

“Closing Date” means the date upon which there is an exchange of the 2015 Series B Bonds for all or a portion of the proceeds of the 2015 Series B Bonds from the Authority.

“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 that succeeds to the functions of the Commission.

“Consulting Engineer” or “Consulting Engineers” means Lawson Engineering and Technical Service, Beckley, 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 in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended; provided, however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

“Costs” or “Costs of the Project” shall have the meaning set forth in Section 1.02(D).

“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 designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

“FDIC” means the Federal Deposit Insurance Corporation or 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.

“Gross Revenues” means the aggregate gross operating and non-operating revenues of the System determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that “Gross Revenues” does not include any gains from the sale or other

disposition of, or from any increase in the value of, capital assets (including Qualified Investments purchased in accordance with Section 7.01 hereof, purchased in accordance with Section 7.01 hereof), or any Tap Fees, as hereinafter defined.

“Herein,” “hereto” and similar words shall refer to this entire Resolution.

“I&I Fund” means the I&I Fund created by the Prior Resolutions.

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

“Issuer” means North Beckley Public Service District, a public service district and political subdivision of the State, in Raleigh 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 2015 Series B Bonds from the Issuer by the Authority, the form of which shall be approved by, 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 2015 Series B Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the 2015 Series B Bonds Reserve Account. 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 2015 Series B Bonds, 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.

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

“Outstanding,” when used with reference to Bonds or Prior Bonds and as of any particular date, describes all Bonds and Prior Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond cancelled by the Bond Registrar or the registrar for Prior Bonds at or prior to said date; (ii) any Bond for the payment of which monies, 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 IX hereof; (iv) any Prior Bond deemed to have been paid in accordance with the resolution authorizing the issuance thereof; and (v) for purposes of consents or other action by a specified percentage of Bondholders, or holders of Prior Bonds, any Bonds or Prior Bonds registered to the Issuer.

“Parity Bonds” means additional Bonds issued under the provisions and within the limitations prescribed by Section 6.07 hereof.

“Paying Agent” means the Commission or other entity designated as such for the 2015 Series B Bonds in the Supplemental Resolution, and its successors and assigns.

“Prior Bonds” means, collectively, the Series 1999 Bonds, the Series 2003 A Bonds, the Series 2009 A Bonds, the Series 2009 B Bonds and the 2015 Series A Bonds.

“Prior Resolutions” means, collectively, the resolutions of the Issuer, as supplemented, authorizing the Prior Bonds.

“Project” means the Project described in Section 1.02(B) hereof.

“PSC” means the Public Service Commission of West Virginia or any other agency of the State that succeeds to the functions of the Public Service Commission of West Virginia.

“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 the 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 practical 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; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolutions and continued by Section 4.01(2) hereof.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the 2015 Series B Bonds and the Prior Bonds.

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

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and continued by Section 4.01(1) hereof.

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

"Series 1999 Bonds" means the Issuer's Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898.

"Series 2003 A Bonds" means the Issuer's Sewerage System Revenue Bonds, Series 2003 A, dated September 29, 2003 (West Virginia SRF Program), issued in the original aggregate principal amount of \$5,307,741.

"Series 2009 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated October 29, 2009, issued in the original aggregate principal amount of \$4,544,324.

"Series 2009 B Bonds" means the Issuer's Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated October 29, 2009, issued in the original aggregate principal amount of \$2,415,521.

"Sinking Funds" shall mean, collectively, the respective sinking funds established for the 2015 Series B Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer amending or supplementing this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the 2015 Series B Bonds;

provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the 2015 Series B Bonds, and not so included, may be included in another Supplemental Resolution.

“Surplus Revenues” means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the 2015 Series B Bonds, the Prior Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Reserve Accounts and the Sinking Funds.

“System” means the complete properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for said system from any sources whatsoever.

“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.

“2015 Series A Bonds” means the Sewer Revenue Bonds, 2015 Series A (Branch Banking and Trust Company), dated May 7, 2015, issued in the original aggregate principal amount of \$210,000.

“2015 Series B Bonds” means the Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

“2015 Series B Bonds Construction Trust Fund” means the 2015 Series B Bonds Construction Trust Fund created by Section 4.01 hereof.

“2015 Series B Bonds Reserve Account” means the 2015 Series B Bonds Reserve Account established by Section 4.02.

“2015 Series B Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the 2015 Series B Bonds in the then current or any succeeding year.

“2015 Series B Bonds Sinking Fund” means the 2015 Series B Bonds Sinking Fund established by Section 4.02.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

Words importing singular number include the plural number in each case and vice versa; words importing the masculine gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

## ARTICLE II

### AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of the Acquisition and Construction of the Project.

There is hereby authorized and ordered the acquisition and construction of the Project at an estimated cost not to exceed \$2,369,862 in accordance with the plans and specifications which have been prepared by the Consulting Engineers, approved by the Council and the Authority and the Issuer and heretofore filed in the office of the Governing Body. The proceeds of the 2015 Series B Bonds hereby authorized shall be applied as provided in Article V 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 Council and the Authority.

The Costs of the Project is estimated not to exceed \$2,369,862 of which approximately \$2,354,862 will be obtained from proceeds of the 2015 Series B Bonds, and approximately \$15,000 will be an equity contribution from the Issuer.

## ARTICLE III

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of financing a portion of the Costs of the Project, funding a debt service reserve fund, paying costs of issuing the 2015 Series B Bonds and related costs, or any and all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable 2015 Series B Bonds of the Issuer. The 2015 Series B Bonds shall be issued as a single bond, numbered BR-1, to be designated the "North Beckley Public Service District Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund)," in the principal amount not to exceed \$2,500,000, and shall have such terms as are set forth hereinafter and in the Supplemental Resolution. The proceeds of the 2015 Series B Bonds remaining after funding the 2015 Series B Reserve Account (if funded from Bond proceeds) shall be deposited in the 2015 Series B Bonds Construction Trust Fund established by Section 4.01 hereof and applied as set forth in Article V hereof.

Section 3.02. Term of Bonds. The 2015 Series B Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then 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 2015 Series B Bonds 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 and private debts under the laws of the United States of America. Interest on the 2015 Series B Bonds, 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 2015 Series B Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule and a record of advances attached, representing the aggregate principal amount of the 2015 Series B Bonds. The 2015 Series B Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered bond 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.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall bear interest, if any, and shall be dated as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The 2015 Series B Bonds 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 of the Issuer. In case any one or more of the officers who shall have signed or sealed the 2015 Series B Bonds shall cease to be such officer of the Issuer before the 2015 Series B Bonds so signed and sealed shall have been actually sold and delivered, such 2015 Series B Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such 2015 Series B Bonds had not ceased to hold such office. Any 2015 Series B Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such 2015 Series B Bonds shall hold the proper office of the Issuer, although at the date of such 2015 Series B Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. The Bond Registrar for the 2015 Series B Bonds shall be the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns. No 2015 Series B Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 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 Resolution. The Certificate of Authentication and Registration on any 2015 Series B 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 all of the 2015 Series B Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the 2015 Series B Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder, in accepting any of said 2015 Series B Bonds, shall be conclusively deemed to have agreed that said 2015 Series B Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder shall further be conclusively deemed to have agreed that said 2015 Series B Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the 2015 Series B Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the 2015 Series B Bonds.

The registered 2015 Series B Bonds shall be transferrable 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 his duly authorized attorney.

In all cases in which the privilege of exchanging the 2015 Series B Bonds or transferring the 2015 Series B Bonds is exercised, such Bonds shall be delivered in accordance with the provisions of this Resolution. All 2015 Series B Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of 2015 Series B Bonds, 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 obligated to make any such exchange or transfer of 2015 Series B Bonds during the period commencing on the 15<sup>th</sup> day of the month next preceding an interest payment date, if any, on the 2015 Series B Bonds or, in the case of any proposed redemption of 2015 Series B Bonds, next preceding the date of the selection of 2015 Series B Bonds to be redeemed, and ending on such interest payment date, if any, or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any 2015 Series B 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 2015 Series B Bond of the same series and of like tenor of the 2015 Series B Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated bond, upon surrender and cancellation of such mutilated bond, or in lieu of and substitution for the bond destroyed, stolen or lost and upon the Holder's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and Bond Registrar may incur. All 2015 Series B Bonds so surrendered shall be cancelled by the Bond

Registrar and held for the account of the Issuer. If any such bond shall have matured or be about to mature, instead of issuing a substitute bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The 2015 Series B Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts in the 2015 Series B Bonds Reserve Account. No Holder or Holders of any of the 2015 Series B Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the 2015 Series B Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service on the 2015 Series B Bonds shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the System, on a parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the 2015 Series B Bonds and the Prior Bonds and to make all other payments provided for hereinafter and in the Prior Resolutions, are hereby irrevocably pledged to the payment of the principal of and interest, if any, on the Prior Bonds and the 2015 Series B Bonds as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the 2015 Series B Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the 2015 Series B Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Authority, a list of the names in which the 2015 Series B Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;
- B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the 2015 Series B Bonds to the original purchasers;
- C. An executed and certified copy of this Resolution;
- D. An executed copy of the Loan Agreement; and
- E. The unqualified approving opinion of bond counsel on the 2015 Series B Bonds.

Section 3.10. Form of Bonds. The text of the 2015 Series B Bonds shall be in substantially the form attached hereto as Exhibit A, with such omissions, insertions and

variations as may be necessary and desirable and authorized or permitted by this Resolution or by any Supplemental Resolution thereto adopted prior to the issuance thereof.

Section 3.11. Sale of Bonds; Approval and Ratification and Execution of Loan Agreement. The 2015 Series B Bonds 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 in the form attached hereto as Exhibit B and made part hereof, 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 hereto, is hereby approved and incorporated into this Resolution.

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

#### FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolutions) 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 (established by the Prior Resolutions);
- (2) Renewal and Replacement Fund (established by the Prior Resolutions);
- (3) I&I Fund (established by the Prior Resolutions); and
- (4) 2015 Series B Bonds Construction Trust Fund.

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

- (1) Series 1999 Bonds Sinking Fund (established by the Prior Resolutions);
- (2) Series 1999 Bonds Reserve Account (established by the Prior Resolutions);
- (3) Series 2003 A Bonds Sinking Fund (established by the Prior Resolutions);

- (4) Series 2003 A Bonds Reserve Account (established by the Prior Resolutions);
- (5) Series 2009 A Bonds Sinking Fund (established by the Prior Resolutions);
- (6) Series 2009 A Bonds Reserve Account (established by the Prior Resolutions);
- (7) 2015 Series B Bonds Sinking Fund; and
- (8) 2015 Series B Bonds Reserve Account.

Section 4.03. 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 the Prior Resolutions and this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided and in the Prior Resolutions. 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 simultaneously remit to the Commission for deposit in the Sinking Funds for the Prior Bonds the amounts required to pay interest on the Prior Bonds, as required by the Prior Resolutions.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Sinking Funds for the Prior Bonds, the amounts required by the Prior Resolutions to pay principal on the Prior Bonds; and (ii) commencing 4 months prior to the first date of payment of principal on the 2015 Series B Bonds, for deposit in the 2015 Series B Bonds Sinking Fund, an amount equal to 1/3<sup>rd</sup> of the amount of principal which will become due on the 2015 Series B Bonds 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 2015 Series B Bonds Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payments 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.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Reserve Accounts for the Prior Bonds, the amounts required by the Prior

Resolutions, and (ii) commencing 4 months prior to the first date of payment of principal of the 2015 Series B Bonds, if not fully funded upon issuance of the 2015 Series B Bonds, for deposit in the 2015 Series B Bonds Reserve Account, an amount equal to 1/120<sup>th</sup> of the 2015 Series B Bonds Reserve Requirement, until the amount in the 2015 Series B Bonds Reserve Account equals the 2015 Series B Bonds Reserve Requirement; provided that no further payments shall be made into the 2015 Series B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the 2015 Series B Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund a sum equal to 2½% of the Gross Revenues each month (as previously set forth in the Prior Resolutions and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of the month, transfer from the Revenue Fund and deposit into the I&I Fund, all amount remaining in the Revenue Fund after making the transfers set forth in paragraphs 1 through 5 above, until the sum of \$18,000 has been deposited therein during the then current month. All funds in the I&I Fund shall be kept separate and apart from all other funds of the Issuer and the Depository Bank.

Withdrawals and disbursements from the I&I Fund shall be made by the Issuer only for correcting problems with inflow and infiltration with respect to the System and only in accordance with the applicable orders of the Commission, provided that the I&I Fund shall only be required to be maintained and funded as long as required by the Commission

Monies in the 2015 Series B Bonds Sinking Fund shall be used only for the purpose of paying principal of and interest, if any, on the 2015 Series B Bonds as the same shall become due. Monies in the 2015 Series B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the 2015 Series B Bonds, as the same shall come due, when other monies in the 2015 Series B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the 2015 Series B Bonds Sinking Fund and the 2015 Series B Bonds Reserve Account shall be returned, not less than one time each year, by

the Commission to the Issuer, and such amount shall, during construction of the Project, be deposited to the 2015 Series B Bonds Construction Trust Fund, and following completion of the Project, shall be deposited to the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the 2015 Series B Bonds, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the 2015 Series B Bonds Reserve Account which result in a reduction in the balance of such account to below the 2015 Series B Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the 2015 Series B Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on and principal of such Parity Bonds 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 2015 Series B Bonds Sinking Fund or the 2015 Series B Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the 2015 Series B Bonds issued pursuant to this Resolution 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 2015 Series B Bonds Sinking Fund and the 2015 Series B Bonds Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. 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.

Monies in the 2015 Series B Bonds Reserve Account and 2015 Series B Bonds Sinking Fund shall be invested and reinvested by the Commission in accordance with Section 7.01 hereof.

The 2015 Series B Bonds Sinking Fund and the 2015 Series B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the 2015 Series B Bonds under the conditions and restrictions hereinafter set forth.

Principal, interest or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the 2015 Series B Bonds and the Prior Bonds in accordance with the respective principal amounts then Outstanding.

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 principal, interest, if any, and reserve account payments with respect to the 2015 Series B Bonds and all such payments shall be remitted to the Commission with appropriate

instructions as to the custody, use and application thereof consistent with the provisions of this Resolution. 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. 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.

D. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay the charges and the fees then due. 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.

E. The monies 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.

F. 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 4.03, and the Net Revenues shall be applied to such deficiencies on a parity and pro rata with respect to the 2015 Series B Bonds and the Prior Bonds all in accordance with the respective principal amounts outstanding before being applied to any other payments hereunder.

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

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

## ARTICLE V

### APPLICATION OF BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 5.01. Application of Bond Proceeds. From the monies received from the sale of the 2015 Series B Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the 2015 Series B Bonds, there shall be deposited with the Commission in the 2015 Series B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the 2015 Series B Bonds Reserve Account.

B. The remaining proceeds of the 2015 Series B Bond shall be deposited with the Depository Bank in the 2015 Series B Bonds Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 5.02 hereof, and until expended, are hereby pledged as additional security for the 2015 Series B Bonds.

Section 5.02. Disbursements from the 2015 Series B Bonds Construction Trust Fund. 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 set forth in Section 5.01 hereof, disbursements from the 2015 Series B Bonds 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.

Pending such application, monies in the 2015 Series B Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

Section 5.03 Excess Bond Proceeds. Upon completion of construction of the Project, as certified by the Consulting Engineers, and after all costs have been paid, any remaining proceeds of the 2015 Series B Bonds shall be applied as directed by the Council.

## ARTICLE VI

### ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the 2015 Series B Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holder or Holders of the 2015 Series B Bonds, as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said 2015 Series B Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The 2015 Series B Bonds shall not be or 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 Resolution. No Holder or Holders of the 2015 Series B Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the 2015 Series B Bonds or the interest thereon.

Section 6.03. Bonds Secured by Pledge of Net Revenues; Lien Position. The payment of the debt service of the 2015 Series B Bonds issued hereunder shall be secured by a first lien on the Net Revenues derived from the System, on a parity with the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the 2015 Series B Bonds and the Prior Bonds and to make the payments into all funds and accounts, and all other payments provided for in this Resolution and the Prior Resolutions are hereby irrevocably pledged, in the manner provided herein, to such payments as the same become due.

Section 6.04. 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 are and 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 and approved and described in the Recommended Decision entered March 18, 2015, as modified by the Commission Order entered on April 17, 2015 in Case No. 14-1924-PSD-CN (the "PSC Order"), with all requisite appeal periods having expired without successful appeal. Such order is in full force and effect, and such rates and charges are hereby adopted.

So long as the 2015 Series B Bonds are 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 Resolution and in compliance with the requirements of the Loan Agreement. In the event the schedule of rates and charges initially established for the System in connection with the 2015 Series B Bonds shall prove to be insufficient to produce the required sums set forth in this

Resolution 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 and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Resolution and the Loan Agreement.

Section 6.05. Sale of the System. So long as the Prior Bonds are Outstanding, the Issuer shall not sell, lease, mortgage or in any manner dispose of or encumber the System, or any part thereof, except as provided in the Prior Resolutions and with the written consent of the Authority.

So long as the 2015 Series B Bonds are 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 2015 Series B Bonds Outstanding in accordance with Article IX hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the 2015 Series B Bonds, immediately be remitted to the Commission for deposit in the 2015 Series B Bonds Sinking Fund and with the written permission of the Authority and the Council, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the 2015 Series B Bonds in accordance with Article IX hereof. Any balance remaining after the payment of the 2015 Series B Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission 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 Fund. 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 Engineer, that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding in accordance with the laws of the State. The proceeds derived from any such sale, lease or other disposition of such property shall be deposited into the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said fund by other provisions of this Resolution.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holder of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable out of Revenues and General Covenant against Encumbrances. Except as provided in this Section 6.06 and Section 6.07 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 2015 Series B Bonds and the Prior Bonds. All obligations hereafter issued by the Issuer payable from the revenues of the System, except additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the 2015 Series B Bonds and the Prior Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein and in the Prior Resolutions have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the 2015 Series B Bonds, and any interest thereon, upon any of the income and revenues of the System pledged for payment of the 2015 Series B Bonds and the interest thereon, if any, in this Resolution, or upon the System or any part hereof.

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 for the Project, or any other obligations related to the Project or the System.

Section 6.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolutions shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the 2015 Series B Bonds pursuant to this Resolution, without the prior written consent of the Authority without complying with the conditions and requirements herein provided (unless less restrictive than the provisions of the Prior Resolutions).

All Parity Bonds issued hereunder shall be on a parity in all respects with the 2015 Series B Bonds.

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

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants reciting the conclusion that the Net Revenues 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 the improvements to be financed by such Parity Bonds and any increase in rates adopted by the Issuer and approved by the PSC, the time for appeal of which shall have expired prior to the 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 discussed 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, as stated in a certificate, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the PSC, the time for appeal of which shall have expired prior to the issuance of such Parity Bonds.

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

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the 2015 Series B Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the 2015 Series B Bonds.

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

Section 6.08. 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 duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination. 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, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer for which complete and correct entries shall be made of all transactions relating to the System, and any Holder of 2015 Series B Bonds issued pursuant to this Resolution shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed 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 initiate the manner by which subsidiary records of the accounting system which may be installed

remotely 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 Authority, the Council or any other original purchaser of the 2015 Series B Bonds, and shall mail in each year to any Holder or Holders of 2015 Series B Bonds requesting the same, an annual report containing the following:

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

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

(C) The amount of any Bonds, 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 (and to the extent legally required, in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of 2015 Series B Bonds, and shall submit said report to the Authority and the Council or any other purchaser of the 2015 Series B Bonds. 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 Resolution and that the revenues of the System are adequate to meet the Issuer's 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 6.09. Rates. Prior to the issuance of the 2015 Series B Bonds, equitable rates or charges for the use of and service rendered by the System shall have been 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 2015 Series B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the 2015 Series B Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the 2015 Series B Bonds Reserve Requirement are on deposit in the 2015 Series B Bonds Reserve Account and all reserve accounts for obligations on a parity with the 2015 Series B Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of, and interest, if any, on the 2015 Series B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, the 2015 Series B Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services of the System described in Section 6.04.

Section 6.10. 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 the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no 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 of the System to the Authority and the Council and to any Holder of any 2015 Series B Bonds, 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 Holder of any 2015 Series B Bonds or anyone acting for and in behalf of such Holder of any 2015 Series B Bonds.

Section 6.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, 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 Engineer, which have been approved by all necessary governmental bodies. The Issuer shall employ qualified operating personnel properly certified by the State to operate the System so long as the 2015 Series B Bonds are Outstanding.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following 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 10<sup>th</sup> day of each month.

Section 6.12. 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 6.13. 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.

Whenever any rates, fees, rentals or other charges for the services or 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 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 6.14. 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 6.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 6.16. Insurance and Construction Bonds.

A. The Issuer hereby covenants and agrees that so long as the 2015 Series B Bonds remain 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 Fund and be 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 Fund. 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 \$1,000,000 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) WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amount 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 Section 39 of Chapter 38, Article 2 of the Code 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 for the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. The Issuer shall verify such insurance prior to commencement of the construction.

Section 6.17. Completion and Operation of Project; Permits and Orders. The Issuer will 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 and approvals required by State and federal laws for the acquisition and construction of the Project and all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project, the operation of the System and all approvals for issuance of the 2015 Series B Bonds required by State law, with all requisite appeal periods having expired without successful appeal and the Issuer shall provide an opinion of counsel to such effect.

Section 6.18. Statutory Mortgage Lien. For the further protection of the Holder of the 2015 Series B Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the 2015 Series B Bonds and shall be on a parity with the Prior Bonds.

Section 6.19. Compliance with Loan Agreement and Law. The Issuer shall perform, satisfy and comply with all terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will 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 6.20. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 6.21. Securities Law 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 6.22. Contracts; Change Orders. A. The Issuer shall, simultaneously with the delivery of the 2015 Series B Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project. 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.

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 2015 Series B Bonds held in "contingency" as set forth in Schedule B 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 2015 Series B Bonds made available due to bid or construction or project underruns.

## ARTICLE VII

### INVESTMENT OF FUNDS

Section 7.01. Investments. Any monies held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission, 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 Resolution, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 7.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and 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, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank 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 investment or trust department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the 2015 Series B Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the 2015 Series B Bonds from gross income for federal income tax purposes.

Section 7.02. Certificate as to Use of Proceeds; Covenants 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 2015 Series B Bonds as a condition to issuance of the 2015 Series B Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the 2015 Series B Bonds as may be necessary in order to maintain the status of the 2015 Series B Bonds as public purpose bonds; (ii) that it shall not take, or permit to suffer to be taken, any action with respect to the Issuer's use of the proceeds of the 2015 Series B Bonds 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 2015 Series B Bonds 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 7.02, 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 2015 Series B Bonds and any additional information requested by the Authority.

ARTICLE VIII

DEFAULTS AND REMEDIES

Section 8.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the 2015 Series B Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest, if any, on the 2015 Series B Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the 2015 Series B Bonds set forth in this Resolution or by any Supplemental Resolution thereto, or in the 2015 Series B Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Bond Registrar or any other Paying Agent or a Holder of a Bond; or

(C) If a default occurs with respect to the Prior Bonds or the Prior Resolutions;  
or

(D) 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 8.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a 2015 Series B 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 this Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the 2015 Series B Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of any express trust for the Registered Owners of the 2015 Series B Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of this Resolution with respect to the 2015 Series B Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the 2015 Series Bonds shall be on a parity with those of the Holders of the Prior Bonds.

Section 8.03. Appointment of Receiver. Any Registered Owner of a 2015 Series B Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the 2015 Series B Bonds, any Registered Owner of a 2015 Series B 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, or both, on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the 2015 Series B Bonds 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 Resolution and the Act.

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

Whenever all that is due upon the 2015 Series B Bonds and interest thereon, if any, and under any covenants of this Resolution 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 Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any 2015 Series B Bonds 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, 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 Owners of the 2015 Series B Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such 2015 Series B Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Resolution, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

## ARTICLE IX

### PAYMENT OF BONDS

Section 9.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the 2015 Series B Bonds, 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 Resolution, then the pledge of Net Revenues and other monies and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the 2015 Series B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the 2015 Series B Bonds from gross income for federal income tax purposes.

## ARTICLE X

### MISCELLANEOUS

Section 10.01. Amendment or Modification of Resolution. Prior to the issuance of the 2015 Series B Bonds, this Resolution may be amended or supplemented in any way by a Supplemental Resolution. Following the issuance of the 2015 Series B Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the 2015 Series B Bonds shall be made without the consent in writing of the Registered Owners of the 2015 Series B Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the 2015 Series B 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 2015 Series B Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Resolution may be amended

without the consent of any Bondholder 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 2015 Series B Bonds for gross income of the Holders thereof.

Section 10.02. Resolution Constitutes Contract. The provisions of this Resolution shall constitute a contract between the Issuer and the Registered Owners of the 2015 Series B Bonds, and no change, variation or alteration of any kind of the provisions of this Resolution shall be made in any manner, except as in this Resolution provided.

Section 10.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution, or any Supplemental Resolution thereto, 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, any Supplemental Resolution or the 2015 Series B Bonds.

Section 10.04. 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 10.05. Conflicting Provisions Repealed; Prior Resolutions. Except for the Prior Resolutions, all orders or resolutions and parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Resolution and the Prior Resolutions, the Prior Resolutions shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 10.06. 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 and passage 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 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 10.07. Effective Date. This Resolution shall take effect immediately upon adoption thereof.

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Adopted this 11<sup>th</sup> day of June, 2015.

NORTH BECKLEY PUBLIC SERVICE DISTRICT

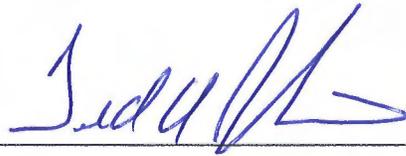
By:  \_\_\_\_\_  
Chairman

CERTIFICATION

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Public Service Board of NORTH BECKLEY PUBLIC SERVICE DISTRICT on the 11<sup>th</sup> day of June, 2015, and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on the 18<sup>th</sup> day of June, 2015.

[SEAL]



Secretary

Exhibit A

(FORM OF 2015 SERIES B BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That on this \_\_\_ day of \_\_\_\_\_, 2015, NORTH BECKLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the principal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_) 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\_\_, to and including \_\_\_\_\_ 1, 20\_\_ as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference with interest of one percent (1%) per annum payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_ 1, 20\_\_, to and including \_\_\_\_\_ 1, 20\_\_ 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

between the Issuer and the Authority, on behalf of the Council, dated \_\_\_\_\_, 2015.

This Bond is issued to (i) pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public sewerage system of the Issuer including, but not limited to, the construction of a new sewer collection system to replace the existing sewer collection system of the Stanaford Acres subdivision and line extensions to the existing System (the "Project") and (ii) pay costs of issuing the 2015 Series B Bonds and related costs. The existing public sewerage system of the Issuer, the Project and any further extensions, additions, betterments or improvements 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 \_\_\_\_\_, 2015, as supplemented by a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2015 (together, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (I) SEWER REVENUE BONDS, SERIES 1999, DATED JANUARY 28, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$8,090,898 (THE "SERIES 1999 BONDS"), (II) SEWER REVENUE BONDS, SERIES 2003 A, DATED SEPTEMBER 29, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,307,741 (THE "SERIES 2003 A BONDS"), (III) SEWER REVENUE BONDS, SERIES 2009 A, DATED OCTOBER 29, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,544,324 (THE "SERIES 2009 A BONDS"), (IV) SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA), DATED OCTOBER 29, 2009, IN THE ORIGINAL PRINCIPAL AMOUNT OF \$2,415,521 (THE "SERIES 2009 B BONDS"), AND (V) SEWER REVENUE BONDS, 2015 SERIES A (BRANCH BANKING AND TRUST COMPANY), DATED MAY 7, 2015, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$210,000 (THE "2015 SERIES A BONDS" AND TOGETHER WITH THE SERIES 1999 BONDS, THE SERIES 2003 A BONDS, THE SERIES 2009 A BONDS AND THE SERIES 2009 B BONDS, COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System on a parity with the pledge of the Net Revenues in favor of the Holders of the Prior Bonds, and from monies in the reserve account created under the Resolution for this Bond (the

“2015 Series B Bonds Reserve Account”) and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act, and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the monies in the 2015 Series B Bonds Reserve Account and unexpended proceeds from the 2015 Series B Bonds. Pursuant to the Resolution, 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 the 2015 Series B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, this Bond and the Prior Bonds; provided however, that so long as the 2015 Series B Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on this Bond in the then current or any succeeding year, and the reserve accounts for any other obligations outstanding on a parity with or subordinate to this Bond, including the Prior Bonds, are funded at an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution or any Supplemental Resolution), 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 Resolution, shall be applied solely to payment of the Costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the Registered Owner of this Bond.

Under the Act, this Bond is exempt from taxation by the State of West Virginia and other taxing bodies of the State.

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

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

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, NORTH BECKLEY 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 the day and year first above written.

[SEAL]

NORTH BECKLEY PUBLIC  
SERVICE DISTRICT

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Chairman

Attest:

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Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is one of the 2015 Series B Bonds described in and issued under the provisions of the within mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

Date: \_\_\_\_\_, 2015.

UNITED BANK, INC.,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

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

TOTAL \$

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto \_\_\_\_\_, the within-mentioned Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, attorney, to transfer the said Bond on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_

IN THE PRESENCE OF:

\_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE

Bond Debt Service

North Beckley PSD

IF

\$2,354,862

1% Interest Rate

40 Years from Closing Date

Dated Date 6/18/2015

Delivery

Date 6/18/2015

Period Ending	Principal	Coupon	Interest	Debt Service
3/1/2017	5,924	1.000%	5,887.16	11,811.16
6/1/2017	5,939	1.000%	5,872.35	11,811.35
9/1/2017	5,954	1.000%	5,857.50	11,811.50
12/1/2017	5,968	1.000%	5,842.61	11,810.61
3/1/2018	5,983	1.000%	5,827.69	11,810.69
6/1/2018	5,998	1.000%	5,812.74	11,810.74
9/1/2018	6,013	1.000%	5,797.74	11,810.74
12/1/2018	6,028	1.000%	5,782.71	11,810.71
3/1/2019	6,043	1.000%	5,767.64	11,810.64
6/1/2019	6,058	1.000%	5,752.53	11,810.53
9/1/2019	6,074	1.000%	5,737.39	11,811.39
12/1/2019	6,089	1.000%	5,722.20	11,811.20
3/1/2020	6,104	1.000%	5,706.98	11,810.98
6/1/2020	6,119	1.000%	5,691.72	11,810.72
9/1/2020	13,565	1.000%	5,676.42	19,241.42
12/1/2020	13,599	1.000%	5,642.51	19,241.51
3/1/2021	13,633	1.000%	5,608.51	19,241.51
6/1/2021	13,667	1.000%	5,574.43	19,241.43
9/1/2021	13,702	1.000%	5,540.26	19,242.26
12/1/2021	13,736	1.000%	5,506.01	19,242.01
3/1/2022	13,770	1.000%	5,471.67	19,241.67
6/1/2022	13,805	1.000%	5,437.24	19,242.24
9/1/2022	13,839	1.000%	5,402.73	19,241.73
12/1/2022	13,874	1.000%	5,368.13	19,242.13
3/1/2023	13,908	1.000%	5,333.45	19,241.45
6/1/2023	13,943	1.000%	5,298.68	19,241.68
9/1/2023	13,978	1.000%	5,263.82	19,241.82
12/1/2023	14,013	1.000%	5,228.87	19,241.87
3/1/2024	14,048	1.000%	5,193.84	19,241.84
6/1/2024	14,083	1.000%	5,158.72	19,241.72
9/1/2024	14,118	1.000%	5,123.51	19,241.51
12/1/2024	14,154	1.000%	5,088.22	19,242.22
3/1/2025	14,189	1.000%	5,052.83	19,241.83
6/1/2025	14,224	1.000%	5,017.36	19,241.36
9/1/2025	14,260	1.000%	4,981.80	19,241.80
12/1/2025	14,296	1.000%	4,946.15	19,242.15
3/1/2026	14,331	1.000%	4,910.41	19,241.41
6/1/2026	14,367	1.000%	4,874.58	19,241.58
9/1/2026	14,403	1.000%	4,838.67	19,241.67
12/1/2026	14,439	1.000%	4,802.66	19,241.66
3/1/2027	14,475	1.000%	4,766.56	19,241.56
6/1/2027	14,511	1.000%	4,730.37	19,241.37

9/1/2027 14,548 1.000% 4,694.10 19,242.10

Jun 4, 2015 10:19 am Prepared by Piper Jaffray & Co.

(WDA:LOANS-NBECK115) 2

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
12/1/2027	14,584	1.000%	4,657.73	19,241.73
3/1/2028	14,621	1.000%	4,621.27	19,242.27
6/1/2028	14,657	1.000%	4,584.71	19,241.71
9/1/2028	14,694	1.000%	4,548.07	19,242.07
12/1/2028	14,731	1.000%	4,511.34	19,242.34
3/1/2029	14,767	1.000%	4,474.51	19,241.51
6/1/2029	14,804	1.000%	4,437.59	19,241.59
9/1/2029	14,841	1.000%	4,400.58	19,241.58
12/1/2029	14,878	1.000%	4,363.48	19,241.48
3/1/2030	14,916	1.000%	4,326.28	19,242.28
6/1/2030	14,953	1.000%	4,288.99	19,241.99
9/1/2030	14,990	1.000%	4,251.61	19,241.61
12/1/2030	15,028	1.000%	4,214.14	19,242.14
3/1/2031	15,065	1.000%	4,176.57	19,241.57
6/1/2031	15,103	1.000%	4,138.90	19,241.90
9/1/2031	15,141	1.000%	4,101.15	19,242.15
12/1/2031	15,179	1.000%	4,063.29	19,242.29
3/1/2032	15,216	1.000%	4,025.35	19,241.35
6/1/2032	15,255	1.000%	3,987.31	19,242.31
9/1/2032	15,293	1.000%	3,949.17	19,242.17
12/1/2032	15,331	1.000%	3,910.94	19,241.94
3/1/2033	15,369	1.000%	3,872.61	19,241.61
6/1/2033	15,408	1.000%	3,834.19	19,242.19
9/1/2033	15,446	1.000%	3,795.67	19,241.67
12/1/2033	15,485	1.000%	3,757.05	19,242.05
3/1/2034	15,524	1.000%	3,718.34	19,242.34
6/1/2034	15,562	1.000%	3,679.53	19,241.53
9/1/2034	15,601	1.000%	3,640.62	19,241.62
12/1/2034	15,640	1.000%	3,601.62	19,241.62
3/1/2035	15,679	1.000%	3,562.52	19,241.52
6/1/2035	15,719	1.000%	3,523.32	19,242.32
9/1/2035	15,758	1.000%	3,484.03	19,242.03
12/1/2035	15,797	1.000%	3,444.63	19,241.63
3/1/2036	15,837	1.000%	3,405.14	19,242.14
6/1/2036	15,876	1.000%	3,365.55	19,241.55
9/1/2036	15,916	1.000%	3,325.86	19,241.86
12/1/2036	15,956	1.000%	3,286.07	19,242.07
3/1/2037	15,996	1.000%	3,246.18	19,242.18
6/1/2037	16,036	1.000%	3,206.19	19,242.19
9/1/2037	16,076	1.000%	3,166.10	19,242.10
12/1/2037	16,116	1.000%	3,125.91	19,241.91
3/1/2038	16,156	1.000%	3,085.62	19,241.62
6/1/2038	16,197	1.000%	3,045.23	19,242.23
9/1/2038	16,237	1.000%	3,004.73	19,241.73
12/1/2038	16,278	1.000%	2,964.14	19,242.14

3/1/2039	16,318	1.000%	2,923.45	19,241.45
6/1/2039	16,359	1.000%	2,882.65	19,241.65

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Jun 4, 2015 10:19 am Prepared by Piper Jaffray & Co.

(WDA:LOANS-NBECK115) 3

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
9/1/2039	16,400	1.000%	2,841.75	19,241.75
12/1/2039	16,441	1.000%	2,800.75	19,241.75
3/1/2040	16,482	1.000%	2,759.65	19,241.65
6/1/2040	16,523	1.000%	2,718.45	19,241.45
9/1/2040	16,565	1.000%	2,677.14	19,242.14
12/1/2040	16,606	1.000%	2,635.73	19,241.73
3/1/2041	16,648	1.000%	2,594.21	19,242.21
6/1/2041	16,689	1.000%	2,552.59	19,241.59
9/1/2041	16,731	1.000%	2,510.87	19,241.87
12/1/2041	16,773	1.000%	2,469.04	19,242.04
3/1/2042	16,815	1.000%	2,427.11	19,242.11
6/1/2042	16,857	1.000%	2,385.07	19,242.07
9/1/2042	16,899	1.000%	2,342.93	19,241.93
12/1/2042	16,941	1.000%	2,300.68	19,241.68
3/1/2043	16,984	1.000%	2,258.33	19,242.33
6/1/2043	17,026	1.000%	2,215.87	19,241.87
9/1/2043	17,069	1.000%	2,173.30	19,242.30
12/1/2043	17,111	1.000%	2,130.63	19,241.63
3/1/2044	17,154	1.000%	2,087.85	19,241.85
6/1/2044	17,197	1.000%	2,044.97	19,241.97
9/1/2044	17,240	1.000%	2,001.98	19,241.98
12/1/2044	17,283	1.000%	1,958.88	19,241.88
3/1/2045	17,326	1.000%	1,915.67	19,241.67
6/1/2045	17,369	1.000%	1,872.35	19,241.35
9/1/2045	17,413	1.000%	1,828.93	19,241.93
12/1/2045	17,456	1.000%	1,785.40	19,241.40
3/1/2046	17,500	1.000%	1,741.76	19,241.76
6/1/2046	17,544	1.000%	1,698.01	19,242.01
9/1/2046	17,588	1.000%	1,654.15	19,242.15
12/1/2046	17,632	1.000%	1,610.18	19,242.18
3/1/2047	17,676	1.000%	1,566.10	19,242.10
6/1/2047	17,720	1.000%	1,521.91	19,241.91
9/1/2047	17,764	1.000%	1,477.61	19,241.61
12/1/2047	17,809	1.000%	1,433.20	19,242.20
3/1/2048	17,853	1.000%	1,388.68	19,241.68
6/1/2048	17,898	1.000%	1,344.04	19,242.04
9/1/2048	17,943	1.000%	1,299.30	19,242.30
12/1/2048	17,987	1.000%	1,254.44	19,241.44
3/1/2049	18,032	1.000%	1,209.47	19,241.47
6/1/2049	18,077	1.000%	1,164.39	19,241.39
9/1/2049	18,123	1.000%	1,119.20	19,242.20
12/1/2049	18,168	1.000%	1,073.89	19,241.89
3/1/2050	18,213	1.000%	1,028.47	19,241.47
6/1/2050	18,259	1.000%	982.94	19,241.94
9/1/2050	18,305	1.000%	937.29	19,242.29

12/1/2050	18,350	1.000%	891.53	19,241.53
3/1/2051	18,396	1.000%	845.66	19,241.66

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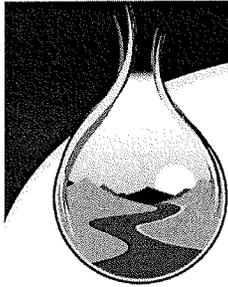
Jun 4, 2015 10:19 am Prepared by Piper Jaffray & Co.

(WDA:LOANS-NBECK115) 4

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
6/1/2051	18,442	1.000%	799.67	19,241.67
9/1/2051	18,488	1.000%	753.56	19,241.56
12/1/2051	18,535	1.000%	707.34	19,242.34
3/1/2052	18,581	1.000%	661.00	19,242.00
6/1/2052	18,627	1.000%	614.55	19,241.55
9/1/2052	18,674	1.000%	567.98	19,241.98
12/1/2052	18,721	1.000%	521.30	19,242.30
3/1/2053	18,767	1.000%	474.50	19,241.50
6/1/2053	18,814	1.000%	427.58	19,241.58
9/1/2053	18,861	1.000%	380.54	19,241.54
12/1/2053	18,908	1.000%	333.39	19,241.39
3/1/2054	18,956	1.000%	286.12	19,242.12
6/1/2054	19,003	1.000%	238.73	19,241.73
9/1/2054	19,051	1.000%	191.22	19,242.22
12/1/2054	19,098	1.000%	143.60	19,241.60
3/1/2055	19,146	1.000%	95.85	19,241.85
6/1/2055	19,194	1.000%	47.99	19,241.99
	2,354,862		504,348.67	2,859,210.67





## WEST VIRGINIA

Infrastructure & Jobs Development Council

May 01, 2015

Donna Sawyers  
North Beckley PSD  
122 Clear Water Lane  
Beckley, WV 25801-3159

Re: North Beckley PSD  
Sewer Line Upgrade/Replacement Project No. 2013S-1467  
Bid Under-run Approval

Dear Ms. Sawyers:

The West Virginia Infrastructure and Jobs Development Council's Funding Committee voted on May 1, 2015, to permit the North Beckley Public Service District to utilize the available \$722,035.00 of the bid under-run funds as requested on the \$261,837.00 line extension to the six customers.

Please contact me at (304) 414-6501 (X106) if you have any questions concerning this matter.

Sincerely,

James Ellars  
Executive Director

cc: Katheryn Emery, West Virginia Department of Environmental Protection  
Michael V Lawson, Lawson Engineering & Technical Services  
Eric Combs, Region 1 - Planning & Development Council  
John D Blackwell, DBA John D Blackwell CPA



## WEST VIRGINIA

Infrastructure & Jobs Development Council

April 10, 2015

Chairman  
North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801

Re: North Beckley Public Service District  
Sewer Project 2013S-1467 (Stanaford Acres)  
IJDC Binding Commitment Extension

Dear Chairman:

On April 8, 2015, the West Virginia Infrastructure and Jobs Development Council (Council) reviewed your binding commitment extension request for the above-named project (Project). The Council voted to extend your binding commitment of a \$2,992,040 Infrastructure Fund Wrap Loan (Loan) for an additional ninety (90) days after the expiration date of May 7, 2015.

The Loan will be subject to the terms set forth on the Schedule A attached to the binding commitment letter you received dated May 9, 2015. The Council will set aside a portion of the Infrastructure Fund to make the Loan upon the Sponsor's compliance with the program requirements.

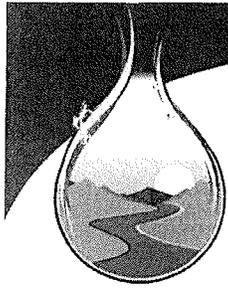
This binding commitment extension shall expire on August 5, 2015. If the Sponsor has any questions regarding this extension, please contact James W. Ellars, Executive Director, at (304) 414-6501 (X106).

Sincerely,

Jason Pizatella  
Chairman

cc: Kathy Emery, DEP (*via e-mail*)  
Michael Lawson, P.E., Lawson Engineering & Tech. Services, Inc. (*via e-mail*)  
Eric Combs, Region I P&DC (*via e-mail*)  
Samme Gee, Jackson Kelly (*via e-mail*)

5-23-11



## WEST VIRGINIA

Infrastructure & Jobs Development Council

May 9, 2014

Chairman  
North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801

Re: North Beckley Public Service District  
Sewer Project 2013S-1467 (Stanaford Acres)  
Funding Change Request – IJDC Binding Commitment  
**(Action Required by May 31, 2014)**

Dear Chairman:

On May 7, 2014, the West Virginia Infrastructure and Jobs Development Council (Council) reviewed your requested funding change for the above-referenced project (Project). The Council voted to provide this binding offer of a \$2,992,040 Infrastructure Fund Wrap Loan (Loan) to the North Beckley Public Service District.

The Loan will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Loan amount will be established after the Sponsor has received acceptable bids for the Project. The Council will set aside a portion of the Infrastructure Fund to make the Loan upon the Sponsor's compliance with the program requirements.

This binding commitment shall expire on May 7, 2015. If the Sponsor has any questions regarding this commitment please contact James W. Ellars, Executive Director, at (304) 414-6501 (X106).

Sincerely,

  
Jason Pizatella



Attachment

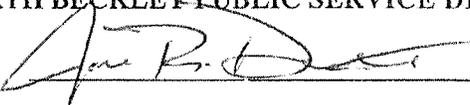
5-23-11

North Beckley PSD  
May 9, 2014  
Page 2 of 3

cc: Kathy Emery, DEP *(via e-mail)*  
Michael Lawson, P.E., Lawson Engineering & Tech. Services, Inc. *(via e-mail)*  
Eric Combs, Region I P&DC *(via e-mail)*  
Samme Gee, Jackson Kelly *(via e-mail)*

**NOTE:** Please acknowledge receipt below, keep one original, and immediately return one copy to the Infrastructure Council.

**NORTH BECKLEY PUBLIC SERVICE DISTRICT**

By: 

Its: Chairman

Date: May 19, 2014

**WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL**

Sewer Project No. 2013S-1467  
North Beckley Public Service District

**SCHEDULE A**

- A. Approximate Amount: \$2,992,040 Wrap Loan
- B. Wrap Loan: \$2,992,040
1. Maturity Date: 40 years from date of closing.
  2. Interest Rate: 1%
  3. Loan Advancement Date(s): Monthly, upon receipt of proper requisition.
  4. Debt Service Commencement: The first quarter following completion of construction, which date must be identified prior to closing.
  5. Special Conditions: None
- NOTICE:** The terms set forth above are subject to change following the receipt of construction bids.
- C. Other Funding: No. Beckley PSD grant \$ 15,000
- D. Total Project Cost: \$3,007,040
- E. Proposed User Rates: Approximately \$35.14 / 4000 gallons

**NORTH BECKLEY PUBLIC SERVICE DISTRICT**

**SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)**

**SUPPLEMENTAL RESOLUTION**

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, REDEMPTION PROVISIONS AND OTHER TERMS OF THE SEWER REVENUE BONDS, 2015 SERIES B (WEST VIRGINIA INFRASTRUCTURE FUND), OF NORTH BECKLEY PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the public service board (the “Governing Body”) of North Beckley Public Service District (the “Issuer”) has duly and officially adopted a Bond Resolution, effective June 11, 2015 (the “Resolution”) entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWER TREATMENT AND DISTRIBUTION FACILITIES OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$2,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, 2015 SERIES B (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund) (the "Bonds"), of the Issuer, in the aggregate principal amount of not more than \$2,500,000 and authorizes the execution and delivery of a loan agreement relating to the Bonds (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");

WHEREAS, the Resolution provides that the principal amounts, dates, maturity dates, interest rates, interest and principal payment dates, redemption provisions and other terms of the Bonds should be established by a Supplemental Resolution thereto and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are 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 entered into by the Issuer, that the principal amounts, dates, maturity dates, interest rates, interest and principal payment dates, redemption provisions and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF NORTH BECKLEY 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 Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund), of the Issuer, initially represented by a single Bond, numbered BR-1, in the principal amount of \$2,354,862, or such lesser amount as shall have been advanced, as set forth in the Record of Advances attached to the Bond. The Bonds shall be dated the date of delivery thereof and shall bear interest at a rate equal to 1.00% per annum. The principal of the Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2017, to and including June 1, 2055, in the amount set forth on "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of a redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds.

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

Section 3. The Issuer does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference. 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, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer does hereby appoint and designate United Bank, Inc., as Registrar (the "Registrar"), for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, 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, and are hereby authorized, approved and directed.

Section 5. The Issuer hereby determines that upon payment in full of its Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,098,898, the Issuer will transfer from any monies remaining in the Series 1999 Bonds Reserve Account held by the West Virginia Municipal Bond Commission to the 2015 Series B Bonds Reserve Account the amount necessary for the 2015 Series B Bonds Reserve Account to equal the 2015 Series B Bonds Reserve Requirement.

Section 6. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Resolution.

Section 7. The Issuer hereby appoints and designates United Bank, Inc., Beckley, West Virginia, as the Depository Bank under the Resolution.

Section 8. All proceeds of the Bonds shall be deposited in or credited to the 2015 Series B Bonds Construction Trust Fund as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds and related costs.

Section 9. The Chairman and the Secretary are hereby authorized and directed to execute and deliver the Bonds and such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered to the Authority on or about June 18, 2015, pursuant to the Loan Agreement.

Section 10. The Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 11. The Issuer hereby determines that it is the best interest of the Issuer to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in time deposits of the Depository Bank meeting the requirements set forth under the definition of “Qualified Investments” in the Resolution and, therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such time deposits, until further directed by the Issuer. Monies in the 2015 Series B Bonds Sinking Fund, including the 2015 Series B Bonds Reserve Account therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

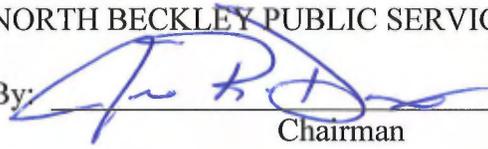
Section 12. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Left Blank]

Adopted this 11<sup>th</sup> day of June, 2015.

NORTH BECKLEY PUBLIC SERVICE DISTRICT

By:

A handwritten signature in blue ink, appearing to be "J. R. ...", is written over a horizontal line.

Chairman

CERTIFICATION

I hereby certify that the foregoing is a true copy of a Supplemental Resolution duly adopted by the Public Service Board of NORTH BECKLEY PUBLIC SERVICE DISTRICT on the 11<sup>th</sup> day of June, 2015, and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on the 18<sup>th</sup> day of June, 2015.

[SEAL]



\_\_\_\_\_  
Secretary

IC-1  
(07/13)

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").

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
(2013S-1467)

(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 Amended Application for a Construction Loan also with attachments and exhibits (together, as

further revised and supplemented, the “Application”), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and made all findings required by the Act and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Infrastructure Fund, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council’s loan program (the “Program”) as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

## ARTICLE I

### Definitions

1.1 Except where the context clearly indicates otherwise, the terms “Authority,” “cost,” “Council,” “governmental agency,” “project,” “waste water facility” and “water facility” have the definitions and meanings ascribed to them in the Act.

1.2 “Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Act and upon authorization from the Council.

1.3 “Consulting Engineers” means the professional engineer, licensed by the State, designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, “Consulting Engineers” shall mean the West Virginia Department of Environmental Protection, or any successor thereto.

1.4 “Infrastructure Fund” means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

1.5 “Loan” means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.6 “Local Act” means the official action of the Governmental Agency required by Section 4.1 hereof, authorizing the Local Bonds.

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 other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

2.4 The Governmental Agency agrees that the Authority and the Council and their duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Governmental Agency further agrees that the Authority and the Council and their duly authorized agents and representatives shall, prior to, during and after completion of construction and commencement of operation of the Project, have such rights of 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 pertinent provisions of the Act.

2.5 The Governmental Agency shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Governmental Agency shall permit the Authority and the Council, acting by and through their directors or their duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Governmental Agency shall submit to the Authority and the Council such documents and information as they may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Governmental Agency agrees that it will permit the Authority and the Council and their agents and representatives to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

2.7 The Governmental Agency shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (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 and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Council and the Authority and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (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 10<sup>th</sup> 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.

2.14 The Governmental Agency shall perform an annual maintenance audit which maintenance audit shall be submitted to the WDA and the Public Service Commission of West Virginia.

## ARTICLE III

### Conditions to Loan; Issuance of Local Bonds

3.1 The agreement of the Authority and Council to make the Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority and the Council, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(b) The Governmental Agency shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(c) The Governmental Agency shall either have received bids or entered into contracts for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application; provided that, if the Loan will refund an interim construction financing, the Governmental Agency must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and the Council shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit A;

(d) The Governmental Agency shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority and the Council shall have received a certificate of the Consulting Engineers to such effect;

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the Council necessary for the construction of the Project and operation of the System, 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;

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, including compliance with Chapter 21, Article 1D of the Code of West Virginia, 1931, as amended, 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.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date

designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, the Council and the Governmental Agency. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority or such later date as is agreed to in writing by the Council.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans from the Infrastructure Fund to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Infrastructure Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

#### ARTICLE IV

##### Local Bonds; Security for Loan; Repayment of Loan; Interest on Loan; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues shall be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the 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;

(iv) That, except as otherwise required by State 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 pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the prior written consent of the Authority and the Council; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Governmental Agency will not render any free services of the System;

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Governmental Agency under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Governmental Agency will not grant any franchise to provide any services which would compete with the System;

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and 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 5<sup>th</sup> day of such calendar month. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal

Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Governmental Agency shall take any and all action, or shall refrain from taking any action regarding the use of the proceeds of the Local Bonds, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xx) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached hereto as Exhibit A, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design 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;

(xxi) That the Governmental Agency shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xxii) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Internal Revenue Code of 1986, as amended) from time to time as the Authority may request;

(xxiii) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B attached to the certificate of the Consulting Engineer. The Governmental Agency shall obtain the written approval of the Council before making any changes to the final Schedule B and also before expending any proceeds of the Local Bonds available due to bid/construction/project underruns;

(xxiv) That the Governmental Agency shall list the funding 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; 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 Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the bonds which are the source of money used to purchase the Local Bonds, unless otherwise agreed to by the Council.

## ARTICLE V

### Certain Covenants of the Governmental Agency; Imposition and Collection of User Charges; Payments To Be Made by Governmental Agency to the Authority

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Governmental Agency 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 (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment due to the Authority pursuant to this Loan Agreement, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including, without limitation, the right to an appointment of a receiver.

## 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.

## ARTICLE VII

### Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Loan and additional covenants and agreements of the Governmental Agency, if any, may be set forth in Schedule Z attached hereto and incorporated herein by reference, with the same effect as if contained in the text of this Loan Agreement.

7.2 Schedules X and Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority and the Council.

7.3 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

7.4 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.5 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

7.6 No waiver by either party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

7.7 This Loan Agreement supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.8 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

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.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

NORTH BECKLEY PUBLIC SERVICE DISTRICT

(SEAL)

Attest:



Its: Secretary

By:



Its: Chairman

Date: June 18, 2015

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

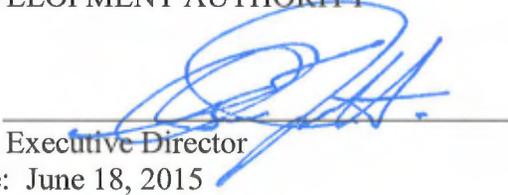
(SEAL)

Attest:



Its: Authorized Officer

By:



Its: Executive Director

Date: June 18, 2015

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 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 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 Schedule B attached hereto as Exhibit A, and my firm<sup>1</sup> has ascertained that all successful bidders have made \_\_\_\_\_

<sup>1</sup>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 \_\_\_\_\_, Esq.] and delete "my firm has ascertained that".

required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof<sup>2</sup>, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; (xi) the successful bidders 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; and (xii) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

4. The Project will serve \_\_\_\_\_ new customers in the \_\_\_\_\_ area.

WITNESS my signature and seal on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

[SEAL]

\_\_\_\_\_  
By: \_\_\_\_\_  
West Virginia License No. \_\_\_\_\_

---

<sup>2</sup>If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of \_\_\_\_\_ of even date herewith," at the beginning of (ix).

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  
1009 Bullitt Street  
Charleston, WV 25301

West Virginia Water Development Authority  
1009 Bullitt Street  
Charleston, WV 25301

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 to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

2. 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 or the Council or diminish the obligations of the Governmental Agency without the consent of the Authority and the Council.

3. The Governmental Agency is a duly organized and validly existing \_\_\_\_\_, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Governmental Agency and constitute valid and binding obligations of the Governmental Agency, enforceable against the Governmental Agency in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Governmental Agency to the Authority and are valid, legally enforceable and binding special obligations of the Governmental Agency, payable from the net or gross revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the net or gross revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

6. The Local Bonds are, by statute, exempt \_\_\_\_\_, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

EXHIBIT C

MONTHLY FINANCIAL REPORT

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

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

\_\_\_\_\_  
**Name of Person Completing Form**

\_\_\_\_\_  
**Address**

\_\_\_\_\_  
**Telephone**

## INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

- Item 1            You will need a copy of the current fiscal year budget adopted by the Governmental Agency to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of \$1,200 are anticipated to be received for the year, each month the base would be increased by \$100 ( $\$1,200/12$ ). This is the incremental amount for the Budget Year-to-Date column.
- Item 2            Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of \$900 are anticipated to be incurred for the year, each month the base would be increased by \$75 ( $\$900/12$ ). This is the incremental amount for the Budget Year-to-Date column.
- Item 3            Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Governmental Agency according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.
- Item 4            Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are \$1,200, then \$30 (2.5% of \$1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Governmental Agency.

**The Governmental Agency must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10<sup>th</sup> day of each month, 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.**

EXHIBIT D

MONTHLY PAYMENT FORM

West Virginia Water Development Authority  
1009 Bullitt Street  
Charleston, WV 25301

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 X

### DESCRIPTION OF LOCAL BONDS

#### A. Series A Bonds

Principal Amount of Local Bonds	\$2,354,862
Purchase Price of Local Bonds	\$2,354,862

The Local Bonds shall bear interest at a rate of 1.0% per annum. Commencing March 1, 2017, principal of and interest on the Local Bonds is payable quarterly. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Governmental Agency shall authorize the Commission to electronically debit its monthly payments. The Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority.

The Local Bonds are fully registered in the name of the Authority as to interests and principal and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Governmental Agency's system as provided in the Local Act.

The Governmental Agency may prepay the Local Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Governmental Agency:

- (i) Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898 (the "Series 1999 Bonds"),
- (ii) (Sewerage System Revenue Bonds, Series 2003 A, dated September 29, 2003 (West Virginia SRF Program), issued in the original aggregate principal amount of \$5,307,741 (the "Series 2003 A Bonds")
- (iii) Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated October 29, 2009, issued in the original aggregate principal amount of \$4,544,324 (the "Series 2009 A Bonds"),

- (iv) Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated October 29, 2009, issued in the original aggregate principal amount of \$2,415,521 (the “Series 2009 B Bonds”), and
- (v) Sewer Revenue Bonds, 2015 Series A (Branch Banking and Trust Company), dated May 7, 2015, issued in the original aggregate principal amount of \$210,000 (the “2015 Series A Bonds” and together with the Series 1999 Bonds, the Series 2003 A Bonds, the Series 2009 A Bonds and the Series 2009 B Bonds, collectively, the “Prior Bonds”).

Number of New Users: 200

Location: Stanaford area, Raleigh County

**SCHEDULE Y**  
**DEBT SERVICE SCHEDULE**

Bond Debt Service  
North Beckley PSD  
IF

\$2,354,862

1% Interest Rate

40 Years from Closing Date

Dated Date 6/18/2015  
Delivery Date 6/18/2015

Period Ending	Principal	Coupon	Interest	Debt Service
3/1/2017	5,924	1.000%	5,887.16	11,811.16
6/1/2017	5,939	1.000%	5,872.35	11,811.35
9/1/2017	5,954	1.000%	5,857.50	11,811.50
12/1/2017	5,968	1.000%	5,842.61	11,810.61
3/1/2018	5,983	1.000%	5,827.69	11,810.69
6/1/2018	5,998	1.000%	5,812.74	11,810.74
9/1/2018	6,013	1.000%	5,797.74	11,810.74
12/1/2018	6,028	1.000%	5,782.71	11,810.71
3/1/2019	6,043	1.000%	5,767.64	11,810.64
6/1/2019	6,058	1.000%	5,752.53	11,810.53
9/1/2019	6,074	1.000%	5,737.39	11,811.39
12/1/2019	6,089	1.000%	5,722.20	11,811.20
3/1/2020	6,104	1.000%	5,706.98	11,810.98
6/1/2020	6,119	1.000%	5,691.72	11,810.72
9/1/2020	13,565	1.000%	5,676.42	19,241.42
12/1/2020	13,599	1.000%	5,642.51	19,241.51
3/1/2021	13,633	1.000%	5,608.51	19,241.51
6/1/2021	13,667	1.000%	5,574.43	19,241.43
9/1/2021	13,702	1.000%	5,540.26	19,242.26
12/1/2021	13,736	1.000%	5,506.01	19,242.01
3/1/2022	13,770	1.000%	5,471.67	19,241.67
6/1/2022	13,805	1.000%	5,437.24	19,242.24
9/1/2022	13,839	1.000%	5,402.73	19,241.73
12/1/2022	13,874	1.000%	5,368.13	19,242.13
3/1/2023	13,908	1.000%	5,333.45	19,241.45
6/1/2023	13,943	1.000%	5,298.68	19,241.68
9/1/2023	13,978	1.000%	5,263.82	19,241.82
12/1/2023	14,013	1.000%	5,228.87	19,241.87
3/1/2024	14,048	1.000%	5,193.84	19,241.84
6/1/2024	14,083	1.000%	5,158.72	19,241.72
9/1/2024	14,118	1.000%	5,123.51	19,241.51
12/1/2024	14,154	1.000%	5,088.22	19,242.22
3/1/2025	14,189	1.000%	5,052.83	19,241.83
6/1/2025	14,224	1.000%	5,017.36	19,241.36
9/1/2025	14,260	1.000%	4,981.80	19,241.80
12/1/2025	14,296	1.000%	4,946.15	19,242.15
3/1/2026	14,331	1.000%	4,910.41	19,241.41
6/1/2026	14,367	1.000%	4,874.58	19,241.58
9/1/2026	14,403	1.000%	4,838.67	19,241.67
12/1/2026	14,439	1.000%	4,802.66	19,241.66
3/1/2027	14,475	1.000%	4,766.56	19,241.56
6/1/2027	14,511	1.000%	4,730.37	19,241.37
9/1/2027	14,548	1.000%	4,694.10	19,242.10

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
12/1/2027	14,584	1.000%	4,657.73	19,241.73
3/1/2028	14,621	1.000%	4,621.27	19,242.27
6/1/2028	14,657	1.000%	4,584.71	19,241.71
9/1/2028	14,694	1.000%	4,548.07	19,242.07
12/1/2028	14,731	1.000%	4,511.34	19,242.34
3/1/2029	14,767	1.000%	4,474.51	19,241.51
6/1/2029	14,804	1.000%	4,437.59	19,241.59
9/1/2029	14,841	1.000%	4,400.58	19,241.58
12/1/2029	14,878	1.000%	4,363.48	19,241.48
3/1/2030	14,916	1.000%	4,326.28	19,242.28
6/1/2030	14,953	1.000%	4,288.99	19,241.99
9/1/2030	14,990	1.000%	4,251.61	19,241.61
12/1/2030	15,028	1.000%	4,214.14	19,242.14
3/1/2031	15,065	1.000%	4,176.57	19,241.57
6/1/2031	15,103	1.000%	4,138.90	19,241.90
9/1/2031	15,141	1.000%	4,101.15	19,242.15
12/1/2031	15,179	1.000%	4,063.29	19,242.29
3/1/2032	15,216	1.000%	4,025.35	19,241.35
6/1/2032	15,255	1.000%	3,987.31	19,242.31
9/1/2032	15,293	1.000%	3,949.17	19,242.17
12/1/2032	15,331	1.000%	3,910.94	19,241.94
3/1/2033	15,369	1.000%	3,872.61	19,241.61
6/1/2033	15,408	1.000%	3,834.19	19,242.19
9/1/2033	15,446	1.000%	3,795.67	19,241.67
12/1/2033	15,485	1.000%	3,757.05	19,242.05
3/1/2034	15,524	1.000%	3,718.34	19,242.34
6/1/2034	15,562	1.000%	3,679.53	19,241.53
9/1/2034	15,601	1.000%	3,640.62	19,241.62
12/1/2034	15,640	1.000%	3,601.62	19,241.62
3/1/2035	15,679	1.000%	3,562.52	19,241.52
6/1/2035	15,719	1.000%	3,523.32	19,242.32
9/1/2035	15,758	1.000%	3,484.03	19,242.03
12/1/2035	15,797	1.000%	3,444.63	19,241.63
3/1/2036	15,837	1.000%	3,405.14	19,242.14
6/1/2036	15,876	1.000%	3,365.55	19,241.55
9/1/2036	15,916	1.000%	3,325.86	19,241.86
12/1/2036	15,956	1.000%	3,286.07	19,242.07
3/1/2037	15,996	1.000%	3,246.18	19,242.18
6/1/2037	16,036	1.000%	3,206.19	19,242.19
9/1/2037	16,076	1.000%	3,166.10	19,242.10
12/1/2037	16,116	1.000%	3,125.91	19,241.91
3/1/2038	16,156	1.000%	3,085.62	19,241.62
6/1/2038	16,197	1.000%	3,045.23	19,242.23
9/1/2038	16,237	1.000%	3,004.73	19,241.73
12/1/2038	16,278	1.000%	2,964.14	19,242.14
3/1/2039	16,318	1.000%	2,923.45	19,241.45
6/1/2039	16,359	1.000%	2,882.65	19,241.65

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

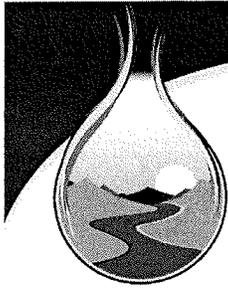
Period Ending	Principal	Coupon	Interest	Debt Service
9/1/2039	16,400	1.000%	2,841.75	19,241.75
12/1/2039	16,441	1.000%	2,800.75	19,241.75
3/1/2040	16,482	1.000%	2,759.65	19,241.65
6/1/2040	16,523	1.000%	2,718.45	19,241.45
9/1/2040	16,565	1.000%	2,677.14	19,242.14
12/1/2040	16,606	1.000%	2,635.73	19,241.73
3/1/2041	16,648	1.000%	2,594.21	19,242.21
6/1/2041	16,689	1.000%	2,552.59	19,241.59
9/1/2041	16,731	1.000%	2,510.87	19,241.87
12/1/2041	16,773	1.000%	2,469.04	19,242.04
3/1/2042	16,815	1.000%	2,427.11	19,242.11
6/1/2042	16,857	1.000%	2,385.07	19,242.07
9/1/2042	16,899	1.000%	2,342.93	19,241.93
12/1/2042	16,941	1.000%	2,300.68	19,241.68
3/1/2043	16,984	1.000%	2,258.33	19,242.33
6/1/2043	17,026	1.000%	2,215.87	19,241.87
9/1/2043	17,069	1.000%	2,173.30	19,242.30
12/1/2043	17,111	1.000%	2,130.63	19,241.63
3/1/2044	17,154	1.000%	2,087.85	19,241.85
6/1/2044	17,197	1.000%	2,044.97	19,241.97
9/1/2044	17,240	1.000%	2,001.98	19,241.98
12/1/2044	17,283	1.000%	1,958.88	19,241.88
3/1/2045	17,326	1.000%	1,915.67	19,241.67
6/1/2045	17,369	1.000%	1,872.35	19,241.35
9/1/2045	17,413	1.000%	1,828.93	19,241.93
12/1/2045	17,456	1.000%	1,785.40	19,241.40
3/1/2046	17,500	1.000%	1,741.76	19,241.76
6/1/2046	17,544	1.000%	1,698.01	19,242.01
9/1/2046	17,588	1.000%	1,654.15	19,242.15
12/1/2046	17,632	1.000%	1,610.18	19,242.18
3/1/2047	17,676	1.000%	1,566.10	19,242.10
6/1/2047	17,720	1.000%	1,521.91	19,241.91
9/1/2047	17,764	1.000%	1,477.61	19,241.61
12/1/2047	17,809	1.000%	1,433.20	19,242.20
3/1/2048	17,853	1.000%	1,388.68	19,241.68
6/1/2048	17,898	1.000%	1,344.04	19,242.04
9/1/2048	17,943	1.000%	1,299.30	19,242.30
12/1/2048	17,987	1.000%	1,254.44	19,241.44
3/1/2049	18,032	1.000%	1,209.47	19,241.47
6/1/2049	18,077	1.000%	1,164.39	19,241.39
9/1/2049	18,123	1.000%	1,119.20	19,242.20
12/1/2049	18,168	1.000%	1,073.89	19,241.89
3/1/2050	18,213	1.000%	1,028.47	19,241.47
6/1/2050	18,259	1.000%	982.94	19,241.94
9/1/2050	18,305	1.000%	937.29	19,242.29
12/1/2050	18,350	1.000%	891.53	19,241.53
3/1/2051	18,396	1.000%	845.66	19,241.66

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
6/1/2051	18,442	1.000%	799.67	19,241.67
9/1/2051	18,488	1.000%	753.56	19,241.56
12/1/2051	18,535	1.000%	707.34	19,242.34
3/1/2052	18,581	1.000%	661.00	19,242.00
6/1/2052	18,627	1.000%	614.55	19,241.55
9/1/2052	18,674	1.000%	567.98	19,241.98
12/1/2052	18,721	1.000%	521.30	19,242.30
3/1/2053	18,767	1.000%	474.50	19,241.50
6/1/2053	18,814	1.000%	427.58	19,241.58
9/1/2053	18,861	1.000%	380.54	19,241.54
12/1/2053	18,908	1.000%	333.39	19,241.39
3/1/2054	18,956	1.000%	286.12	19,242.12
6/1/2054	19,003	1.000%	238.73	19,241.73
9/1/2054	19,051	1.000%	191.22	19,242.22
12/1/2054	19,098	1.000%	143.60	19,241.60
3/1/2055	19,146	1.000%	95.85	19,241.85
6/1/2055	19,194	1.000%	47.99	19,241.99
	2,354,862		504,348.67	2,859,210.67

SCHEDULE Z

(None)



## WEST VIRGINIA

Infrastructure & Jobs Development Council

May 01, 2015

Donna Sawyers  
North Beckley PSD  
122 Clear Water Lane  
Beckley, WV 25801-3159

Re: North Beckley PSD  
Sewer Line Upgrade/Replacement Project No. 2013S-1467  
Bid Under-run Approval

Dear Ms. Sawyers:

The West Virginia Infrastructure and Jobs Development Council's Funding Committee voted on May 1, 2015, to permit the North Beckley Public Service District to utilize the available \$722,035.00 of the bid under-run funds as requested on the \$261,837.00 line extension to the six customers.

Please contact me at (304) 414-6501 (X106) if you have any questions concerning this matter.

Sincerely,

James Ellars  
Executive Director

cc: Katheryn Emery, West Virginia Department of Environmental Protection  
Michael V Lawson, Lawson Engineering & Technical Services  
Eric Combs, Region 1 - Planning & Development Council  
John D Blackwell, DBA John D Blackwell CPA



## WEST VIRGINIA

Infrastructure & Jobs Development Council

April 10, 2015

Chairman  
North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801

Re: North Beckley Public Service District  
Sewer Project 2013S-1467 (Stanaford Acres)  
IJDC Binding Commitment Extension

Dear Chairman:

On April 8, 2015, the West Virginia Infrastructure and Jobs Development Council (Council) reviewed your binding commitment extension request for the above-named project (Project). The Council voted to extend your binding commitment of a \$2,992,040 Infrastructure Fund Wrap Loan (Loan) for an additional ninety (90) days after the expiration date of May 7, 2015.

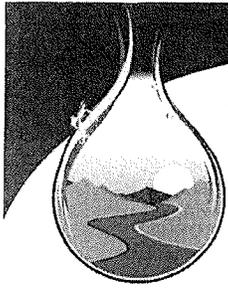
The Loan will be subject to the terms set forth on the Schedule A attached to the binding commitment letter you received dated May 9, 2015. The Council will set aside a portion of the Infrastructure Fund to make the Loan upon the Sponsor's compliance with the program requirements.

This binding commitment extension shall expire on August 5, 2015. If the Sponsor has any questions regarding this extension, please contact James W. Ellars, Executive Director, at (304) 414-6501 (X106).

Sincerely,

Jason Pizatella  
Chairman

cc: Kathy Emery, DEP (*via e-mail*)  
Michael Lawson, P.E., Lawson Engineering & Tech. Services, Inc. (*via e-mail*)  
Eric Combs, Region I P&DC (*via e-mail*)  
Samme Gee, Jackson Kelly (*via e-mail*)



# WEST VIRGINIA

Infrastructure & Jobs Development Council

May 9, 2014

Chairman  
North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801

Re: North Beckley Public Service District  
Sewer Project 2013S-1467 (Stanaford Acres)  
Funding Change Request – IJDC Binding Commitment  
**(Action Required by May 31, 2014)**

Dear Chairman:

On May 7, 2014, the West Virginia Infrastructure and Jobs Development Council (Council) reviewed your requested funding change for the above-referenced project (Project). The Council voted to provide this binding offer of a \$2,992,040 Infrastructure Fund Wrap Loan (Loan) to the North Beckley Public Service District.

The Loan will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final Loan amount will be established after the Sponsor has received acceptable bids for the Project. The Council will set aside a portion of the Infrastructure Fund to make the Loan upon the Sponsor's compliance with the program requirements.

This binding commitment shall expire on May 7, 2015. If the Sponsor has any questions regarding this commitment please contact James W. Ellars, Executive Director, at (304) 414-6501 (X106).

Sincerely,

Jason Pizatella



Attachment

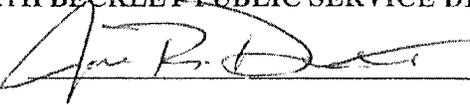
5-23-11

North Beckley PSD  
May 9, 2014  
Page 2 of 3

cc: Kathy Emery, DEP *(via e-mail)*  
Michael Lawson, P.E., Lawson Engineering & Tech. Services, Inc. *(via e-mail)*  
Eric Combs, Region I P&DC *(via e-mail)*  
Samme Gee, Jackson Kelly *(via e-mail)*

**NOTE:** Please acknowledge receipt below, keep one original, and immediately return one copy to the Infrastructure Council.

**NORTH BECKLEY PUBLIC SERVICE DISTRICT**

By: 

Its: Chairman

Date: May 19, 2014

**WEST VIRGINIA INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL**

Sewer Project No. 2013S-1467  
North Beckley Public Service District

**SCHEDULE A**

- A. Approximate Amount: \$2,992,040 Wrap Loan
- B. Wrap Loan: \$2,992,040
1. Maturity Date: 40 years from date of closing.
  2. Interest Rate: 1%
  3. Loan Advancement Date(s): Monthly, upon receipt of proper requisition.
  4. Debt Service Commencement: The first quarter following completion of construction, which date must be identified prior to closing.
  5. Special Conditions: None
- NOTICE:** The terms set forth above are subject to change following the receipt of construction bids.
- C. Other Funding: No. Beckley PSD grant \$ 15,000
- D. Total Project Cost: \$3,007,040
- E. Proposed User Rates: Approximately \$35.14 / 4000 gallons

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**CROSS-RECEIPT FOR BONDS AND BOND PROCEEDS**

On this 18th day of June, 2015, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and the undersigned Chairman of the Public Service Board of North Beckley Public Service District in Raleigh County, West Virginia (the "Issuer"), hereby certify as follows:

(1) On the date hereof, the Authority received the entire original issue of North Beckley Public Service District Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund), issued as a single, fully registered Bond, numbered AR-1, in the principal amount of \$2,354,862, dated June 18, 2015 (the "Bonds").

(2) At the time of such receipt, the Bonds had been executed by the Chairman and the Secretary of the Issuer by their respective manual signatures, and the official seal of the Issuer had been affixed upon the Bonds.

(3) The Issuer has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Bonds, the sum of \$142,120, being a portion of the principal amount of the Bonds. The undersigned mutually acknowledge that the balance of such principal amount will be advanced by the Authority and the Council to the Issuer as requested by the Issuer from time to time as acquisition and construction of the Project proceeds to completion.

(4) This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

[Remainder of Page Intentionally Left Blank]

WITNESS our respective signatures dated the day and year first written above.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: Sheena Chadwell  
Its: Authorized Representative

NORTH BECKLEY PUBLIC SERVICE DISTRICT

By: [Signature]  
Its: Chairman

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**DIRECTION TO AUTHENTICATE AND DELIVER BONDS**

United Bank, Inc. as Registrar  
500 Virginia Street, East  
Charleston, West Virginia

Ladies and Gentlemen:

On this 18th day of June, 2015, there are delivered to you herewith as Registrar for the above-captioned Bonds:

(1) Bond No. BR-1, constituting the entire original issue of North Beckley Public Service District Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund), in the principal amount of \$2,354,862, dated June 18, 2015 (the "Bonds"), executed by the Chairman and the Secretary of North Beckley Public Service District (the "Issuer") and bearing the official seal of the Issuer. The Bonds are authorized to be issued under and pursuant to a Bond Resolution duly adopted by the Issuer on June 11, 2015, and a Supplemental Resolution duly adopted by the Issuer on June 11, 2015 (the "Bond Resolution");

(2) A copy of the Bond Resolution authorizing the Bonds, duly certified by the Secretary of the Issuer;

(3) Executed counterparts of the loan agreement dated June 18, 2015 (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"); and

(3) An executed opinion of nationally recognized bond counsel designated by the Issuer and acceptable to the Authority, regarding the validity of the Loan Agreement and the Bonds.

You are hereby requested and authorized to authenticate, register and deliver the Bonds to the Authority, upon payment to the Issuer of the sum of \$142,120, representing a portion of the principal amount of the Bonds.

Dated the day and year first written above.

NORTH BECKLEY PUBLIC SERVICE DISTRICT

By:  \_\_\_\_\_  
Its: Chairman

# Specimen

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1

\$2,354,862

KNOW ALL MEN BY THESE PRESENTS: That on this 18<sup>th</sup> day of June, 2015, NORTH BECKLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the principal sum of TWO MILLION THREE HUNDRED FIFTY FOUR THOUSAND EIGHT HUNDRED SIXTY TWO DOLLARS (\$2,354,862) 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 March 1, 2017, to and including June 1, 2055 as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference with interest of one percent (1%) per annum payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2017, to and including June 1, 2055 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 between the Issuer and the Authority, on behalf of the Council, dated June 18, 2015.

This Bond is issued to (i) pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public sewerage system of the Issuer including, but not limited to, the construction of a

new sewer collection system to replace the existing sewer collection system of the Stanaford Acres subdivision and line extensions to the existing System (the "Project") and (ii) pay costs of issuing the 2015 Series B Bonds and related costs. The existing public sewerage system of the Issuer, the Project and any further extensions, additions, betterments or improvements 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 June 11, 2015, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 11, 2015 (together, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S (I) SEWER REVENUE BONDS, SERIES 1999, DATED JANUARY 28, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$8,090,898 (THE "SERIES 1999 BONDS"), (II) SEWER REVENUE BONDS, SERIES 2003 A, DATED SEPTEMBER 29, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,307,741 (THE "SERIES 2003 A BONDS"), (III) SEWER REVENUE BONDS, SERIES 2009 A, DATED OCTOBER 29, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,544,324 (THE "SERIES 2009 A BONDS"), (IV) SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA), DATED OCTOBER 29, 2009, IN THE ORIGINAL PRINCIPAL AMOUNT OF \$2,415,521 (THE "SERIES 2009 B BONDS"), AND (V) SEWER REVENUE BONDS, 2015 SERIES A (BRANCH BANKING AND TRUST COMPANY), DATED MAY 7, 2015, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$210,000 (THE "2015 SERIES A BONDS" AND TOGETHER WITH THE SERIES 1999 BONDS, THE SERIES 2003 A BONDS, THE SERIES 2009 A BONDS AND THE SERIES 2009 B BONDS, COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the operation of the System on a parity with the pledge of the Net Revenues in favor of the Holders of the Prior Bonds, and from monies in the reserve account created under the Resolution for this Bond (the "2015 Series B Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act, and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided

from the Net Revenues, the monies in the 2015 Series B Bonds Reserve Account and unexpended proceeds from the 2015 Series B Bonds. Pursuant to the Resolution, 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 the 2015 Series B Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with, or subordinate to, this Bond and the Prior Bonds; provided however, that so long as the 2015 Series B Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on this Bond in the then current or any succeeding year, and the reserve accounts for any other obligations outstanding on a parity with or subordinate to this Bond, including the Prior Bonds, are funded at an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owners of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution or any Supplemental Resolution), 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 Resolution, shall be applied solely to payment of the Costs of the Project and costs of issuance hereof described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the Registered Owner of this Bond.

Under the Act, this Bond is exempt from taxation by the State of West Virginia and other taxing bodies of the State.

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

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

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar's Certificate of Authentication and Registration attached hereto and incorporated herein.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, NORTH BECKLEY 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 the day and year first above written.

[SEAL]

NORTH BECKLEY PUBLIC  
SERVICE DISTRICT

  
Chairman

Attest:

  
Secretary

7354190 (18326.4)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is one of the 2015 Series B Bonds described in and issued under the provisions of the within mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

Date: June 18, 2015.

UNITED BANK, INC.,  
as Registrar

*[Handwritten Signature]*  
\_\_\_\_\_  
Authorized Officer

Specimen

EXHIBIT A  
RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$142,120.00	6/18/2015	(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

(See Attached)

Bond Debt Service

North Beckley PSD

IF

\$2,354,862

1% Interest Rate

40 Years from Closing Date

Dated Date 6/18/2015

Delivery

Date 6/18/2015

Period Ending	Principal	Coupon	Interest	Debt Service
3/1/2017	5,924	1.000%	5,887.16	11,811.16
6/1/2017	5,939	1.000%	5,872.35	11,811.35
9/1/2017	5,954	1.000%	5,857.50	11,811.50
12/1/2017	5,968	1.000%	5,842.61	11,810.61
3/1/2018	5,983	1.000%	5,827.69	11,810.69
6/1/2018	5,998	1.000%	5,812.74	11,810.74
9/1/2018	6,013	1.000%	5,797.74	11,810.74
12/1/2018	6,028	1.000%	5,782.71	11,810.71
3/1/2019	6,043	1.000%	5,767.64	11,810.64
6/1/2019	6,058	1.000%	5,752.53	11,810.53
9/1/2019	6,074	1.000%	5,737.39	11,811.39
12/1/2019	6,089	1.000%	5,722.20	11,811.20
3/1/2020	6,104	1.000%	5,706.98	11,810.98
6/1/2020	6,119	1.000%	5,691.72	11,810.72
9/1/2020	13,565	1.000%	5,676.42	19,241.42
12/1/2020	13,599	1.000%	5,642.51	19,241.51
3/1/2021	13,633	1.000%	5,608.51	19,241.51
6/1/2021	13,667	1.000%	5,574.43	19,241.43
9/1/2021	13,702	1.000%	5,540.26	19,242.26
12/1/2021	13,736	1.000%	5,506.01	19,242.01
3/1/2022	13,770	1.000%	5,471.67	19,241.67
6/1/2022	13,805	1.000%	5,437.24	19,242.24
9/1/2022	13,839	1.000%	5,402.73	19,241.73
12/1/2022	13,874	1.000%	5,368.13	19,242.13
3/1/2023	13,908	1.000%	5,333.45	19,241.45
6/1/2023	13,943	1.000%	5,298.68	19,241.68
9/1/2023	13,978	1.000%	5,263.82	19,241.82
12/1/2023	14,013	1.000%	5,228.87	19,241.87
3/1/2024	14,048	1.000%	5,193.84	19,241.84
6/1/2024	14,083	1.000%	5,158.72	19,241.72
9/1/2024	14,118	1.000%	5,123.51	19,241.51
12/1/2024	14,154	1.000%	5,088.22	19,242.22
3/1/2025	14,189	1.000%	5,052.83	19,241.83
6/1/2025	14,224	1.000%	5,017.36	19,241.36
9/1/2025	14,260	1.000%	4,981.80	19,241.80
12/1/2025	14,296	1.000%	4,946.15	19,242.15
3/1/2026	14,331	1.000%	4,910.41	19,241.41
6/1/2026	14,367	1.000%	4,874.58	19,241.58
9/1/2026	14,403	1.000%	4,838.67	19,241.67
12/1/2026	14,439	1.000%	4,802.66	19,241.66
3/1/2027	14,475	1.000%	4,766.56	19,241.56
6/1/2027	14,511	1.000%	4,730.37	19,241.37
9/1/2027	14,548	1.000%	4,694.10	19,242.10

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
12/1/2027	14,584	1.000%	4,657.73	19,241.73
3/1/2028	14,621	1.000%	4,621.27	19,242.27
6/1/2028	14,657	1.000%	4,584.71	19,241.71
9/1/2028	14,694	1.000%	4,548.07	19,242.07
12/1/2028	14,731	1.000%	4,511.34	19,242.34
3/1/2029	14,767	1.000%	4,474.51	19,241.51
6/1/2029	14,804	1.000%	4,437.59	19,241.59
9/1/2029	14,841	1.000%	4,400.58	19,241.58
12/1/2029	14,878	1.000%	4,363.48	19,241.48
3/1/2030	14,916	1.000%	4,326.28	19,242.28
6/1/2030	14,953	1.000%	4,288.99	19,241.99
9/1/2030	14,990	1.000%	4,251.61	19,241.61
12/1/2030	15,028	1.000%	4,214.14	19,242.14
3/1/2031	15,065	1.000%	4,176.57	19,241.57
6/1/2031	15,103	1.000%	4,138.90	19,241.90
9/1/2031	15,141	1.000%	4,101.15	19,242.15
12/1/2031	15,179	1.000%	4,063.29	19,242.29
3/1/2032	15,216	1.000%	4,025.35	19,241.35
6/1/2032	15,255	1.000%	3,987.31	19,242.31
9/1/2032	15,293	1.000%	3,949.17	19,242.17
12/1/2032	15,331	1.000%	3,910.94	19,241.94
3/1/2033	15,369	1.000%	3,872.61	19,241.61
6/1/2033	15,408	1.000%	3,834.19	19,242.19
9/1/2033	15,446	1.000%	3,795.67	19,241.67
12/1/2033	15,485	1.000%	3,757.05	19,242.05
3/1/2034	15,524	1.000%	3,718.34	19,242.34
6/1/2034	15,562	1.000%	3,679.53	19,241.53
9/1/2034	15,601	1.000%	3,640.62	19,241.62
12/1/2034	15,640	1.000%	3,601.62	19,241.62
3/1/2035	15,679	1.000%	3,562.52	19,241.52
6/1/2035	15,719	1.000%	3,523.32	19,242.32
9/1/2035	15,758	1.000%	3,484.03	19,242.03
12/1/2035	15,797	1.000%	3,444.63	19,241.63
3/1/2036	15,837	1.000%	3,405.14	19,242.14
6/1/2036	15,876	1.000%	3,365.55	19,241.55
9/1/2036	15,916	1.000%	3,325.86	19,241.86
12/1/2036	15,956	1.000%	3,286.07	19,242.07
3/1/2037	15,996	1.000%	3,246.18	19,242.18
6/1/2037	16,036	1.000%	3,206.19	19,242.19
9/1/2037	16,076	1.000%	3,166.10	19,242.10
12/1/2037	16,116	1.000%	3,125.91	19,241.91
3/1/2038	16,156	1.000%	3,085.62	19,241.62
6/1/2038	16,197	1.000%	3,045.23	19,242.23
9/1/2038	16,237	1.000%	3,004.73	19,241.73
12/1/2038	16,278	1.000%	2,964.14	19,242.14
3/1/2039	16,318	1.000%	2,923.45	19,241.45
6/1/2039	16,359	1.000%	2,882.65	19,241.65

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
9/1/2039	16,400	1.000%	2,841.75	19,241.75
12/1/2039	16,441	1.000%	2,800.75	19,241.75
3/1/2040	16,482	1.000%	2,759.65	19,241.65
6/1/2040	16,523	1.000%	2,718.45	19,241.45
9/1/2040	16,565	1.000%	2,677.14	19,242.14
12/1/2040	16,606	1.000%	2,635.73	19,241.73
3/1/2041	16,648	1.000%	2,594.21	19,242.21
6/1/2041	16,689	1.000%	2,552.59	19,241.59
9/1/2041	16,731	1.000%	2,510.87	19,241.87
12/1/2041	16,773	1.000%	2,469.04	19,242.04
3/1/2042	16,815	1.000%	2,427.11	19,242.11
6/1/2042	16,857	1.000%	2,385.07	19,242.07
9/1/2042	16,899	1.000%	2,342.93	19,241.93
12/1/2042	16,941	1.000%	2,300.68	19,241.68
3/1/2043	16,984	1.000%	2,258.33	19,242.33
6/1/2043	17,026	1.000%	2,215.87	19,241.87
9/1/2043	17,069	1.000%	2,173.30	19,242.30
12/1/2043	17,111	1.000%	2,130.63	19,241.63
3/1/2044	17,154	1.000%	2,087.85	19,241.85
6/1/2044	17,197	1.000%	2,044.97	19,241.97
9/1/2044	17,240	1.000%	2,001.98	19,241.98
12/1/2044	17,283	1.000%	1,958.88	19,241.88
3/1/2045	17,326	1.000%	1,915.67	19,241.67
6/1/2045	17,369	1.000%	1,872.35	19,241.35
9/1/2045	17,413	1.000%	1,828.93	19,241.93
12/1/2045	17,456	1.000%	1,785.40	19,241.40
3/1/2046	17,500	1.000%	1,741.76	19,241.76
6/1/2046	17,544	1.000%	1,698.01	19,242.01
9/1/2046	17,588	1.000%	1,654.15	19,242.15
12/1/2046	17,632	1.000%	1,610.18	19,242.18
3/1/2047	17,676	1.000%	1,566.10	19,242.10
6/1/2047	17,720	1.000%	1,521.91	19,241.91
9/1/2047	17,764	1.000%	1,477.61	19,241.61
12/1/2047	17,809	1.000%	1,433.20	19,242.20
3/1/2048	17,853	1.000%	1,388.68	19,241.68
6/1/2048	17,898	1.000%	1,344.04	19,242.04
9/1/2048	17,943	1.000%	1,299.30	19,242.30
12/1/2048	17,987	1.000%	1,254.44	19,241.44
3/1/2049	18,032	1.000%	1,209.47	19,241.47
6/1/2049	18,077	1.000%	1,164.39	19,241.39
9/1/2049	18,123	1.000%	1,119.20	19,242.20
12/1/2049	18,168	1.000%	1,073.89	19,241.89
3/1/2050	18,213	1.000%	1,028.47	19,241.47
6/1/2050	18,259	1.000%	982.94	19,241.94
9/1/2050	18,305	1.000%	937.29	19,242.29
12/1/2050	18,350	1.000%	891.53	19,241.53
3/1/2051	18,396	1.000%	845.66	19,241.66

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
6/1/2051	18,442	1.000%	799.67	19,241.67
9/1/2051	18,488	1.000%	753.56	19,241.56
12/1/2051	18,535	1.000%	707.34	19,242.34
3/1/2052	18,581	1.000%	661.00	19,242.00
6/1/2052	18,627	1.000%	614.55	19,241.55
9/1/2052	18,674	1.000%	567.98	19,241.98
12/1/2052	18,721	1.000%	521.30	19,242.30
3/1/2053	18,767	1.000%	474.50	19,241.50
6/1/2053	18,814	1.000%	427.58	19,241.58
9/1/2053	18,861	1.000%	380.54	19,241.54
12/1/2053	18,908	1.000%	333.39	19,241.39
3/1/2054	18,956	1.000%	286.12	19,242.12
6/1/2054	19,003	1.000%	238.73	19,241.73
9/1/2054	19,051	1.000%	191.22	19,242.22
12/1/2054	19,098	1.000%	143.60	19,241.60
3/1/2055	19,146	1.000%	95.85	19,241.85
6/1/2055	19,194	1.000%	47.99	19,241.99
	2,354,862		504,348.67	2,859,210.67

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto \_\_\_\_\_, the within-mentioned Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, attorney, to transfer the said Bond on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_

IN THE PRESENCE OF:

\_\_\_\_\_



**SPILMAN THOMAS & BATTLE**, PLLC  
ATTORNEYS AT LAW

June 18, 2015

North Beckley Public Service District  
Beckley, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by North Beckley Public Service District in Raleigh County, West Virginia (the “Issuer”), a public service district, public corporation and political subdivision created and existing under the laws of the State of West Virginia (the “State”), of its \$2,354,862 Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund), dated the date hereof (the “Bonds”).

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State, including particularly, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the “Act”), and a Bond Resolution duly adopted by the Issuer on June 11, 2015, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 11, 2015 (collectively, the “Bond Resolution”), to pay the costs of the acquisition and construction of certain additions, betterments and improvements to the existing public sewerage facilities of the Issuer, including the construction of a new sewer collection system to replace the existing sewer collection system of the Stanaford Acres residential subdivision in Raleigh County, West Virginia, and certain line extensions and all necessary appurtenant facilities (the “Project”), and to pay the costs of issuance hereof and related costs. The existing sewerage facilities of the Issuer, the Project, and any further improvements or extensions thereto are herein called the “System.”

We have examined the applicable provisions of the Act, the Bond Resolution, a Loan Agreement dated June 18, 2015, 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

North Beckley Public Service District  
West Virginia Water Development Authority  
West Virginia Infrastructure and Jobs Development Council  
June 18, 2015  
Page 2

Council (the “Council”), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2017, and maturing on June 1, 2055, all as set forth in the Bonds and Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Resolution and the Loan Agreement. All capitalized items used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Resolution and the Loan Agreement when used herein.

In our capacity as bond counsel, we have examined the transcript of proceedings (the “Transcript”) relating to the Bonds, including, but not limited to, certified copies of the Bond Resolution and a copy of a signed and authenticated Bond. The Bonds recite that they have been issued pursuant to the Act to be used in the manner described in the Bond Resolution to finance the costs described therein.

We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents referred to in the first paragraph hereof. We have relied upon and assumed the correctness of the legal conclusions contained in the legal opinion letter of even date herewith of Rist, Higgins & Associates, P.L.L.C., as counsel to the Issuer.

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, that:

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

2. The Loan Agreement has been duly authorized, executed and delivered on behalf of the Issuer, and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the Council and cannot be amended so as to adversely affect the rights of the Authority and the Council or

North Beckley Public Service District  
West Virginia Water Development Authority  
West Virginia Infrastructure and Jobs Development Council  
June 18, 2015  
Page 3

diminish the obligations of the Issuer without the written consent of the Authority and the Council.

3. The Bond Resolution and all other necessary orders and resolutions have been duly and effectively adopted by the Issuer, are in full force and effect as of the date hereof and constitute valid and binding obligations of the Issuer enforceable upon the Issuer in accordance with their terms. The Bond Resolution contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Bonds have been duly authorized, executed and delivered by the Issuer to the Authority and, assuming proper authentication, are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of security for payment with the Prior Bonds, all in accordance with the terms of the Bonds, the Bond Resolution and the Act.

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

6. The Bonds are, under the Act, exempt from taxation by the State and the other taxing bodies of the State.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the Loan Agreement and the Bond Resolution, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity, and by the exercise of judicial discretion. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, waiver or severability provisions contained in the foregoing documents.

This opinion is given as of the date hereof, based on the law in effect and the factual representations made to us as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any changes in law that may hereafter occur or any changes in

North Beckley Public Service District  
West Virginia Water Development Authority  
West Virginia Infrastructure and Jobs Development Council  
June 18, 2015  
Page 4

facts or circumstances that may hereafter occur or come to our attention. This opinion is limited to the matters set forth above, and no other opinions should be implied or inferred beyond the matters expressly stated.

This opinion is rendered to the addressees set forth above solely for their use in connection with the transactions contemplated under the Bond Resolution, is solely for the benefit of those addressees, and their respective successors and assigns and, except where we have given our prior written consent, may not be relied upon by anyone else or used for any purpose other than in connection with the consummation of the transactions contemplated in the Bond Resolution.

We have examined the executed and authenticated Bond number BR-1, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

*Spilman Thomas & Battle, PLLC*

Spilman Thomas & Battle, PLLC



SPILMAN THOMAS & BATTLE, PLLC

ATTORNEYS AT LAW

June 18, 2015

North Beckley Public Service District  
Beckley, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by North Beckley Public Service District in Raleigh County, West Virginia (the “Issuer”), a public service district, public corporation and political subdivision created and existing under the laws of the State of West Virginia (the “State”), of its \$2,354,862 Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund), dated the date hereof (the “Bonds”).

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State, including particularly, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the “Act”), and a Bond Resolution duly adopted by the Issuer on June 11, 2015, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 11, 2015 (collectively, the “Bond Resolution”), to pay the costs of the acquisition and construction of certain additions, betterments and improvements to the existing public sewerage facilities of the Issuer, including the construction of a new sewer collection system to replace the existing sewer collection system of the Stanaford Acres residential subdivision in Raleigh County, West Virginia, and certain line extensions and all necessary appurtenant facilities (the “Project”), and to pay the costs of issuance hereof and related costs. The existing sewerage facilities of the Issuer, the Project, and any further improvements or extensions thereto are herein called the “System.”

We have examined the applicable provisions of the Act, the Bond Resolution, a Loan Agreement dated June 18, 2015, 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

North Beckley Public Service District  
West Virginia Water Development Authority  
West Virginia Infrastructure and Jobs Development Council  
June 18, 2015  
Page 2

Council (the “Council”), and the Bonds, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are originally issued in the form of one Bond, registered as to principal and interest to the Authority, payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2017, and maturing on June 1, 2055, all as set forth in the Bonds and Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Bond Resolution and the Loan Agreement. All capitalized items used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Resolution and the Loan Agreement when used herein.

In our capacity as bond counsel, we have examined the transcript of proceedings (the “Transcript”) relating to the Bonds, including, but not limited to, certified copies of the Bond Resolution and a copy of a signed and authenticated Bond. The Bonds recite that they have been issued pursuant to the Act to be used in the manner described in the Bond Resolution to finance the costs described therein.

We have assumed the genuineness of all documents and signatures presented to us (whether as originals or as copies) and the due and legal execution and delivery thereof by, and validity against, any parties. We have assumed, without undertaking to verify, the accuracy of the factual matters represented, warranted or certified in the documents referred to in the first paragraph hereof. We have relied upon and assumed the correctness of the legal conclusions contained in the legal opinion letter of even date herewith of Rist, Higgins & Associates, P.L.L.C., as counsel to the Issuer.

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, that:

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

2. The Loan Agreement has been duly authorized, executed and delivered on behalf of the Issuer, and is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the Council and cannot be amended so as to adversely affect the rights of the Authority and the Council or

North Beckley Public Service District  
West Virginia Water Development Authority  
West Virginia Infrastructure and Jobs Development Council  
June 18, 2015  
Page 3

diminish the obligations of the Issuer without the written consent of the Authority and the Council.

3. The Bond Resolution and all other necessary orders and resolutions have been duly and effectively adopted by the Issuer, are in full force and effect as of the date hereof and constitute valid and binding obligations of the Issuer enforceable upon the Issuer in accordance with their terms. The Bond Resolution contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Bonds have been duly authorized, executed and delivered by the Issuer to the Authority and, assuming proper authentication, are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of security for payment with the Prior Bonds, all in accordance with the terms of the Bonds, the Bond Resolution and the Act.

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

6. The Bonds are, under the Act, exempt from taxation by the State and the other taxing bodies of the State.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the Loan Agreement and the Bond Resolution, and the liens and pledges set forth therein, may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights generally, and by equitable principles, whether considered at law or in equity, and by the exercise of judicial discretion. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, waiver or severability provisions contained in the foregoing documents.

This opinion is given as of the date hereof, based on the law in effect and the factual representations made to us as of the date hereof, and we assume no obligation to revise or supplement this opinion to reflect any changes in law that may hereafter occur or any changes in

North Beckley Public Service District  
West Virginia Water Development Authority  
West Virginia Infrastructure and Jobs Development Council  
June 18, 2015  
Page 4

facts or circumstances that may hereafter occur or come to our attention. This opinion is limited to the matters set forth above, and no other opinions should be implied or inferred beyond the matters expressly stated.

This opinion is rendered to the addressees set forth above solely for their use in connection with the transactions contemplated under the Bond Resolution, is solely for the benefit of those addressees, and their respective successors and assigns and, except where we have given our prior written consent, may not be relied upon by anyone else or used for any purpose other than in connection with the consummation of the transactions contemplated in the Bond Resolution.

We have examined the executed and authenticated Bond number BR-1, and in our opinion, said Bond is in proper form and has been duly executed and authenticated.

Very truly yours,

*Spilman Thomas & Battle, PLLC*

Spilman Thomas & Battle, PLLC

**RIST, HIGGINS & ASSOCIATES, P.L.L.C.**  
ATTORNEYS AT LAW  
1800 HARPER ROAD  
BECKLEY, WEST VIRGINIA 25801

TELEPHONE NO. 304-255-1400/255-4849  
FACSIMILE NO. 304-255-6914

John F. Rist, III  
E-Mail: [j.rist@suddenlinkmail.com](mailto:j.rist@suddenlinkmail.com)

James C. Higgins (RETIRED)

\$2,354,862  
NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

June 18, 2015

North Beckley Public Service District  
Beckley, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development  
Council Charleston, West Virginia

Spilman Thomas & Battle, PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

We are counsel to North Beckley Public Service District, a public service district in Raleigh County, West Virginia (the "Issuer"), in connection with the issuance and sale of the North Beckley Public Service District Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund) (the "Bonds"). As such counsel, we have reviewed copies of the approving opinion of Spilman Thomas & Battle, PLLC, as bond counsel, the Bond Resolution duly adopted by the Issuer on June 11, 2015, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 11, 2015 (collectively, the "Bond Resolution"), a loan agreement dated June 18, 2015, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), orders of The County Commission of Raleigh County relating to the Issuer and the appointment of members of the Public Service Board of the Issuer and other documents, papers, agreements, instruments and certificates relating to the Bonds. All capitalized terms used herein and not otherwise defined

herein shall have the same meaning set forth in the Bond Resolution and the Loan Agreement when used herein.

We are of the opinion that:

1. The Issuer is duly created and validly existing as a public service district and as a public corporation and political subdivision of the State of West Virginia.

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

3. The Bond Resolution has been duly adopted by the Issuer and is in full force and effect as of the date hereof and constitutes a valid and binding obligation of the Issuer enforceable in accordance with its terms.

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

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

6. To the best of our knowledge, the Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations required by law for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, and the imposition of rates and charges for use of the System, including, without limitation, all requisite orders, certificates and approvals from The County Commission of Raleigh County, the Council and the Public Service Commission of West Virginia.

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 Bonds, the Bond Resolution, the Loan Agreement, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds or pledge of the Net Revenues set forth in the Bond Resolution.

8. We have ascertained that the successful bidders have made the required provisions for all insurance and payment and performance bonds and verified such insurance policies and bonds for accuracy and have verified that the contract or contracts comply with the requirements of Chapter 21, Article 1D of the Code of West Virginia, 1931, as amended. 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

North Beckley Public Service District  
West Virginia Water Development Authority  
West Virginia Infrastructure and Jobs Development Council  
June 18, 2015  
Page 3

policies (i) are in compliance with the contracts; (ii) are adequate in form, substance and amount to protect the various interests of the Issuer; (iii) have been executed by duly authorized representatives of the proper parties; (iv) meet the requirements of the Act, the Bond Resolution and the Loan Agreement; and (v) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

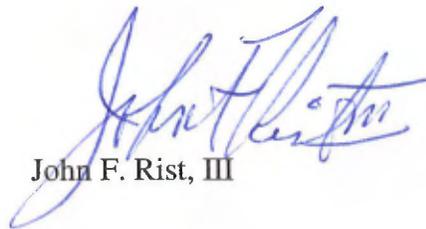
We express no other opinions other than those expressly stated hereinabove. Without limiting the generality of the foregoing sentence, we express no opinion as to the tax, bond or securities laws of the United States or of any state thereof.

It is to be understood that the rights of the various parties to the transaction and the enforceability of the instruments and agreements may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights (to the extent constitutionally applicable), and that the enforcement thereof may also be subject to the exercise of judicial discretion in the appropriate cases.

This opinion is rendered only for the benefit of the addressees and may not be relied upon by other parties without our prior written consent. No attorney-client privilege is waived or intended to be waived by this opinion.

Very truly yours,

RIST, HIGGINS & ASSOCIATES, PLLC



John F. Rist, III

JFR/lp



SPILMAN THOMAS & BATTLE, PLLC

ATTORNEYS AT LAW

\$2,354,862

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

June 18, 2015

North Beckley Public Service District  
Beckley, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council  
Charleston, West Virginia

Ladies and Gentlemen:

We are special counsel to North Beckley Public Service District, a public service district in Raleigh County, West Virginia (the "Issuer"), in connection with certain matters before the Public Service Commission of West Virginia (the "PSC"). As such counsel, we are of the opinion that the Issuer has received the Recommended Decision of the PSC entered March 18, 2015, as modified by Commission Order entered April 17, 2015, in Case No. 14-1924-PSD-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project, approving the financing for the Project and approving the rates and charges for the services of the System. The time for appeal of the Commission Order has expired prior to the date hereof. The Commission Order is in full force and effect.

This opinion is rendered only for the benefit of the addressees and may not be relied upon by other parties without our prior written consent. No attorney-client privilege is waived or intended to be waived by this opinion.

Very truly yours,

*Spilman Thomas & Battle, PLLC*

SPILMAN THOMAS & BATTLE, PLLC

7354441 (18326.4)

Spilman Center | 300 Kanawha Boulevard, East | Post Office Box 273 | Charleston, West Virginia 25321-0273  
www.spilmanlaw.com | 304.340.3800 | 304.340.3801 fax

West Virginia

North Carolina

Pennsylvania

Virginia

Project ID 2013S-1467

**RIST, HIGGINS & ASSOCIATES, P.L.L.C.**

ATTORNEYS AT LAW  
1800 HARPER ROAD  
BECKLEY, WEST VIRGINIA 25801  
TELEPHONE NO. 304-255-1400/255-4849  
FACSIMILE NO. 304-255-6914

JOHN F. RIST, III  
E-Mail: [j.rist@suddenlinkmail.com](mailto:j.rist@suddenlinkmail.com)

JAMES C. HIGGINS (RETIRED)

April 23, 2015

Jim Ellars, P. E., Executive Director  
WV Infrastructure and Jobs Development Council  
1009 Bullitt Street  
Charleston, West Virginia 25301-1003

RE: *North Beckley Public Service District  
Stanaford Acres Sewer Replacement Project*

Dear Mr. Ellars:

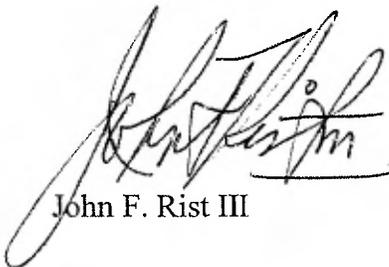
This firm represents North Beckley Public Service District (“District”) with regard to its Stanaford Acres Sewer Replacement Project in Raleigh County (the “Project”). The purpose of this letter is to update my February 2, 2015 letter to you.

Regarding item number 5 in my February 2, 2015 letter, please be advised that the documents have now been recorded in the Office of the Clerk of the County Commission of Raleigh County, West Virginia, as of April 22, 2015.

If you have any questions, please contact this office.

Sincerely,

RIST, HIGGINS & ASSOCIATES, P.L.L.C.



John F. Rist III

JFR:lp

cc: North Beckley Public Service District  
Region I Planning & Development

**RIST, HIGGINS & ASSOCIATES, P.L.L.C.**

ATTORNEYS AT LAW  
1800 HARPER ROAD  
BECKLEY, WEST VIRGINIA 25801

TELEPHONE NO. 304-255-1400/255-4849  
FACSIMILE NO. 304-255-6914

JOHN F. RIST, III  
E-Mail: [j.rist@suddenlinkmail.com](mailto:j.rist@suddenlinkmail.com)

JAMES C. HIGGINS (RETIRED)

February 2, 2015

Jim Ellars, P. E., Executive Director  
WV Infrastructure and Jobs Development Council  
1009 Bullitt Street  
Charleston, West Virginia 25301-1003

RE: *North Beckley Public Service District  
Stanaford Acres Sewer Replacement Project*

Dear Mr. Ellars:

This firm represents North Beckley Public Service District ("District") with regard to its Stanaford Acres Sewer Replacement Project in Raleigh County (the "Project"), and provides this preliminary title opinion on behalf of the District. Please be advised of the following:

1. That I am of the opinion that the District is a duly created and existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia and has the full power and authority to construct, operate and maintain the Project as approved by the WV Department of Environmental Protection.
2. That I have been advised by Michael Lawson of Lawson Engineering & Technical Services, the consulting engineers for the Project, that the District has applied for all of the necessary permits and approvals for the construction of the Project.
3. That I have investigated and ascertained the location of and am familiar with the legal description of the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by Michael Lawson, the consulting engineers for the Project.
4. That I have examined the records on file in the Office of the Clerk of the County Commission of Raleigh County, West Virginia, the county in which the Project is to be located, and, in my opinion, one hundred percent (100%) of the necessary easements and/or rights of way for this project have been acquired by the District. The District has also acquired title to the parcels of real estate that it was required to purchase. The District has the power of eminent domain and, if necessary, legal title or such interest as may be necessary will be acquired through formal condemnation proceedings for any real property the District is unable to acquire prior to the awarding of any contract.

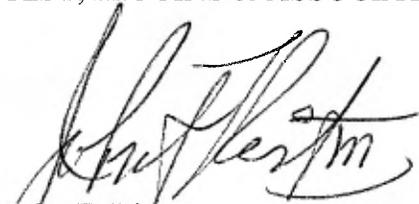
Jim Ellars, WVIJDC  
February 2, 2015  
Page 2

5. That any deeds, easements or other documents which have been acquired to date by the District have not been recorded in the aforesaid Clerk's Office. They are in my possession so that I can record them after all of the permits are received and the WV Public Service Commission has issued its final approval.

If you have any questions regarding any of the information contained in this preliminary title opinion, please contact this office.

Sincerely,

RIST, HIGGINS & ASSOCIATES, P.L.L.C.

A handwritten signature in black ink, appearing to read "John F. Rist III". The signature is fluid and cursive, with a large initial "J" and "R".

John F. Rist III  
JFR:lp

cc: North Beckley Public Service District  
Region I Planning & Development

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**GENERAL CERTIFICATE OF ISSUER AND ATTORNEYS ON:**

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. LAND AND RIGHTS-OF-WAY
8. MEETINGS, ETC.
9. CONTRACTORS' INSURANCE, ETC.
10. LOAN AGREEMENT
11. PUBLIC SERVICE COMMISSION ORDERS/RATES
12. SIGNATURES AND DELIVERY
13. BOND PROCEEDS
14. SPECIMEN BONDS
15. CONFLICT OF INTEREST
16. PROCUREMENT OF ENGINEERING SERVICES
17. COMPLIANCE WITH WEST VIRGINIA JOBS ACT
18. COMPLIANCE WITH WEST VIRGINIA ALCOHOL AND DRUG FREE WORKPLACE ACT
19. ADDITIONAL CUSTOMERS
20. FUNDING OF 2015 SERIES B BONDS RESERVE ACCOUNT
21. EXECUTION OF COUNTERPARTS

On this 18<sup>th</sup> day of June, 2015, we, the undersigned Chairman and Secretary of the Public Service Board of North Beckley Public Service District in Raleigh County, West Virginia (the "Issuer" or the "District"), and the undersigned counsel and special counsel to the Issuer hereby certify in connection with the Issuer's Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds"), 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 of the Issuer duly adopted on June 11, 2015 and the Supplemental Resolution of the Issuer duly adopted on June 11, 2015 (collectively, the "Bond Resolution").

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the

operation of the System, the receipt of Gross Revenues, the pledge of Net Revenues, or in any way contesting or affecting the validity of the Bonds, or any proceedings of the Issuer taken with respect to the issuance or sale of the Bonds, the pledge or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Bonds, the acquisition and construction of the Project, the operation of the System, the pledge or application of monies and security, the collection of the Gross Revenues or the pledge of the Net Revenues as security for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable and necessary approvals, permits, licenses, orders, authorizations, registrations, exemptions, consents and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. To the extent the District hires contractors to perform all or any portion of the Project, then competitive bids for the acquisition and construction of the Project will be solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended.

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 by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary to construct and operate the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Bonds as to liens, pledge, source of and security for payment, being the Issuer's: (i) Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898 (the "Series 1999 Bonds"), (ii) Sewerage System Revenue Bonds, Series 2003 A (West Virginia SRF Program), dated September 29, 2003, issued in the original aggregate principal amount of \$5,307,741 (the "Series 2003 Bonds"), (iii) Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated October 29, 2009, issued in the original aggregate principal amount of \$4,544,324 and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated October 29, 2009, issued in the original aggregate principal amount of \$2,415,521 (together, the "Series 2009 Bonds") and (iv) Sewer Revenue Bonds, 2015 Series A (Branch Banking and Trust Company), dated May 7, 2015, issued in the original aggregate principal amount of \$210,000 (the "2015 Series A Bonds" and together with the Series 1999 Bonds, the Series 2003 Bonds and the Series 2009 Bonds, the "Prior Bonds"). The Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Holders of the Series 1999 Bonds, the Series 2003 Bonds and the Series 2009 Bonds to the issuance of

the Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolutions.

5. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

Bond Resolution

Supplemental Resolution

Loan Agreement

Public Service Commission Orders

West Virginia Infrastructure and Jobs Development Council Approval Letter

County Commission Orders Creating the District

County Commission Orders Enlarging the Boundaries of the District

County Commission Orders Appointing Current Boardmembers

Oaths of Office of Current Boardmembers

Rules of Procedure

Minutes of 2015 Organizational Meeting

Affidavit of Publication of Notice of Public Hearing

Excerpt of Minutes of June 11, 2015 Board Meeting on Adoption of the Bond Resolution, Supplemental Resolution, Draw Resolution and Sweep Resolution

Parity Consent of West Virginia Water Development Authority

Prior Resolutions

NPDES Permit

Insurance Certificates

6. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is “North Beckley Public Service District.” The Issuer is a public service district duly created by The County Commission of Raleigh County, West Virginia and is presently existing under the laws of, and is a public corporation and political subdivision of, the State of West Virginia. The governing body of the Issuer is its Public Service Board, consisting of 3 duly appointed, qualified and acting members, whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Jan R. Datsko	January 24, 2012	December 31, 2017
Tom Foti	February 4, 2014	December 31, 2019
Todd Robinson	November 13, 2012	December 31, 2015

The duly elected, qualified and acting officers of the Public Service Board of the Issuer are as follows:

Chairman – Jan R. Datsko  
Treasurer – Tom Foti  
Secretary – Todd Robinson

The duly appointed and acting Counsel to the Issuer is John F. Rist, III, of Rist Higgins & Associates PLLC, Beckley, West Virginia.

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

8. MEETINGS, ETC.: All actions, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project and the System were authorized or adopted at regular or special meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including, particularly and without limitation, Chapter 6, Article 9A of the Code of West Virginia,

1931, as amended, and a quorum of duly elected or appointed, as applicable, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

9. CONTRACTORS' INSURANCE, ETC.: All contractors have been required to maintain Worker's Compensation, public liability insurance, vehicular liability insurance and property damage insurance, and builder's risk insurance where applicable in accordance with the Bond Resolution. All insurance for the System required by the Bond Resolution and the Loan Agreement is in full force and effect.

10. 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 statement 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 in the Loan Agreement not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

11. PUBLIC SERVICE COMMISSION ORDERS/RATES: The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia entered March 18, 2015, as modified by Commission Order entered April 17, 2015, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project and the rates and charges for the System. The time for appeal of the Commission Order has expired prior to the date hereof without any appeal. The surcharges for the existing customers of Stanaford Acres Sewerage System, Inc. ("Stanaford"), which has been acquired by the Issuer, as prescribed in the Commission Order are effective as of the date hereof. The Step 1 rates prescribed in the Commission Order will become effective upon substantial completion of the Project and during the remaining three-year period after the acquisition by the Issuer of Stanaford. The Step 2 rates prescribed in the Commission Order will become effective upon substantial completion of the Project and after the remaining three-year period after the acquisition by the Issuer of Stanaford.

12. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Chairman did officially sign all of the Bonds of the aforesaid issue, consisting upon original issuance of a single Bond, dated the date hereof, by his manual signature, and the undersigned Secretary did officially cause the official seal of the Issuer to be affixed upon the Bonds and to be attested by his manual signature. The seal impressed upon the Bonds and this certificate is the duly authorized, proper and only seal of the Issuer. The Registrar did officially authenticate and deliver the Bonds to the Authority.

13. BOND PROCEEDS: On the date hereof, the Issuer received \$142,120 from the Authority and the Council, being a portion of the principal amount of the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

14. SPECIMEN BONDS: The Specimen Bond delivered concurrently herewith is a true and accurate specimen of the Bonds.

15. CONFLICT OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bonds, the Bond Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. 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. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds.

17. COMPLIANCE WITH WEST VIRGINIA JOBS ACT: The Issuer hereby certifies that, unless it qualifies for an exception, the Issuer 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 Issuer hereby certifies that (i) the Issuer will comply with all the requirements of the West Virginia Jobs Act; (ii) the Issuer has included the provisions of the West Virginia Jobs Act in each contract and subcontract for the Project; (iii) the Issuer 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 Issuer 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 Issuer is monitoring compliance by its contractors and subcontractors and that the required information has been submitted.

18. COMPLIANCE WITH WEST VIRGINIA ALCOHOL AND DRUG-FREE WORKPLACE ACT: The Issuer hereby certifies that the Issuer shall comply with all the requirements of Chapter 21, Article 1D of the Code of West Virginia, 1931, as amended (the "West Virginia Drug-Free Workplace Act") and shall require its contractors and subcontractors to comply with the West Virginia Drug-Free Workplace

Act. The Issuer hereby certifies that it has included the provisions of the West Virginia Drug-Free Workplace Act in each contract and subcontract for the Project.

19. ADDITIONAL CUSTOMERS: The Issuer will serve at least 198 bona fide full-time users of the System upon completion of the Project, in full compliance with the requirements and conditions of the Loan Agreement and Bond Resolution.

20. FUNDING OF 2015 SERIES B BONDS RESERVE ACCOUNT: The Issuer hereby certifies that upon payment in full of its Sewerage System Revenue Bonds, Series 1999 issued on January 28, 1999, that it will transfer from any monies remaining in the Series 1999 Bonds Reserve Account held by the West Virginia Municipal Bond Commission to the 2015 Series B Bonds Reserve Account in an amount not to exceed the 2015 Series B Bonds Reserve Requirement.

21. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, our signatures and the official seal of NORTH BECKLEY PUBLIC SERVICE DISTRICT on the day and year first written above.

[ SEAL ]

SIGNATURE

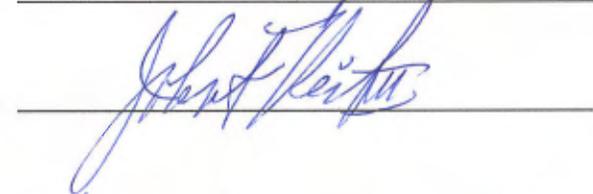
OFFICIAL TITLE



Chairman



Secretary



Counsel to Issuer  
(to the best of my knowledge and belief)



Special PSC Counsel to Issuer  
(with regard to paragraph 11 only)

7347298 (18326.4)

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**CERTIFICATE OF ENGINEER**

I, Michael Lawson, Registered Professional Engineer, West Virginia License No. 8309 of Lawson Engineering & Technical Services, Inc., Beckley, West Virginia, hereby certify as follows:

1. My firm is engineer for certain additions, improvements and extensions to the existing public sewerage facilities (the "System") of the North Beckley Public Service District (the "Issuer"), consisting of the construction of a new sewer collection system to replace the existing sewer collection system of the Stanaford Acres subdivision and certain line extensions to the System (the "Project"), to be constructed in Raleigh County, West Virginia, which Project is being permanently financed in part by the proceeds of the \$2,354,862 North Beckley Public Service District Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund) (the "Bonds") of the Issuer. Capitalized terms used herein which are not defined herein shall have the same meanings set forth in the Bond Resolution adopted by the Issuer on June 11, 2015, as supplemented by the Supplemental Resolution of the Issuer adopted June 11, 2015, and the Loan Agreement dated June 18, 2015 (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 June 18, 2015.

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of construction of the Project, 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 the West Virginia Department Of Health And Human Resources, Bureau for Public Health, Office of Environmental Health Services ("BPH") and any change orders approved by the Issuer, the BPH and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least 40 years, if properly constructed, 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 in reliance upon the opinion of the Issuer's counsel, Rist Higgins & Associates PLLC, of even date herewith, all successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds will be verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid

documents; (v) the bid documents relating to the Project reflect the Project as approved by the BPH and the bid forms provided to the bidders contain the critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; (ix) in reliance upon the certificate of John D. Blackwell, CPA, an independent certified public accountant, as of the effective date thereof, the rates and charges for the System as adopted by the Issuer and approved by the Public Service Commission of West Virginia will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto, are sufficient to pay the costs of the construction of the Project approved by the BPH, (xi) the successful bidders 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, and (xii) attached hereto as Exhibit A is the final amended "Schedule B – Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

4. The Project will serve 200 new customers in the Stanaford Acres Subdivision and the area developed adjacent to the Stanaford Acres Subdivision north of Riverview Lane.

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WITNESS my signature and seal on this 18<sup>th</sup> day of June, 2015.

LAWSON ENGINEERING &  
TECHNICAL SERVICES, INC.



A handwritten signature in blue ink that reads "Michael Lawson".

---

Michael Lawson, P.E.  
West Virginia License No. 8309

7347606 (18326.4)

EXHIBIT A

Schedule B

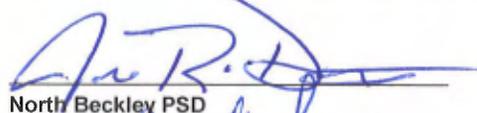
Total Cost of Project, Sources of Funds and Cost of Financing

# NORTH BECKLEY PSD STANAFORD ACRES SEWER PROJECT

## SCHEDULE B MAY 14, 2015

A. COST OF PROJECT	Total	IJDC Loan (1% 40 yrs)	IJDC Loan (1% 40yrs) UNDERRUN FUNDS	PSD Contribution
<b>1 Construction</b>				
CONTRACT #1 Stanaford Acres Replacement	\$ 1,528,000.00	\$ 1,528,000.00		
* Line Extension (Bid underrun)	\$ 227,087.00		\$ 227,087.00	
<b>Construction Contingency LIMIT TO 5% OF CONSTRUCTION</b>	\$ 88,900.00	\$ 76,400.00	\$ 12,500.00	
<b>2 Technical Services (Lawson)</b>				
a. Preliminary Design	\$ -			
b. Final Design (+ \$9,500 bid underrun)	\$ 119,500.00	\$ 110,000.00	\$ 9,500.00	
c. Bidding & Negotiation	\$ 15,000.00	\$ 15,000.00		
d. RPR	\$ 90,000.00	\$ 90,000.00		
e. Engineering During Construction (+ \$3,250 bid underrun)	\$ 123,250.00	\$ 120,000.00	\$ 3,250.00	
f. Special Services				
i Construction Stakeout	\$ 18,000.00	\$ 18,000.00		
ii Record Drawings	\$ 12,000.00	\$ 12,000.00		
iii Engineering Surveys & Topo	\$ -			
iv Mat'ls & Equipment Inspections	\$ -			
v Field Investigations	\$ -			
vi One year Certification	\$ 2,000.00	\$ 2,000.00		
vii Environmental Assesment	\$ -			
viii Special Meetings	\$ -			
<b>3 Legal &amp; Fiscal (Spilman)</b>				
a. Project Attorney (John Rist) (+ \$7,500 bid underrun)	\$ 37,500.00	\$ 30,000.00	\$ 7,500.00	
b. PSC Attorney (S. Riggs sub under Rist)	\$ 10,000.00	\$ 10,000.00		
<b>4 Administrative Services</b>				
a. Project Administrator (Reg. 1)	\$ 55,000.00	\$ 55,000.00		
b. Other Admin costs	\$ -			
<b>5 Accounting (Blackwell)</b>	\$ 12,500.00	\$ 12,500.00		
<b>6 Sites &amp; Other Lands (+ \$2,000 bid underrun)</b>	\$ 17,000.00		\$ 2,000.00	\$ 15,000.00
<b>7 Permits</b>	\$ -			
a. Right-of-way Activities	\$ 3,625.00	\$ 3,625.00		
<b>8 TOTAL of Lines 1 through 7</b>	\$ 2,359,362.00	\$ 2,082,525.00	\$ 261,837.00	\$ 15,000.00
<b>B. COST OF FINANCING</b>				
<b>9 Interim Financing</b>	\$ -	\$ -		\$ -
<b>10 Capitalized Interest</b>	\$ -	\$ -		
<b>11 Registrar Fee</b>	\$ 500.00	\$ 500.00		
<b>12 Bond Counsel (Spilman)</b>	\$ 10,000.00	\$ 10,000.00		
<b>13 Cost of Financing (Lines 10 thru 13)</b>	\$ 10,500.00	\$ 10,500.00		\$ -
<b>14 TOTAL PROJECT COST(Line 8 plus Line 13)</b>	\$ 2,369,862.00	\$ 2,093,025.00	\$ 261,837.00	\$ 15,000.00
<b>C. SOURCES OF OTHER FUNDS</b>				
<b>16 Federal Grants</b>	\$ -			\$ -
<b>17 State Grants</b>	\$ -			\$ -
<b>18 Other Grants</b>	\$ -			\$ -
<b>19 Any Other Source (PSD)</b>	\$ 15,000.00			\$ 15,000.00
<b>20 TOTAL GRANTS (Lines 16 through 19)</b>	\$ 15,000.00	\$ -	\$ -	\$ 15,000.00
<b>21 Size of Bond Issue (Line 15 minus Line 20)</b>	\$ 2,354,862.00	\$ 2,093,025.00	\$ 261,837.00	\$ -

Prepared by Region I Planning & Development Council

  
North Beckley PSD

Engineer



6-11-15  
Date

6-11-15  
Date

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**CERTIFICATE AS TO USE OF PROCEEDS**

On this 18th day of June, 2015, the undersigned Chairman of the Public Service Board of North Beckley Public Service District in Raleigh County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$2,354,862 North Beckley Public Service District Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund) (the "Bonds"), hereby certifies as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. All capitalized words and terms used in this Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on June 11, 2015, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 11, 2015 (collectively, the "Bond Resolution").

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 June 18, 2015, the date on which the Bonds are being physically delivered in exchange for an initial advance of \$142,140, being a portion of the principal amount of the Bonds, with the balance to be advanced to the Issuer as acquisition and construction of the Project (as hereinafter defined) progresses. 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 Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to use of the proceeds of the Bonds which 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") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), from which the proceeds of the Bonds 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 Bonds were sold on June 18, 2015 to the Authority, pursuant to a Loan Agreement dated June 18, 2015, between the Issuer and the Authority, on behalf of the Council, for an aggregate purchase price of \$2,354,862, being the par value thereof, at which time the Issuer received \$142,120 from the Authority and the Council, being more than a de

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

6. The Bonds are being delivered simultaneously with the delivery of this certificate, and are being issued for the purposes of (i) financing costs of acquisition and construction of additions, betterments, improvements and extensions to the existing public sewerage facilities of the Issuer, including, but not limited to, the construction of a new sewer collection system to replace the existing sewer collection system of the Stanaford Acres subdivision and line extensions to the existing System (the "Project") and (ii) paying the costs of issuance of the Bonds and related costs.

7. Within 30 days after the delivery of the Bonds, the Issuer shall enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds on the Project, constituting a substantial binding commitment. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the reserve account for the Bonds, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before September 1, 2016. The acquisition and construction of the Project is expected to be completed by June 1, 2016.

8. The total cost of the Project (including all costs of issuance of the Bonds) is estimated at \$2,354,862.00. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of the Bonds	\$ 2,354,862.00
Issuer's Contribution	<u>15,000.00</u>
Total Sources	\$ 2,369,862.00

USES

Cost of Acquisition and Construction of the Project	\$ 2,359,362.00
Costs of Issuance of the Bonds	<u>10,500.00</u>
Total Uses	\$ 2,369,862.00

9. Pursuant to Article IV of the Bond Resolution, the following special funds or accounts have been created or continued if previously established by the Prior Resolutions, relative to the Bonds:

- (1) Revenue Fund (established by the Prior Resolutions);

- (2) Renewal and Replacement Fund (established by the Prior Resolutions);
- (3) I&I Fund (established by the Prior Resolutions);
- (4) 2015 Series B Bonds Construction Trust Fund; and
- (5) 2015 Series B Bonds Sinking Fund; and
- (6) 2015 Series B Bonds Reserve Account.

10. Pursuant to Article V of the Bond Resolution, the proceeds of the Bonds will be deposited in the 2015 Series B Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Bonds and related costs.

11. Monies held in the 2015 Series B Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on monies in the 2015 Series B Bonds Reserve Account (if equal to the 2015 B Bonds Reserve Requirement) will be withdrawn therefrom, not less than once a year, will be deposited in the Revenue Fund, and such amounts will be applied as set forth in the Bond Resolution.

12. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 11 months of the date hereof.

13. The Issuer will take such steps to ensure that the Bonds meet the requirements of the Code.

14. With the exception of the amount deposited in the 2015 Series B Bonds Sinking Fund for payment of interest, if any, on the Bonds and the amount on deposit in the 2015 Series B Bonds Reserve Account, if any, it is anticipated that all of the proceeds of the Bonds will be expended on the Project within fourteen (14) months from the date of issuance thereof.

15. The amount designated as costs of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

16. 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 Bonds.

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

18. No proceeds of the Bonds 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 Bonds will not exceed the amount necessary for the purposes of the issue.

20. The Issuer shall use the proceeds of the Bonds 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 Bonds are not federally guaranteed.

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

23. The Issuer has created the 2015 Series B Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such 2015 Series B Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year. Monies in the 2015 Series B Reserve Account and the 2015 Series B Sinking Fund will be used solely to pay principal and interest on the Bonds 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 Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

25. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which 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 Bonds, rebates and rebate calculations.

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

[Remainder of Page Intentionally Left Blank]

WITNESS my signature, dated as of the day and year first written above.

NORTH BECKLEY PUBLIC SERVICE  
DISTRICT

By:   
Its: Chairman

Attest:

  
Its: Secretary

**NORTH BECKLEY PUBLIC SERVICE DISTRICT  
POST-ISSUANCE COMPLIANCE POLICY**

Adopted: April 21, 2015

This policy is being adopted by the North Beckley Public Service District (the "PSD") in order to promote compliance by the PSD with the requirements of federal and state law and the covenants in its bond documents that apply following the issuance of Bonds (as hereinafter defined) by the PSD. For purposes of this policy, the term "Bonds" means any obligations of the PSD incurred for the purpose of borrowing money, including, without limitations, bonds, notes and lease-purchase agreements.

**ARTICLE I  
PURPOSE AND SCOPE OF POLICY**

1.1 This Post-Issuance Compliance Policy (this "Policy") establishes policies and procedures in connection with Bonds issued by the PSD to maximize the likelihood that all applicable post-issuance compliance requirements are followed. As an issuer of Bonds, the PSD is required by the terms of Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended from time to time, and including the Regulations promulgated thereunder (collectively, the "Code"), to take certain actions after the issuance of Bonds to maintain their continuing tax-exempt status. Further, this Policy is intended to manage and mitigate risk associated with the terms, conditions and agreements contained in all documents governing indebtedness of the PSD (collectively, "Debt Documents") and to assist the PSD in complying with the covenants and restrictions contained in Debt Documents.

1.2 The PSD reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as circumstances warrant. The PSD also reserves the right to amend these policies and procedures from time to time.

**ARTICLE II  
RESPONSIBILITIES AND PROCEDURES**

2.1 Oversight. The General Manager of the PSD and the Public Service Board of the PSD (the "Board") shall bear responsibility for oversight of this Policy. The Board shall receive quarterly updates from the Compliance Officer identified below regarding compliance with this Policy.

2.2 Compliance Officer. The General Manager of the PSD is responsible for maintaining this Policy (the "Compliance Officer").

2.3 Violation of Policy. Promptly upon obtaining knowledge of any violation of or noncompliance with this Policy, the Compliance Officer shall notify the Board and take all necessary or appropriate actions to remedy such noncompliance in a timely manner.

2.4 Training. The Compliance Officer shall be provided with training adequate for purposes of this Policy. For the five years following adoption of this Policy, such training shall be repeated at least annually, and thereafter, training shall occur periodically and any new staff shall be trained as appropriate.

2.5 External Advisors. The Compliance Officer shall consult with bond counsel and other legal counsel and advisors, as needed, when issuing Bonds and following the issuance of Bonds to identify compliance requirements.

### **ARTICLE III FEDERAL TAX LAW COMPLIANCE**

3.1 Allocation of Proceeds. All expenditures of tax-exempt bond proceeds must be tracked until the bond proceeds are spent. For purposes of Private Use (as hereinafter defined) and rebate analysis, the Compliance Officer shall identify and monitor the allocation of the expenditures (e.g. to facilities, equipment, cost, etc.) and timing of the expenditures in compliance with all applicable Internal Revenue Service ("IRS") requirements. Documents should be retained, in accordance with Article V, to evidence the allocation of bond proceeds. These documents include, but are not limited to, requisitions, draw schedules, draw requests, invoices, cancelled checks, construction or purchase contracts. In addition, documents evidencing pre-issuance expenditures that are reimbursed with bond proceeds should be retained, along with any corresponding reimbursement resolution.

3.2 Private Business Use of Bond-Finance Facilities. The Compliance Officer shall consult with bond counsel before entering into any agreement or other arrangement for the sale, lease, management or use of Bond-financed property, including without limitation, service, vendor or management contracts, leases, research agreements, licenses to use Bond-financed property, agreements granting special rights or entitlements to any private party or naming rights agreements. Further, the Compliance Officer shall confer at least annually with PSD employees responsible for Bond-financed assets to identify and discuss any existing or planned use of Bond-financed assets, to determine that those uses are consistent with all covenants and restrictions set forth in a tax certificate relating to applicable Bonds. To the extent that the Compliance Officer discovers that any applicable tax restrictions regarding use of Bond proceeds and Bond-financed assets will or may be violated, the Compliance Officer shall consult promptly with bond counsel and other legal counsel and advisors to determine a course of action to remediate all nonqualified bonds, if such counsel advises that a remedial action is necessary.

#### 3.3 Arbitrage and Rebate.

(a) In general, arbitrage arises when tax-exempt bond proceeds are invested and the yield on the investments is greater than the yield on the bonds. The Code contains two separate sets of requirements relating to arbitrage, yield restriction and rebate, which must be compiled with to ensure that tax-exempt bonds do not lose their tax-exempt status.

(b) The investment of tax-exempt bond proceeds must be tracked and diligently reviewed by the Compliance Officer until all of the proceeds are spent. The tax regulations include yield restriction rules, which limit the yield at which the proceeds may be invested. Generally, yield restricted investments must not be invested at a yield “materially higher” than the yield on the tax-exempt bonds.

(c) If the yield restriction rule is violated, then the PSD must rebate to the IRS a “rebate amount” that is calculated with respect to the bond proceeds. The rebate amount is equal to the yield on certain investments purchased with the proceeds of the bonds in excess of the yield on the bonds, plus all income attributable to the excess. Rebates must be made to the federal government within sixty (60) days after the end of every fifth bond year and within sixty (60) days after the last bond is redeemed. Detailed records of any transactions that may have an effect on either the yield on the bonds or the yield on the investments should be maintained. The PSD shall be responsible for determining whether any arbitrage rebate calculations need to be performed. If it is determined that such calculations are or are likely to be required, the PSD shall engage expert advisors (each, a “Rebate Service Provider”) to assist in the arbitrage calculation, or shall determine that it has adequate financial, accounting and legal resources of its own to make such calculations. The PSD shall make any rebate payments required on a timely basis.

(d) The rebate requirements with respect to a construction bond issue will be deemed to be satisfied if all “available construction proceeds” are allocated as follows (measured from the date of the issuance of the bonds): (i) at least 10% within six (6) months, (ii) at least 45% within twelve (12) months, (iii) at least 75% within eighteen (18) months and (iv) 100% within twenty-four (24) months. These are subject to certain exceptions, including that bonds do not fail to satisfy the spending requirement for the fourth spend-down period (i.e., 100% within two (2) years of the Issue Date) if the only unspent available construction proceeds are amounts for Reasonable Retainage<sup>1</sup> if such amounts (together with all earnings on such amounts) are allocated to expenditures within three (3) years of the Issue Date. The PSD will seek to comply with these exceptions for all bond issuances involving construction proceeds.

3.4 Post-Issuance Modifications. The Compliance Officer shall consult with bond counsel before making any modifications or amendments to the bond documents for a bond issue, including without limitation, entering into or modifying investment agreements; making any change in security for Bonds; engaging in post-issuance credit enhancement transactions (e.g., bond insurance or letter of credit) or hedging transactions; terminating or appointing successor trustees; releasing any liens; or reissuing or refunding Bonds.

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<sup>1</sup> “Reasonable Retainage” means an amount, not to exceed 5% of the net sale proceeds of the issue that is retained for reasonable business purposes relating to the property financed with proceeds of the issue. For example, Reasonable Retainage may include a retention to ensure or promote compliance with a construction contract in circumstances in which the retained amount is not yet payable, or in which the PSD reasonably determines that a dispute exists regarding completion or payment.

3.5 Remediation. Adherence to this Policy will enable the PSD to identify violations of federal tax-exempt bond requirements in a timely manner. Whenever anyone identifies a potential violation of a federal tax requirement, a change in use of equipment or a facility financed with tax-exempt debt that may result in Private Use or a violation of this Policy, that person should immediately notify the Compliance Officer. The Compliance Officer will determine whether it is in fact a violation and, if so, will work with bond counsel to determine whether there are any feasible remedial actions available under applicable regulations. If the PSD determines or is advised that corrective action is necessary with respect to any issue of Bonds, the PSD will in a timely manner: (i) take remedial actions described under Section 1.141-12 of the Code, (ii) seek to enter into a closing agreement with the IRS pursuant to the Tax-Exempt Bonds Voluntary Closing Agreement Program (“VCAP”) or (iii) take such other actions as recommended by bond counsel. If no self-remediation actions are available or desirable, the Compliance Officer in consultation with bond counsel will disclose non-compliance and attempt to negotiate a closing agreement with the IRS under VCAP.

#### **ARTICLE IV DEBT COMPLIANCE**

4.1 Compliance Officer Responsibilities. The Compliance Officer is responsible for familiarizing herself or himself with the covenants, notice requirements and default provisions in all Debt Documents and shall take the actions identified below. The Compliance Officer shall report all actions taken under this Policy to the Board.

(a) The Compliance Officer is responsible for complying with all notice and reporting requirements contained in the Debt Documents, and the Compliance Officer shall maintain:

- (i) A calendar of reporting dates under all outstanding Debt Documents;
- (ii) A checklist of reporting requirements under all Debt Documents in summary fashion;
- (iii) A list of notice requirements under all Debt Documents; and
- (iv) On a current basis a comprehensive detail of all defaults and events of defaults under all Debt Documents.

(b) In the event the Compliance Officer determines that a default has occurred, the Compliance Officer shall report such default to the Board as soon as practicable and provide an explanation of the events creating such default and how such default has been remedied or will be remedied.

#### **ARTICLE V DOCUMENT RETENTION**

5.1 Record retention is essential to supporting tax deductions, credits and exclusions. All records should be retained until they are no longer material to any series of tax-exempt bonds or tax filing. Records relating to a tax-exempt bond issuance should be kept for as long as the

bonds are outstanding, plus three years after the final redemption date of the bonds or any bonds issued to refund the bonds. The record retention period begins with the date of the original issuance of the bonds that have been refunded.

5.2 The Compliance Officer is responsible for seeing that the required documents are compiled and retained. The decision regarding whether a particular document must be retained should be made on a case-by-case basis. Generally, the IRS has indicated that documents that should be retained include, but are not limited to:

(a) Basic financing documents from each bond transaction, including bond indentures, loan agreements, bond counsel opinion, tax agreements, and a copy of the bond transcript;

(b) Bond expenditure and allocation documentation, including requisition forms, trustee statements and any other documents describing how tax-exempt bond proceeds have been allocated;

(c) Documentation demonstrating the use of tax-exempt bond-financed property by public and private sources, including management and service contracts, research agreements, and leases;

(d) Documentation generated during the compliance process, such as floor plans, questionnaires and spreadsheets;

(e) Documentation of all sources of payment or security for bonds; and

(f) Documentation of investment of bond proceeds, including purchase and sale of securities, SLGs subscriptions, yield calculations for each investment class, actual investment income received from the investment of proceeds, guaranteed investment contracts, and rebate calculations.

5.3 Because records must be retained until they are no longer material, the PSD may choose to maintain electronic copies. Electronic records are permissible as long as they comply with Revenue Procedure 97-22, 1997-1 C.B. Section 4.01 of Revenue Procedure 97-22 provides the general requirements for an electronic storage system and the PSD shall adhere to all such requirements to the extent the PSD elects to maintain electronic records.

## **ARTICLE VI MISCELLANEOUS**

6.1 Nothing contained in this Policy shall be deemed to be a covenant, agreement or obligation of an officer, employee, member of Council, or agent of the PSD in his or her individual capacity, and no such person shall incur any personal liability with respect to any action taken by him or her pursuant to this Policy, provided he or she acts in good faith.

6.2 This Policy is for the sole benefit of the PSD. It is not to be relied upon by any third parties and does not create in, or grant to, any third parties rights, claims or privileges.

7204334 (18326.2)

ACCOUNTANT'S CERTIFICATE

**\$2,354,862**

**NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)**

June 18, 2015

North Beckley Public Service District  
Beckley, West Virginia

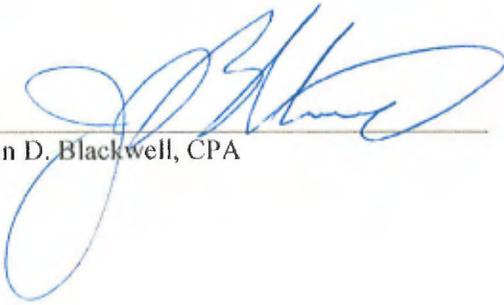
West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council  
Charleston, West Virginia

Based upon the sewer rates and charges set forth in the Commission Order of the Public Service Commission of West Virginia dated April 17, 2015, in Case No. 14-1924-PSD-CN, and projected operation and maintenance expenses and anticipated customer usage as furnished to me by North Beckley Public Service District (the "Issuer"), it is my opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system (the "System") of the Issuer, to (i) provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any Fiscal Year for payment of principal of and interest on the Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund) to be issued in an original principal amount not to exceed \$2,354,862 (the "2015 B Bonds") and all other obligations secured by or payable from such revenues, including the Issuer's: (a) Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated October 29, 2009, issued in the original aggregate principal amount of \$4,544,324 (the "2009 A Bonds"); (b) Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated October 29, 2009, issued in the original aggregate principal amount of \$2,415,521 (the "2009 B Bonds"); (c) Sewerage System Revenue Bonds, Series 2003 A (West Virginia SRF Program), dated September 29, 2003, issued in the original aggregate principal amount of \$5,307,741 (the "2003 Bonds"); (d) Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898 (the "1999 Bonds"); and (e) Sewer Revenue Bonds, 2015 Series A (Branch Banking and Trust Company), dated May 7, 2015, issued in the original aggregate principal amount of \$210,000 (the "2015 A Bonds" and together with the 2009 A Bonds, the 2009 B Bonds, the 2003 Bonds and the 1999 Bonds, the "Prior Bonds").

It is further my opinion that the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the 2015 B Bonds plus the estimated average increased annual Net Revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by the 2015 B Bonds are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest, if any, on the Prior Bonds and the 2015 B Bonds.

The Issuer is current on all payments and reserve requirements at the West Virginia Municipal Bond Commission.



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John D. Blackwell, CPA

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**CERTIFICATE OF REGISTRATION OF BONDS**

UNITED BANK, INC. Charleston, West Virginia, as Registrar under the Bond Resolution and Registrar's Agreement, providing for the above-captioned bond issue of North Beckley Public Service District (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered, North Beckley Public Service District Sewer Revenue Bond, 2015 Series B (West Virginia Infrastructure Fund) of the Issuer, dated June 18, 2015, in the principal amount of \$2,354,862, numbered BR-1, was registered as to principal only in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of United Bank, Inc., as Registrar.

WITNESS my signature on this 18<sup>th</sup> day of June, 2015.

UNITED BANK, INC.

By:   
Its: Vice President

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

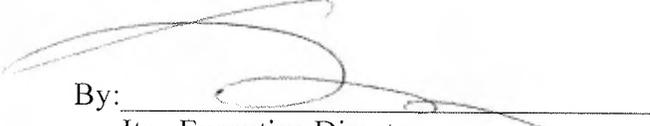
**CERTIFICATE OF PAYING AGENT**

The undersigned Sara L. Rogers, Executive Director of the WEST VIRGINIA MUNICIPAL BOND COMMISSION (the "Bond Commission"), hereby certifies as follows:

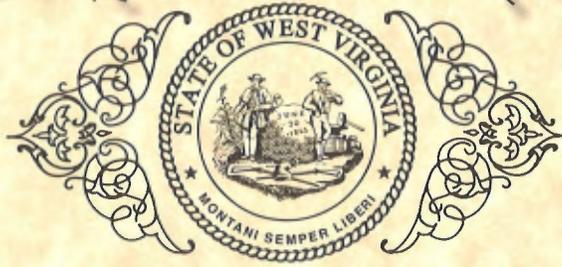
1. I am the duly appointed Executive Director of the Bond Commission.
2. The Bond Commission has duly authorized, by all necessary action, the acceptance of all duties of the Paying Agent for the above-captioned Bonds under the Bond Resolution and the Supplemental Resolution adopted by the Public Service Board of the North Beckley Public Service District on June 11, 2015.

WITNESS my signature this 18th day of June, 2015.

WEST VIRGINIA MUNICIPAL BOND COMMISSION

By:   
Its: Executive Director

# State of West Virginia



## Certificate

*I, Natalie E. Tennant, Secretary of State of the  
State of West Virginia, hereby certify that*

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13A OF THE 2014 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.



*Given under my hand and the  
Great Seal of the State of  
West Virginia on*

June 10, 2015

*Natalie E. Tennant*

*Secretary of State*

## 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.            | C.J.S. Counties               | § 31.  |
| Municipal Corporations | ⊖5; 6.          | C.J.S. Municipal Corporations | § 11.  |
| Public Utilities       | ⊖145.           | C.J.S. Public Utilities       | §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178. |
| Westlaw Topic Nos.     | 104, 268, 317A. |                               |  |

**Notes of Decisions**

- In general 2
- Admissibility of evidence 8
- Construction and application 3
- Costs 9
- Creation and enforcement of liens 7
- Eminent domain powers 4
- Property of public service district 5
- Rates and charges for service 6

**Validity 1**

**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,

## PUBLIC SERVICE DISTRICTS

## § 16-13A-1

Note 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-

## § 16-13A-1

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)

## § 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.

## PUBLIC HEALTH

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

### Library References

Public Utilities ⇨ 145.

Westlaw Topic No. 317A.

**PUBLIC SERVICE DISTRICTS**

**§ 16-13A-1b**

C.J.S. Public Utilities §§ 26 to 32, 159 to 167,  
169 to 171, 177 to 178.

**Notes of Decisions**

**In general** 1

1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⇐ 123

**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.,

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.

**Notes of Decisions**

Costs 6  
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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).

**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-

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.

## PUBLIC SERVICE DISTRICTS

## § 16-13A-3

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 require-

ments 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.

## PUBLIC SERVICE DISTRICTS

§ 16-13A-3

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).  
 The recognition of purchase money mortgage priority in West Virginia: Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).  
 Yes, West Virginia, there is a special priority for the purchase money mortgage: The recog-

**Library References**

Counties § 18.  
 Municipal Corporations § 6.  
 Westlaw Topic Nos. 104, 268.  
 C.J.S. Counties § 31.  
 C.J.S. Municipal Corporations § 11.

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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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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

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

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

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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**

**In general 1**

**1. In general**

Board members of the Mt. Zion Public Service District cannot be compensated for per-

forming 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

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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

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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.

**Notes of Decisions**

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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-

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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

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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 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 municipi-

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).

Priority of purchase money mortgage: priority in West Virginia. Abraham M. Ashton, 107 W. Va. L. Rev. 525 (2005).

"Yes, West Virginia, there is a special priority for the purchase money mortgage." The recog-

**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.

**Notes of Decisions**

Notice of availability of sewer service 5  
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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)

**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

**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-

## PUBLIC SERVICE DISTRICTS

## § 16-13A-9a

view Estates Mobile Home Park, Inc., 1989, 386 S.E.2d 483, 182 W.Va. 116. Eminent Domain  $\Leftrightarrow$  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  $\Leftrightarrow$  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  $\Leftrightarrow$  14.6; Municipal Corporations  $\Leftrightarrow$  712(7); Waters And Water Courses  $\Leftrightarrow$  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  $\Leftrightarrow$  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  $\Leftrightarrow$  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  $\Leftrightarrow$  222; Municipal Corporations  $\Leftrightarrow$  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  $\Leftrightarrow$  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  $\Leftrightarrow$  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  $\Leftrightarrow$  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  $\Leftrightarrow$  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

## § 16-13A-9a

## PUBLIC HEALTH

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

##### 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.	C.J.S. Municipal Corporations §§ 1621 to
Municipal Corporations ↪879.	1622.
Westlaw Topic Nos. 104, 268.	

#### § 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.	C.J.S. Counties § 198.
Municipal Corporations ↪883.	C.J.S. Municipal Corporations §§ 1626, 1635.
Westlaw Topic Nos. 104, 268.	

§ 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  $\S$  188.

Municipal Corporations  $\S$  937, 955.

Westlaw Topic Nos. 104, 268.

C.J.S. Counties  $\S$  226.

C.J.S. Municipal Corporations  $\S$  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. C.J.S. Counties § 147.  
Municipal Corporations Ⓒ225. C.J.S. Municipal Corporations §§ 882 to 892.  
Westlaw Topic Nos. 104, 268.

#### § 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. C.J.S. Counties § 226.  
Municipal Corporations Ⓒ937, 955. C.J.S. Municipal Corporations §§ 1707, 1711.  
Westlaw Topic Nos. 104, 268.

#### 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

§ 16-13A-20

PUBLIC HEALTH

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, 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

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

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,

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.*

## § 16-13A-22

## PUBLIC HEALTH

### 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 374.

## § 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

note, is permissible borrowing under this section. 62 W.Va. Op. Atty. Gen. 27 (May 6, 1988) 1988 WL 483331.

1. In general

The borrowing by PSD's of money from counties and/or municipalities, as evidenced by a

### § 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

**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



West's  
**Annotated Code  
of West Virginia**

*Using the Classification and  
Numbering System of the  
1931 Code of West Virginia,  
as Amended*

**Chapter 16**

**2014**

**Cumulative Annual Pocket Part**

**Replacing 2013 Pocket Part supplementing 2008 Main Volume**

**Includes laws through the 2014 Second Extraordinary Session**



Mat #41637876

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ARTICLE 13A  
PUBLIC SERVICE DISTRICTS

<p><b>Section</b> 16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.</p> <p>16-13A-4. Board chairman; members' compensation; procedure; district name.</p> <p>16-13A-7. Acquisition and operation of district properties.</p>	<p><b>Section</b> 16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.</p> <p>16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.</p>
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§ 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 storm water 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. In the event the public service district is providing any utility service and billing rates and charges to its customers, at least one board member shall be a rate-paying residential customer of the public service district. *Provided*, That if an existing public service board does not have a member who is a rate-paying residential customer of the public service district on July 1, 2013, the next following appointment to the board shall be a rate-paying residential customer of that public service district. For purposes of this section, "rate-paying residential customer" means a person who:

- (1) In the case of a water or sewer public service district, is physically connected to and actively receiving residential public service district utility services; or
- (2) In the case of a storm water public service district, has storm water conveyed away from the residential property by a utility owned system; and
- (3) Has an active account in good standing and is the occupier of the residential property which is on the public service district utility service account.

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 Department of Environmental Protection and the Bureau for 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

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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

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PUBLIC HEALTH PUBLIC

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 January 1 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; Acts 2013, c. 163, eff. July 1, 2013.

§ 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 \$100 per attendance at regular monthly meetings and \$75 per attendance at additional special meetings, total salary not to exceed \$2,000 per annum;

(2) For districts with six hundred customers or more but fewer than two thousand customers, up to \$125 per attendance at regular monthly meetings and \$100 per attendance at additional special meetings, total salary not to exceed \$3,250 per annum;

(3) For districts with two thousand customers or more, but fewer than four thousand customers, up to \$150 per attendance at regular monthly meetings and \$100 per attendance at additional special meetings, total salary not to exceed \$4,500 per annum; and

(4) For districts with four thousand or more customers, up to \$200 per attendance at regular monthly meetings and \$150 per attendance at additional special meetings, total salary not to exceed \$6,400 per annum.

The public service district shall certify the number of customers served to the Public Service Commission on July 1 of each fiscal year.

(c) Public service districts selling water to other water utilities for resale or public service districts which provide sewer treatment for other sewer utilities may adopt the following salaries for its board members:

(1) For districts with annual revenues of less than \$50,000, up to \$100 per attendance at regular monthly meetings and \$75 per attendance at additional special meetings, total salary not to exceed \$2,000 per annum;

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(2) For districts with annual revenues of \$50,000 or more, but less than \$250,000, up to \$125 per attendance at regular monthly meetings and \$100 per attendance at special meetings, total salary not to exceed \$3,250 per annum;

(3) For districts with annual revenues of \$250,000 or more, but less than \$500,000, up to \$150 per attendance at regular monthly meetings and \$100 per attendance at additional special meetings, total salary not to exceed \$4,500 per annum; and

(4) For districts with annual revenues of \$500,000 or more, up to \$200 per attendance at regular monthly meetings and \$150 per attendance at additional special meetings, total salary not to exceed \$6,400 per annum.

The public service district shall certify the number of customers served and its annual revenue to the Public Service Commission on July 1 of each fiscal year.

(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided by the rules of the board. Notwithstanding any other provision of this code to the contrary, board members are not eligible for salary payment or reimbursement for expenses incurred prior to the public service district initiating service to its first customer. Salary and reimbursement for expenses may be incurred only at meetings occurring after the public service district initiated service to customers.

(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 by that 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 the 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; Acts 2013, c. 163, eff. July 1, 2013.

§ 16-13A-7. Acquisition and operation of district properties

The board of these 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 \$25,000 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; Acts 2011, c. 147, eff. June 9, 2011.

**§ 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 \$50, 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 \$50 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 \$50. 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 \$50 has been remitted to the district. After twelve months of

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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. *Provided, however*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(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 water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer or both, 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 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. *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(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 located in the Municipal Separate Storm Sewer System's designated service area. 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. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(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 municipal taxes. Nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill. 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 of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by section eleven of said article, is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall

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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 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; Acts 2008, c. 202, eff. March 8, 2008; Acts 2010, c. 201, eff. June 11, 2010.

§ 16-13A-15. Bonds may be secured by trust indenture

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

§ 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. *Provided*, That no such distribution shall be required in the case of a sale between political subdivisions of the state.

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; Acts 2014, c. 183, eff. June 6, 2014.

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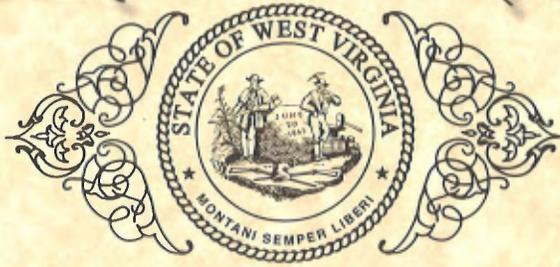
REGIONAL WATER AND WASTEWATER AUTHORITY ACT

§ 16-13D-11. Bonds may be secured by trust indenture

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

# State of West Virginia



## Certificate

*I, Natalie E. Tennant, Secretary of State of the  
State of West Virginia, hereby certify that*

THIS IS A TRUE COPY OF CHAPTER 31, ARTICLE 15A OF THE WEST VIRGINIA CODE, AND CHAPTER 31, ARTICLE 15A OF THE 2014 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

*Given under my hand and the  
Great Seal of the State of  
West Virginia on*

June 10, 2015

*Natalie E. Tennant*

*Secretary of State*



**ARTICLE 15A**  
**WEST VIRGINIA INFRASTRUCTURE AND**  
**JOBS DEVELOPMENT COUNCIL**

- Section**
- 31-15A-1. Short title.
- 31-15A-2. Definitions.
- 31-15A-3. West Virginia Infrastructure and Jobs Development Council continued; members of council; staff of council.
- 31-15A-4. Development of guidelines and preliminary application for funding assistance.
- 31-15A-5. Requirements for project funding assistance; review of project preliminary applications by council.
- 31-15A-6. Powers, duties and responsibilities of the council generally; comprehensive assessment.
- 31-15A-7. Current and prospective planning; roads and highways; report to division of highways.
- 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.
- 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; West Virginia Infrastructure Lottery Revenue Debt Service Fund; use of funds for projects.
- 31-15A-10. Recommendations by council for expenditures of funds by loan, grant or for engineering assistance.
- 31-15A-11. Reservation of funds for projects and infrastructure projects.
- 31-15A-12. Additional powers of water development authority.
- 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.
- 31-15A-14. Termination or dissolution.
- 31-15A-15. Projects not to be considered public improvements; competitive bid requirements.
- 31-15A-16. Dedication of severance tax proceeds.
- 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.
- 31-15A-17a. Infrastructure revenue bonds payable from A. James Manchin Fund.
- 31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects.
- 31-15A-18. Trustee for holders of infrastructure revenue bonds; contents of trust agreement.
- 31-15A-19. Legal remedies of infrastructure revenue bondholders or noteholders and trustees.
- 31-15A-20. Infrastructure revenue bonds lawful investments.
- 31-15A-21. Purchase and cancellation of infrastructure revenue bonds.
- 31-15A-22. Refunding revenue bonds.
- 31-15A-23. Infrastructure revenue bonds not debt of state, county, municipality or any political subdivision.
- 31-15A-24. Infrastructure revenue bonds exempt from taxation.

§ 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;

INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL § 31-15A-2

(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;

(n) "Need of the project sponsors" means there is a public need for a project. 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) "Wastewater facility" means all facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding wastewater, 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 twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties; and

(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.

**Library References**

States 83, 147.  
Westlaw Topic No. 360.  
C.J.S. States §§ 262, 437, 443 to 445.

**§ 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.

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(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.

(j) 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.

(k) 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 other appropriate parties as is necessary to effectuate the purposes of this article.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005; Acts 2009, c. 221, eff. April 10, 2009.

#### Historical and Statutory Notes

Acts 2005, 1st Ex. Sess., c. 3, rewrote (b); in (c), substituted "The governor or designee shall serve as chairman and the council shall annually appoint a vice chairperson" for "The council shall annually elect one of its members as chairman"; rewrote (d); and made nonsubstantive changes throughout the section. Prior to revision, (b) and (d) read:

"(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."

"(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."

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 ap-

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point 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 oth-

er 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."

**Library References**

States §§ 69, 74, 83.  
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250,  
252, 262.

**§ 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.

**Library References**

States §§ 69, 74, 83.  
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250,  
252, 262.

**§ 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.

#### Library References

States 69, 74, 83.  
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250,  
252, 262.

#### § 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 infrastruc-

ture 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

Acts 2009, c. 221, rewrote this section, which formerly read:

“(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) 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 pre-

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vent 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.”

**Library References**

States 69, 74, 83.  
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250,  
252, 262.

**§ 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 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.

**Library References**

Highways ⇨91.  
 Water Law ⇨1036.  
 Westlaw Topic Nos. 200, 405.

C.J.S. Highways § 155.  
 C.J.S. Waters §§ 483, 543 to 581.

**§ 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 pre-filing 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.

#### Library References

Public Utilities ☞ 113.  
Water Law ☞ 1869.  
Westlaw Topic Nos. 317A, 405.

C.J.S. Public Utilities §§ 3, 180 to 196.  
C.J.S. Waters §§ 483, 498 to 504.

**§ 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; West Virginia Infrastructure Lottery Revenue Debt Service Fund; use of funds for projects**

(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 proceed 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.

(h) There is hereby created in the Water Development Authority a separate, special account which shall be designated and known as the "West Virginia Infrastructure Lottery Revenue Debt Service Fund," into which shall be deposited annually for the fiscal year beginning July 1, 2011, and each fiscal year thereafter, the first \$6 million transferred pursuant to section eighteen-d, article twenty-two, chapter twenty-nine of this code and any other funds provided therefor: *Provided*, That such deposits and transfers are not subject to the reservations of funds or requirements for distributions of funds established by sections ten and eleven of this article. Moneys in the West Virginia infrastructure lottery revenue debt service fund shall be used to pay debt service on bonds or notes issued by the Water Development Authority for watershed compliance projects as provided in section seventeen-b of this article, and to the extent not needed to pay debt service, for the design or construction of improvements for watershed compliance projects. Moneys in the West Virginia infrastructure lottery revenue debt service fund not expended at the close of the fiscal year do not lapse or revert to the General Fund but are carried forward to the next fiscal year.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 2011, c. 179, eff. June 10, 2011.

*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.*

#### Historical and Statutory Notes

Acts 2011, c. 179, in subsec. (d)(2), substituted "proceed" for "proceeds", and made non-substantive corrections throughout this section.

#### Library References

States Ⓒ127, 128.  
Water Law Ⓒ1900 to 1905.  
Westlaw Topic Nos. 360, 405.

C.J.S. States §§ 381 to 382, 386 to 387.  
C.J.S. Waters §§ 483, 543 to 581.

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§ 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 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 nine hundred 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 not 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

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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.

### Library References

States ⇌ 127, 128.

Westlaw Topic No. 360.

C.J.S. States §§ 381 to 382, 386 to 387.

### § 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 executive director of the West Virginia development office 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; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005.

### Historical and Statutory Notes

Acts 2005, 1st Ex. Sess., c. 3, in the last sentence, substituted "executive director of the West Virginia development office" for "council for community and economic development, or its successor".

### Library References

States ⇌ 128.

Westlaw Topic No. 360.

C.J.S. States §§ 381 to 382.

### § 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

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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.

### Library References

Water Law ☞1898.  
Westlaw Topic No. 405.  
C.J.S. Waters §§ 483, 543 to 581.

## § 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.

### Library References

Water Law ☞1897.  
Westlaw Topic No. 405.  
C.J.S. Waters §§ 483, 543 to 581.

## § 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.

### Library References

Water Law ☞1861.  
Westlaw Topic No. 405.  
C.J.S. Waters §§ 483 to 484.

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§ 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."

#### Library References

States ⚡86, 98.2.  
Westlaw Topic No. 360.  
C.J.S. States § 261.

#### § 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 July 1, 1995, the first \$16 million 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 July 1, 1998, the first \$24 million 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

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pursuant to section twenty-a of said article thirteen-a shall remain dedicated for the purposes set forth in that section twenty-a.

(d) On or before May 1 of each year, commencing May 1, 1995, 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; Acts 2008, c. 213, eff. June 7, 2008; Acts 2011, c. 164, eff. April 7, 2011.

### Historical and Statutory Notes

Acts 2008, c. 213, added subsec. (e).

Acts 2011, c. 164, deleted subsec. (e), and made nonsubstantive corrections throughout the section. Prior to deletion, subsec. (e) read:

“(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.”

### Library References

States ⇨127.

Westlaw Topic No. 360.

C.J.S. States §§ 386 to 387.

### § 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.

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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

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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.

**Library References**

States §§ 147 to 156.  
Westlaw Topic No. 360.

C.J.S. States §§ 437 to 438, 441 to 447, 449 to 453.

**§ 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.

**Library References**

States §§ 127.  
Westlaw Topic No. 360.  
C.J.S. States §§ 386 to 387.

**§ 31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects**

(a)(1) The Chesapeake Bay has been identified as an impaired water body due to excessive nutrients entering the Bay from various sources in six states, including wastewater facilities in West Virginia. To restore the Chesapeake Bay, the states have agreed to reduce their respective nutrient contributions to the Chesapeake Bay.

(2) The Greenbrier River Watershed in southeastern West Virginia which encompasses approximately 1,646 square miles, the majority of which lies within Pocahontas, Greenbrier, Monroe and Summers counties, has been identified as an impaired water body due to excessive levels of fecal coliform and phosphorus entering the Watershed from various sources, including wastewater facilities in West Virginia. To restore the Greenbrier River Watershed, the state agrees to reduce the fecal coliform and phosphorus contributions to the Greenbrier River Watershed.

(b) Notwithstanding any other provision of this code to the contrary, the Water Development Authority may issue, in accordance with the provisions of

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section seventeen of this article, infrastructure lottery revenue bonds payable from the West Virginia infrastructure lottery revenue debt service fund created by section nine of this article 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.

(c) The council shall direct the Water Development Authority to issue bonds in one or more series when it has approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects with an authorized permitted flow of four hundred thousand gallons per day or more. The proceeds of the bonds shall be used solely to pay costs of issuance, fund a debt service reserve account, capitalize interest, pay for security instruments necessary to market the bonds and to make grants to governmental instrumentalities of the state for the construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects. To the extent funds are available in the West Virginia Infrastructure Lottery Revenue Debt Service Fund that are not needed for debt service, the council may direct the Water Development Authority to make grants to project sponsors for the design or construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects.

(d) No later than June 30, 2012, each publicly owned facility with an authorized permitted flow of 400,000 gallons per day or more that is subject to meeting Chesapeake Bay compliance standards or Greenbrier River watershed compliance standards shall submit to the council a ten year projected capital funding plan for Chesapeake Bay watershed compliance projects or Greenbrier River watershed compliance projects, as the case may be, including a general project description, cost estimate and estimated or actual project start date and project completion date, if any. The council shall timely review the submitted capital funding plans and forward approved plans to the Water Development Authority for further processing and implementation pursuant to this article. If the council finds a plan to be incomplete, inadequate or otherwise problematic, it shall return the plan to the applicant with comment on the plan shortcomings. The applicant may then resubmit to council an amended capital funding plan for further consideration pursuant to the terms of this subsection.

(e) Upon approval, each proposed Chesapeake Bay watershed compliance project or Greenbrier River watershed compliance project, or portion of a larger project, which portion is dedicated to compliance with nutrient standards, or fecal coliform and phosphorus standards, established for the protection and restoration of the Chesapeake Bay or the Greenbrier River Watershed, as the case may be, shall be eligible for grant funding by funds generated by the infrastructure lottery revenue bonds described in section (b) of this section. At the request of the applicant, the remaining percentage of project funding not otherwise funded by grant under the provisions of this article may be reviewed as a standard project funding application.

(f) No later than December 1, 2012, the Water Development Authority shall report to the Joint Committee on Government and Finance the total cost of Chesapeake Bay watershed compliance projects and the Greenbrier River

watershed compliance projects and the proposed grant awards for each eligible project. Grant awards shall be of equal ratio among all applicants of the total cost of each eligible project.

(g) Eligible projects that have obtained project financing prior to December 31, 2011 may apply to the council for funding under the provisions of this section. These applications shall be processed and considered as all other eligible projects, and any grant funding awarded shall, to the extent allowed by law, be dedicated to prepay all or a portion of debt previously incurred by governmental instrumentalities of the state for required Chesapeake Bay nutrient removal projects or Greenbrier River watershed fecal coliform and phosphorus removal projects, subject to the bond covenants and contractual obligations of the borrowing governmental entity. However, any private portion of funding provided by agreement between a political subdivision and one or more private entities, either by direct capital investment or debt service obligation, shall not be eligible for grant funding under the provisions of this article.

Acts 2011, c. 179, eff. June 10, 2011.

**Library References**

States Ⓒ147.

Water Law Ⓒ1873.

Westlaw Topic Nos. 360, 405.

C.J.S. States §§ 437, 443 to 445.

C.J.S. Waters §§ 483, 498 to 504.

**§ 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

## INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL § 31-15A-21

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.

### Library References

States ⇨147.  
Westlaw Topic No. 360.  
C.J.S. States §§ 437, 443 to 445.

### § 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.

### Library References

States ⇨164.  
Westlaw Topic No. 360.

### § 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.

### Library References

States ⇨147.  
Westlaw Topic No. 360.  
C.J.S. States §§ 437, 443 to 445.

### § 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.

## § 31-15A-21

## CORPORATIONS

(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.

### Library References

States ◊153.  
Westlaw Topic No. 360.  
C.J.S. States §§ 451 to 453.

## § 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.

### Library References

States ◊166.  
Westlaw Topic No. 360.  
C.J.S. States § 448.

## § 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

**INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL § 31-15A-24**

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.

**Library References**

States ☞ 168.5.  
Westlaw Topic No. 360.  
C.J.S. States §§ 456 to 466.

**§ 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.

**Library References**

Taxation ☞ 2315.  
Westlaw Topic No. 371.  
C.J.S. Taxation §§ 300 to 309, 324.

West's  
Annotated Code  
of West Virginia

*Using the Classification and  
Numbering System of the  
1931 Code of West Virginia,  
as Amended*

Chapter 30  
Arts. 27 to End  
to  
Chapter 31

2014  
Cumulative Annual Pocket Part

Replacing 2013 Pocket Part supplementing 2012 Main Volume

Includes laws through the 2014 Second Extraordinary Session



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Revenue Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

(3) After the authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(b) The authority shall expend the bond proceeds, net of issuance costs, reserve funds and refunding costs, for certified capital improvement projects at Cacapon Resort State Park and Beech Fork State Park. The Division of Natural Resources shall submit a proposed list of capital improvement projects to the Governor on or before January 1, 2013. Thereafter, the Governor shall certify to the authority on or before February 1, 2013, a list of those capital improvement projects at Cacapon Resort State Park and Beech Fork State Park that will receive funds from the proceeds of bonds issued pursuant to this section. At any time prior to the issuance of bonds under this section, the Governor may certify to the authority a revised list of capital improvement projects at Cacapon Resort State Park and Beech Fork State Park that will receive funds from the proceeds of bonds issued pursuant to this section. The Governor shall consult with the Division of Natural Resources prior to certifying a revised list of capital improvement projects to the authority.

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be special obligations of the authority, payable solely from the property, revenues or other sources of or available to the authority pledged therefor.

(d) The bonds and the notes shall be authorized by the authority pursuant to this section, and shall be secured, be in such denominations, may bear interest at such rate or rates, taxable or tax-exempt, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by manual or facsimile signature by the chairman of the board, and the official seal of the authority or a facsimile thereof shall be affixed to or printed on each bond and note and attested, manually or by facsimile signature, by the secretary of the board, and any coupons attached to any bond or note shall bear the manual or facsimile signature of the chairman of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until such delivery; and, in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

Acts 2012, c. 175, eff. June 7, 2012; Acts 2014, 1st Ex. Sess., c. 6, eff. March 14, 2014.

Historical and Statutory Notes

Acts 2014, 1st Ex. Sess., c. 6, in subsec. (a)(2), substituted "On or prior to May 1 of each year, 2014" for "On or prior to May 1 of each year, commencing May 1, 2014".

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Section

31-15A-16.

Dedication of severance tax proceeds.

Section

31-15A-17b.

Infrastructure lottery revenue bonds for watershed compliance projects.

(a) There shall be no expansion, repair and economic development

(b) Notwithstanding 1995, the first \$16 million of this code shall be deposited to the Infrastructure General Fund created pursuant to article fifteen-b of this code on July 1, 1998; the annually collected pursuant to article

(c) Notwithstanding chapter eleven of the Division of Forestry dedicated for the

(d) On or before the coverage ratio of obligation bonds Acts 1994, 1st Ex. Sess., c. 6, eff. April 12, 2013.

Acts 2013, c. 175, formerly read:

"(a) There shall be no expansion, repair and economic development from the collection of the construction, expansion, repair and improvement of sewerage treatment and preparation; construction for economic development in this article.

"(b) Notwithstanding code to the contrary, the first \$16 million of article thirteen-a, shall be deposited to the Infrastructure General Fund created pursuant to article fifteen-b of this code on July 1, 1998; the annually collected pursuant to article

## § 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 July 1, 1995, the first \$16 million 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 July 1, 1998, the first \$24 million 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. *Provided, however*, That subject to the conditions, limitations, exclusions and constraints prescribed by subsection (c) of this section, beginning on July 1, 2013, the amount deposited under this subsection to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund created pursuant to section three, article fifteen-b of this chapter shall be the first \$23 million of the tax annually collected pursuant to article thirteen-a, chapter eleven of this code.

(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 that section twenty-a.

(d) On or before May 1 of each year, commencing May 1, 1995, 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; Acts 2008, c. 213, eff. June 7, 2008; Acts 2011, c. 164, eff. April 7, 2011; Acts 2013, c. 196, eff. April 12, 2013.

## Historical and Statutory Notes

Acts 2013, c. 196, rewrote this section, which formerly read:

"(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 July 1, 1995, the first \$16 million 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 July 1, 1998, the first \$24 million 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 that section twenty-a.

"(d) On or before May 1 of each year, commencing May 1, 1995, 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."

§ 31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects

(a)(1) The Chesapeake Bay has been identified as an impaired water body due to excessive nutrients entering the bay from various sources in six states, including wastewater facilities in West Virginia. To restore the Chesapeake Bay, the states have agreed to reduce their respective nutrient contributions to the Chesapeake Bay.

(2) The Greenbrier River Watershed in southeastern West Virginia which encompasses approximately 1,646 square miles, the majority of which lies within Pocahontas, Greenbrier, Monroe and Summers counties, has been identified as an impaired water body due to excessive levels of fecal coliform and phosphorus entering the watershed from various sources, including wastewater facilities in West Virginia. To restore the Greenbrier River Watershed, the state agrees to reduce the fecal coliform and phosphorus contributions to the Greenbrier River Watershed.

(b) 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 lottery revenue bonds payable from the West Virginia Infrastructure Lottery Revenue Debt Service Fund created by section nine of this article 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.

(c) The council shall direct the Water Development Authority to issue bonds in one or more series when it has approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects with an authorized permitted flow of four hundred thousand gallons per day or more. The proceeds of the bonds shall be used solely to pay costs of issuance, fund a debt service reserve account, capitalize interest, pay for security instruments necessary to market the bonds and to make grants to governmental instrumentalities of the state for the construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects. To the extent funds are available in the West Virginia Infrastructure Lottery Revenue Debt Service Fund that are not needed for debt service, the council may direct the Water Development Authority to make grants to project sponsors for the design or construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects. *Provided*, That the council shall direct the Water Development Authority to provide from moneys in the Lottery Revenue Debt Service Fund not needed to pay debt service in fiscal year 2013 a grant of \$6 million to a Chesapeake Bay watershed compliance project which opened bids on December 28, 2011, and further provided that such Chesapeake Bay watershed compliance project shall receive no further grant funding under this section after receipt of the \$6 million grant.

(d) No later than June 30, 2012, each publicly owned facility with an authorized permitted flow of four hundred thousand gallons per day or more that is subject to meeting Chesapeake Bay compliance standards or Greenbrier River watershed compliance standards shall submit to the council a ten-year projected capital funding plan for Chesapeake Bay watershed compliance projects or Greenbrier River watershed compliance projects, as the case may be, including a general project description, cost estimate and estimated or actual project start date and project completion date, if any. The council shall timely review the submitted capital funding plans and forward approved plans to the Water Development Authority for further processing and implementation pursuant to this article. If the council finds a plan to be incomplete, inadequate or otherwise problematic, it shall return the plan to the applicant with comment on the plan shortcomings. The applicant may then resubmit to council an amended capital funding plan for further consideration pursuant to the terms of this subsection.

(e) Upon approval, each proposed Chesapeake Bay watershed compliance project or Greenbrier River watershed compliance project, or portion of a larger project, which portion is dedicated to compliance with nutrient standards, or fecal coliform and phosphorus standards, established for the protection and restoration of the Chesapeake Bay or the Greenbrier River watershed, as the case may be, shall be eligible for grant funding by funds

generated by the infrastructure section. At the request of the applicant, the project may be otherwise funded by grant project funding application.

(f) No later than December 31, 2012, the Joint Committee on Governmental Operations shall review compliance projects and proposed grant awards for subsection (b) of this section. The council may make grants to eligible projects. The council may be pro-rated to an eligible project as certain. The Joint Committee on Governmental Operations shall review the project, and its financing, and its approval on December 31, 2012.

(g) Eligible projects shall apply to the council for grant funding. The project shall be processed and considered to the extent allowed by the council. The council may incur by governmental removal projects or grant projects, subject to the approval of the governmental entity. However, the council shall not incur a debt service obligation under this article.

Acts 2011, c. 179, eff. June 1, 2013; Acts 2014, 1st Ex. Sess.

Acts 2012, c. 23, in substitution, grant funding application for watershed compliance projects, effective December 31, 2012.

Acts 2013, c. 206, revised, formerly read:

"(f) No later than December 31, 2012, the Water Development Authority shall submit to the Joint Committee on Governmental Operations a report on the progress of the project, and its financing, and its approval on December 31, 2012."

**Section**

31-15C-2. Definitions

31-15C-3. Broadband established, administration

31-15C-4. Powers and generally

31-15C-8. Stimulation of public outreach

§ 31-15C-2. Definitions

For the purposes of this section:

(1) "Broadband" or "broadband communications capability" means

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generated by the infrastructure lottery revenue bonds described in subsection (b) of this section. At the request of the applicant, the remaining percentage of project funding not otherwise funded by grant under the provisions of this article may be reviewed as a standard project funding application.

(f) No later than December 1, 2012, the Water Development Authority shall report to the Joint Committee on Government and Finance the total cost of Chesapeake Bay watershed compliance projects and the Greenbrier River watershed compliance projects and the proposed grant awards for each eligible project. From the proceeds of bonds issued under subsection (b) of this section, the council shall direct the Water Development Authority to make grants to eligible projects ready to proceed to construction and those grant awards shall be pro rated to an equal percentage of total eligible costs among all applicants for each eligible project as certified by the Water Development Authority in its report to the Joint Committee on Government and Finance dated November 26, 2012: *Provided*, That the final project, and its financing, is consistent with the scope of the eligible project included in the council's approval on December 5, 2012.

(g) Eligible projects that have obtained project financing prior to December 31, 2012, may apply to the council for funding under the provisions of this section. These applications shall be processed and considered as all other eligible projects, and a grant funding awarded shall, to the extent allowed by law, be dedicated to prepay all or a portion of debt previously incurred by governmental instrumentalities of the state for required Chesapeake Bay nutrient removal projects or Greenbrier River watershed fecal coliform and phosphorus removal projects, subject to the bond covenants and contractual obligations of the borrowing governmental entity. However, any private portion of funding provided by agreement between a political subdivision and one or more private entities, either by direct capital investment or debt service obligation, shall not be eligible for grant funding under the provisions of this article.

Acts 2011, c. 179, eff. June 10, 2011; Acts 2012, c. 23, eff. March 9, 2012; Acts 2013, c. 206, eff. April 13, 2013; Acts 2014, 1st Ex. Sess., c. 6, eff. March 14, 2014.

Historical and Statutory Notes

Acts 2012, c. 23, in subsec. (g), extended the grant funding application date for Chesapeake Bay watershed compliance projects from December 31, 2011 to December 31, 2012.

Acts 2013, c. 206, rewrote subsec. (f), which formerly read:

"(f) No later than December 1, 2012, the Water Development Authority shall report to the Joint Committee on Government and Finance the total

cost of Chesapeake Bay watershed compliance projects and the Greenbrier River watershed compliance projects and the proposed grant awards for each eligible project. Grant awards shall be of equal ratio among all applicants of the total cost of each eligible project."

Acts 2014, 1st Ex. Sess., c. 6, in subsec. (f), substituted "November 26, 2012" for "November 28, 2012".

ARTICLE 15C

BROADBAND DEPLOYMENT

- Section 31-15C-2. Definitions.
- 31-15C-3. Broadband Deployment Council established; members of council; administrative support.
- 31-15C-4. Powers and duties of the council generally.
- 31-15C-8. Stimulation of demand through public outreach and education.

- Section 31-15C-9. Development of guidelines and application for funding assistance; emergency rule-making authority.
- 31-15C-10. Requirements for project funding assistance; review of project application by council; competitive applications.

§ 31-15C-2. Definitions

For the purposes of this article:

(1) "Broadband" or "broadband service" means any service providing advanced telecommunications capability with the same downstream data rate and upstream data rate as is

At a regular meeting of the County Court of Raleigh County, West Virginia, held at the courthouse on the 13th day of November, 1962, at 10:00 a.m., there were present John C. Ward, President, and H. G. Farmer, Commissioner. H. G. Farmer introduced and caused to be read a proposed resolution and order entitled:

"A Resolution and Order Proposing the Creation of a Public Service District within Raleigh County, West Virginia, and Providing for the Establishment of a Date of a Public Hearing Thereon and for Publication of a Notice of such Public Hearing";

and moved that all rules otherwise requiring deferred consideration be suspended and the adoption of said proposed resolution and order. In the absence of A. J. Lilly, Commissioner, John C. Ward, President, seconded said motion, and after due consideration the President called for a vote upon said motion with the following result:

For the Motion: John C. Ward, President  
H. G. Farmer, Commissioner

Against the Motion: None

The said resolution and order follows:

"WHEREAS, the County Court of Raleigh County, deeming it to be in the public interest, on its own motion proposes the creation of a public service district within Raleigh County, West Virginia; and

"WHEREAS, pursuant to the provisions of Article 13A of Chapter 16 of the Code of West Virginia, a public hearing is required to be held relative to the creation of the proposed public service district;

"NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the County Court of Raleigh County, West Virginia, as follows:

"Section 1. That the County Court of Raleigh County, West Virginia, deeming it to be in the public interest, hereby

proposes the creation of a public service district within Raleigh County, West Virginia, as provided by Article 13A of Chapter 16 of the Code of West Virginia.

"Section 2.

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

"b) The Territory to be embraced in the public service district shall be as follows:

NORTH BECKLEY PUBLIC SERVICE DISTRICT

Beginning at a point of latitude and longitude as shown on a general highway map of Raleigh County, Revised January 1, 1957, said point being N 37° 48' 30" W 81° 14' 40" said point being the most northerly point of the Crab-Orchard MacArthur Public Service District; thence in a northeasterly direction approximately 3 1/2 miles with a point of latitude and longitude N 37° 50' 36" W 81° 11' 56"; thence due east approximately .4 mile to a point of latitude and longitude N 37° 50' 30" W 81° 11' 20"; thence due south approximately .7 mile to a point of latitude and longitude N 37° 50' 00" W 81° 11' 20"; thence due east approximately 2.6 mile to a point of latitude and longitude N 37° 50' 00" W 81° 08' 40"; thence in a northeasterly direction approximately 1.1 miles to the extreme end of West Virginia State Highway 41/4; thence with West Virginia State Route 41/4 to its intersection with State Routes 41 and 61; thence with routes 41 and 19 to the south side of New River at Royal; thence with the south side of New River in a general easterly direction to the mouth of Glade Creek; thence in a general southerly direction with Glade Creek and with the Shady Spring Public Service District # 1 line to its intersection with the district line of Shady Spring and Richmond District at the mouth of Scott Branch; thence with Scott Branch and the north boundary line of the Shady Spring Public Service District # 1 to its intersection with State Route 22; thence in a westerly direction with State Route 22 to its intersection with State Route 9; thence continuing in a westerly direction with State Route 9 to its intersection with State Route 9/7; thence in a general northwesterly direction and continuing with the north boundary line of the Shady Spring Public Service District # 1 to the northern most corner of the Shady Spring Public Service District # 1, said corner being at the intersection of Route 9/7, commonly called the Old Worley Road and the corporate limits to the City of Beckley; thence in a northwesterly direction and with the corporate line of the City of Beckley to its intersection with Little Whitestick Creek; thence continuing with the corporate line of the City of Beckley in a general westerly direction to the most northwestern corner of the corporation line of the City of Beckley, said corner being approximately .3 mile north of West Virginia State Route 3, commonly known as the Harper Road, said point<sup>also</sup> being a corner of the Crab Orchard-MacArthur Public Service District.

thence in a general northwesterly direction and with the northern boundary line of the Crab Orchard-MacArthur Public Service District and parallel with West Virginia State Route 3 approximately .3 mile north thereof, to the point of beginning.

"c) The purpose of said public service district shall be to construct or acquire by purchase or otherwise and maintain, operate and improve and extend properties supplying sewerage or water services or both within such territory.

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

"Section 3. That on the 11th day of December, 1962, at the hour of 1:30 p.m. this County Court shall meet in the County Courtroom in the courthouse at Beckley, 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 and shall have an opportunity to be heard for and against the creation of said district, and, at such hearing, the County Court shall consider and determine the feasibility of the creation of the proposed public service district.

"Section 4. That the Clerk of this Court is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on November 30, 1962, in The Beckley Post-Herald, a newspaper of general circulation published in Raleigh County."

"NOTICE OF PUBLIC HEARING ON CREATION OF NORTH  
BECKLEY PUBLIC SERVICE DISTRICT"

"Notice is hereby given that deeming it to be in the public interest the County Court of Raleigh County, West Virginia, on its own motion, has proposed the creation of a public service district within Raleigh County for the purpose of constructing or acquiring by purchase or otherwise and the maintenance, operation

and extension of public service properties supplying sewerage or water services or both within the district hereinafter described, to be named North Beckley Public Service District and having the following description:

NORTH BECKLEY PUBLIC SERVICE DISTRICT

Beginning at a point of latitude and longitude as shown on a general highway map of Raleigh County, Revised January 1, 1957, said point being N 37° 48' 30" W 81° 14' 40" said point being the most northerly point of the Crab-Orchard MacArthur Public Service District; thence in a northeasterly direction approximately 3 1/2 miles with a point of latitude and longitude N 37° 50' 38" W 81° 11' 54"; thence due east approximately .4 mile to a point of latitude and longitude N 37° 50' 38" W 81° 11' 20"; thence due south approximately .7 mile to a point of latitude and longitude N 37° 50' 00" W 81° 11' 20"; thence due east approximately 2.6 mile to a point of latitude and longitude N 37° 50' 00" W 81° 08' 40"; thence in a northeasterly direction approximately 1.1 miles to the extreme end of West Virginia State Highway 41/4; thence with West Virginia State Route 41/4 to its intersection with State Routes 41 and 61; thence with routes 41 and 19 to the south side of New River at Royal; thence with the south side of New River in a general easterly direction to the mouth of Glade Creek; thence in a general southerly direction with Glade Creek and with the Shady Spring Public Service District # 1 line to its intersection with the district line of Shady Spring and Richmond District at the mouth of Scott Branch; thence with Scott Branch and the north boundary line of the Shady Spring Public Service District # 1 to its intersection with State Route 22; thence in a westerly direction with ~~the~~ State Route 22 to its intersection with State Route 9; thence continuing in a westerly direction with State Route 9 to its intersection with State Route 9/7; thence in a general northwesterly direction and continuing with the north boundary line of the Shady Spring Public Service District # 1 to the northern most corner of the Shady Spring Public Service District # 1, said corner being at the intersection of Route 9/7, commonly called the Old Worley Road and the corporate limits to the City of Beckley; thence in a northwesterly direction and with the corporate line of the City of Beckley to its intersection with Little Whitestick Creek; thence continuing with the corporate line of the City of Beckley in a general westerly direction to the most northwestern corner of the corporation line of the City of Beckley, said corner being approximately .3 mile north of West Virginia State Route 3, commonly known as the Harper Road, said point <sup>also</sup> being a corner of the Crab Orchard-MacArthur Public Service District.

thence in a general northwesterly direction and with the northern boundary line of the Crab Orchard-MacArthur Public Service District and parallel with west Virginia State Route 3 approximately .3 mile north thereof, to the point of beginning.

"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 Raleigh County will conduct a public hearing on the 11th day of December, 1962, at 1:30 o'clock p.m. in the County Courtroom in the Courthouse at Beckley, 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 13th day of November, 1962.

ATTEST: C. O. Smith, Jr.  
Clerk of the County Court of  
Raleigh County, West Virginia

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

I, C. C. Smith, Jr., Clerk of the County Court of  
Raleigh County, West Virginia, hereby certify that the foregoing  
is a true and correct copy of an order entered by the County Court  
of Raleigh County at a regular meeting held on the 13th day of  
November, 1962.

Given under my hand this 25<sup>th</sup> day of May  
1963.

C. C. Smith, Jr.  
Clerk C.H.  
County Court of Raleigh County

(Court's seal)



West Virginia:

At a regular session of the County Court of Raleigh County, West Virginia, held at the Courthouse in the County Courtroom thereof, on the 26th day of January, 1963. P R E S E N T: John C. Ward, President  
H. G. Farmer, Commissioner  
Charles T. Burdiss, Com.

RESOLUTION AND ORDER APPOINTING MEMBERS TO

THE PUBLIC SERVICE BOARD OF THE NORTH

BECKLEY PUBLIC SERVICE DISTRICT

The following resolution and order was adopted by unanimous vote of the County Court of Raleigh County, West Virginia, upon motion of H. G. Farmer, seconded by Charles T. Burdiss:

WHEREAS, the County Court of Raleigh County, West Virginia, did heretofore, by resolution and order passed December 11, 1962, create North Beckley Public Service District; and

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

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

Section 1. That the said court hereby finds and determines that the following persons, who are residents of North Beckley Public Service District are hereby appointed members of the public service board of said district, and their respective terms of office shall be as follows: James D. Lilly for a term of six years from December 1, 1962; Cary Don Houchins for a term of four years from December 1, 1962; and Walter James for a term of two years from December 1, 1962.

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 the oath of office, and thereafter said appointees constituting the initial public service board of North Beckley Public Service District shall meet and organize in compliance with the provisions of Article 13a of Chapter 16 of the Code of West Virginia.

(Com Record No.32  
page 18E)

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

I, C. O. Smith, Jr., Clerk of the County Court of  
Raleigh County, West Virginia, hereby certify that the foregoing  
is a true and correct copy of an order entered by the County  
Court of Raleigh County at a regular meeting held on the 26th  
day of January, 1963.

Given under my hand this 4 day of March,  
1963.

C. O. Smith, Jr.  
Clerk  
County Court of Raleigh County  
*Prof. Edwin Hunt, Jr.*

(Court's Seal)

West Virginia:

At a regular session of the County Court of Raleigh County, West Virginia, held at the Courthouse in the County Courtroom thereof, on the 26th day of January, 1963. P R E S E N T: John C. Ward, President  
H. C. Farmer, Commissioner  
Charles T. Burdiss, Com.

RESOLUTION AND ORDER APPOINTING MEMBERS TO

THE PUBLIC SERVICE BOARD OF THE NORTH

BECKLEY PUBLIC SERVICE DISTRICT

The following resolution and order was adopted by unanimous vote of the County Court of Raleigh County, West Virginia, upon motion of H. G. Farmer, seconded by Charles T. Burdiss:

WHEREAS, the County Court of Raleigh County, West Virginia, did heretofore, by resolution and order passed December 11, 1962, create North Beckley Public Service District; and

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

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

Section 1. That the said court hereby finds and determines that the following persons, who are residents of North Beckley Public Service District are hereby appointed members of the public service board of said district, and their respective terms of office shall be as follows: James D. Lilly for a term of six years from December 1, 1962; Cary Don Houchins for a term of four years from December 1, 1962; and Walter James for a term of two years from December 1, 1962.

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 the oath of office, and thereafter said appointees constituting the initial public service board of North Beckley Public Service District shall meet and organize in compliance with the provisions of Article 13a of Chapter 16 of the Code of West Virginia.

(Com Record No. 32  
page 185)

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

I, C. O. Smith, Jr., Clerk of the County Court of  
Raleigh County, West Virginia, hereby certify that the foregoing  
is a true and correct copy of an order entered by the County  
Court of Raleigh County at a regular meeting held on the 26th  
day of January, 1963.

Given under my hand this 4 day of March,  
1963.

C. O. Smith, Jr.  
Clerk  
County Court of Raleigh County  
*Wm. Edwin Hunt, Jr.*

(Court's Seal)

Skelton, Raleigh County, West Virginia  
February 20, 1963

Pursuant to the provisions of a resolution and order adopted January 26, 1963, by the County Court of Raleigh County, West Virginia, entitled:

"RESOLUTION AND ORDER APPOINTING MEMBERS TO PUBLIC SERVICE BOARD OF THE NORTH BECKLEY PUBLIC SERVICE DISTRICT."

the persons who had been appointed members of said public service board by said resolution and order and who had qualified by taking an oath of office, met at the Office of the Houchins Manufacturing Co. in Skelton, West Virginia, at 7:30 p.m. on February 20, 1963, for the purpose of organization. There were present: James D. Lilly, Cary D. Houchins and Walter James. James D. Lilly was elected Chairman of said public service board by a unanimous vote of the members.

Chairman Lilly asked for nominations for appointment to the office of Secretary of the public service board. It was moved by Walter James and seconded by Cary D. Houchins that Cary D. Houchins be appointed Secretary of the public service board. The motion was adopted by the following vote:

Aye: James D. Lilly  
Cary D. Houchins  
Walter James

Nay: None

Chairman Lilly asked for nominations for appointment to the office of Treasurer of North Beckley Public Service District. It was moved by Cary D. Houchins and seconded by Walter James that Walter James be appointed Treasurer of the North Beckley Public Service District. The motion was adopted by the following vote:

Aye: James D. Lilly  
Cary D. Houchins  
Walter James

Nay: None

The Chairman then stated that it was in order to provide a corporate seal for the district. It was moved by Cary D. Houchins and seconded by Walter James that the Secretary be instructed to procure a seal for the district, said seal to contain the words "North Beckley Public Service District, Raleigh County, West Virginia." The motion was adopted by the following vote:

Aye: James D. Lilly  
Cary D. Houchins  
Walter James

Nay: None

The Chairman then announced that Section 1409(38d) of Article 13a of Chapter 16 of the West Virginia Code requires that the public service board determine by resolution its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Thereupon, the following resolution was introduced by Cary D. Houchins and on motion of Cary D. Houchins and seconded by Walter James was adopted by the following vote:

Aye: James D. Lilly  
Cary D. Houchins  
Walter James

Nay: None

"A RESOLUTION SETTING FORTH RULES OF PROCEDURE FOR THE PUBLIC SERVICE BOARD OF NORTH BECKLEY PUBLIC SERVICE DISTRICT FIXING THE TIME AND PLACE OF THE MEETINGS OF SAID BOARD AND THE MANNER IN WHICH SPECIAL MEETINGS MAY BE CALLED."

"BE IT AND IT IS HEREBY RESOLVED BY THE PUBLIC SERVICE BOARD OF NORTH BECKLEY PUBLIC SERVICE DISTRICT, RALEIGH COUNTY, WEST VIRGINIA, AS FOLLOWS:

"Section 1. Regular meetings of the Public Service Board of North Beckley Public Service District shall be held without notice at the office of the Houchins Manufacturing Co. in Skelton, West Virginia, on the 1st Wednesday of each month at 7:30 p.m. unless the same shall be a legal holiday, in which event said meeting shall be held on the next succeeding secular day.

"Section 2. The first regular meeti., in January, 1964, and the first regular meeting in January on each succeeding year shall be the annual organization meeting, at which time a Chairman shall be selected from the members of the Board and a Secretary and Treasurer shall be appointed.

"Section 3. The Chairman of the Public Service Board may, when he deems it expedient and shall, upon the written request of two members of the Board, call a special meeting of the Board for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Board or may be mailed to the business or home address of each member of the Board at least two days prior to the date of such special meeting. At such special meeting no business shall be considered other than as designated in the call, but if all the members of the Board are present at a special meeting, any and all business may be transacted at such special meeting.

"Section 4. A majority of the members of the Board shall constitute a quorum for the purpose of conducting the business and exercising the powers of the District and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Board upon a vote of a majority of the members of said Board.

"Section 5. At the regular meetings of the Board the following shall be the order of business:

- "1. Roll Call
- "2. Reading and approval of the minutes of the previous meeting
- "3. Bills and communications
- "4. Reports of the Secretary and Treasurer
- "5. Reports of committees
- "6. Unfinished business
- "7. New business
- "8. Adjournment

"Section 6. All resolutions shall be in writing and shall be copied in a journal of the proceedings of the Board, and the voting on all questions coming before the Board shall be by roll call and the Ayes and Nays shall be entered upon the minutes of such meeting."

Thereupon, the following resolution was introduced by Cary D. Houchins, read in full and pursuant to motion made by Cary D. Houchins and seconded by Walter James, was adopted by the following vote:

Aye: James D. Lilly  
Cary D. Houchins  
Walter James

Nay: None

"Whereas, North Beckley Public Service District, herein called the 'Applicant,' after thorough consideration of the various aspects of the problem and study of available data has hereby determined that the construction of certain public works, generally described as a sanitary sewerage system and sewage treatment plant in said district is desirable and in the public interest and to that end it is necessary that action preliminary to the construction of said works be taken immediately; and

"WHEREAS, under the terms of Public Law 560, 83rd Congress, as amended, the United States of America has authorized the making of advances to public bodies to aid in financing the cost of engineering and architectural surveys, designs, plans, working drawings, specifications or other action preliminary to and in preparation for the construction of public works; and

"WHEREAS, the Applicant has examined and duly considered such Act and the Applicant considers it to be in the public interest and to its benefit to file an application under said Act and to authorize other action in connection therewith;

WEST VIRGINIA:

At a regular session of the County Court of Raleigh County, West Virginia, held on the 11th day of December, 1962, in the County Court Room of the Court House.

P R E S E N T: John C. Ward, President  
H. G. Farmer, Commissioner  
A. J. Lilly, Commissioner

This being the date fixed by prior action of the County Court for conducting the public hearing on the creation of the proposed North Beckley Public Service District, as contemplated and provided for in an order heretofore passed by this Court on the 13th day of November, 1962, the President announced that all persons residing in, or owning, or having any interest in property in such proposed public service district desiring to be heard for or against the creation would be heard, and all such interested persons desiring to be heard were given full opportunity. Among those present at the meeting were W. Beverly Hume, County Sanitarian, Raleigh County, Dennis M. Leary, Jr., Engineer, W. H. File, Jr., Attorney, and several residents and property owners from the proposed district.

The County Court, having further discussed and considered the feasibility of the creation of the proposed district, is of the opinion that in the public interest, the said district should be created.

Thereupon, H. G. Farmer, Commissioner, moved the passage of the following resolution and order, which motion was duly seconded by A. J. Lilly, Commissioner, and passed unanimously by said Court:

WHEREAS, the County Court of Raleigh County, West Virginia, did heretofore, by an order passed on the 13th day of November, 1962,

fix a date for a public hearing on the creation of the proposed North Beckley Public Service District, and in and by said order, provide that all persons residing in or owning, or having any interest in property in the proposed public service district might appear before the County Court at this meeting and have the opportunity to be heard for and against the creation of said district; and

WHEREAS, notice of this hearing was duly given in the manner provided and required by said order and by Article 13a of Chapter 16 of the Code of West Virginia, 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 Resolved and Ordered by the County Court of Raleigh County, West Virginia, as follows:

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

BEGINNING at a point of latitude and longitude as shown on a general highway map of Raleigh County, Revised January 1, 1957, said point being N 37° 48' 30" W 81° 14' 40" said point being the most northerly point of the Crab Orchard-MacArthur Public Service District; thence in a northeasterly direction approximately 3½ miles with a point of latitude and longitude N 37° 50' 38" W 81° 11' 54"; thence due east approximately .4 mile to a point of latitude and

longitude N 37° 50' 38" W 81° 11' 20"; thence due south approximately .7 mile to a point of latitude and longitude N 37° 50' 00" W 81° 11' 20"; thence due east approximately 2.6 mile to a point of latitude and longitude N 37° 50' 00" W 81° 08' 40"; thence in a northeasterly direction approximately 1.1 miles to the extreme end of West Virginia State Highway 41/4; thence with West Virginia State Route 41/4 to its intersection with State Routes 41 and 61; thence with routes 41 and 19 to the south side of New River at Royal; thence with the south side of New River in a general easterly direction to the mouth of Glade Creek; thence in a general southerly direction with Glade Creek and with the Shady Spring Public Service District #1 line to its intersection with the district line of Shady Spring and Richmond District at the mouth of Scott Branch; thence with Scott Branch and the north boundary line of the Shady Spring Public Service District #1 to its intersection with State Route 22; thence in a westerly direction with State Route 22 to its intersection with State Route 9; thence continuing in a westerly direction with State Route 9 to its intersection with State Route 9/7; thence in a general northwesterly direction and continuing with the north boundary line of the Shady Spring Public Service District #1 to the northern most corner of the Shady Spring Public Service District #1, said corner being at the intersection of Route 9/7, commonly called the Old Worley Road and the corporate limits to the City of Beckley; thence in a northwesterly direction and with the corporate line of the City of Beckley to its intersection with Little Whitestick Creek; thence continuing with the corporate line of the City of Beckley in a general westerly direction to the most northwestern corner of the corporation line of the City of Beckley, said corner being approximately .3 mile north of West Virginia State Route 3, commonly known as the Harper Road, said point also

being a corner of the Crab Orchard-MacArthur Public Service District; thence in a general northwesterly direction and with the northern boundary line of the Crab Orchard-MacArthur Public Service District and parallel with West Virginia State Route 3 approximately .3 mile north thereof, to the point of Beginning.

Section 2. That said public service district so created shall have the name and corporate title of "North Beckley 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, Chapter 16, of the Code of West Virginia.

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

STATE OF WEST VIRGINIA,

COUNTY OF RALEIGH, TO-WIT:

I, C. O. Smith, Jr., Clerk of the County Court of Raleigh County, West Virginia, hereby certify that the foregoing is a true and correct copy of an order entered by the County Court of Raleigh County at a regular meeting held on the 11th day of December, 1962.

Given under my hand this 11<sup>th</sup> day of December,

1962.

C. O. Smith, Jr.  
Clerk, County Court of Raleigh  
County

(COURT'S SEAL)

BECKLEY POST-HERALD

BECKLEY, WEST VIRGINIA

Publisher's Fee \$..

COPY OF PUBLICATION

NOTICE OF PUBLIC HEARING ON CREATION OF NORTH BECKLEY PUBLIC SERVICE DISTRICT

Notice is hereby given that according to the public interest the County Court of Raleigh County, West Virginia, on its own motion, has proposed the creation of a public service district within Raleigh County for the purpose of constructing or acquiring by purchase or otherwise and the maintenance, operation and extension of public service properties supplying sewerage or water service or both within the district hereinafter described, to be named North Beckley Public Service District and having the following description:

NORTH BECKLEY PUBLIC SERVICE DISTRICT

Beginning at a point of latitude and longitude as shown on a general highway map of Raleigh County, West Virginia, January 1, 1927, said point being N 37 degrees 48' 30" W 81 degrees 11' 40" said point being the most northerly point of the Crab Orchard-MacArthur Public Service District; thence in a northerly direction approximately 3/4 mile with a point of latitude and longitude N 37 degrees 50' 38" W 81 degrees 11' 51"; thence due east approximately 1/4 mile to a point of latitude and longitude N 37 degrees 50' 38" W 81 degrees 11' 20"; thence due south approximately 1/2 mile to a point of latitude and longitude N 37 degrees 50' 00" W 81 degrees 11' 20"; thence due east approximately 2.0 mile to a point of latitude and longitude N 37 degrees 50' 00" W 81 degrees 05' 40"; thence in a northerly direction approximately 1.1 mile to the extreme end of West Virginia State Highway 41-4; thence with West Virginia State Route 41-4 to its intersection with State Routes 41 and 61; thence with routes 41 and 39 to the south side of New River at Royal; thence with the south side of New River in a general easterly direction to the mouth of Glade Creek; thence in a general southerly direction with Glade Creek and with the Sandy Spring Public Service District No. 1 line to its intersection with the district line of Sandy Spring and Richmond District at the mouth of Scott Branch; thence with Scott Branch and the north boundary line of the Sandy Spring Public Service District No. 1 to its intersection with State Route 23; thence in a westerly direction with State Route 23 to its intersection with State Route 9; thence continuing in westerly direction with State Route 9 to its intersection with State Route 6-7; thence in a general northwesterly direction and continuing with the north boundary line of the Sandy Spring Public Service District No. 1, said corner being at the intersection of Route 6-7 commonly called the Old Worley Road and the corporate limits to the City of Beckley; thence in a northwesterly direction and with the corporate line of the City of Beckley to its intersection with Little Whiteside Creek; thence continuing with the corporate line of the City of Beckley in a general westerly direction to the most northwestern corner of the corporation line of the City of Beckley, said corner being approximately 1/2 mile north of West Virginia State Route 3, commonly known as the Harper Road, said point also being a corner of the Crab Orchard-MacArthur Public Service District; thence in a general northwesterly direction and with the northern boundary line of the Crab Orchard-MacArthur Public Service District and parallel with West Virginia State Route 3 approximately 3 mile north thereof, to the point of beginning.

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 Raleigh County will conduct a public hearing on the 11th day of December, 1927, at 1:00 o'clock p.m. in the County Courtroom in the Courthouse at Beckley, 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 13th day of November, 1927. C. O. Smith, Jr., Clerk of the County Court of Raleigh County, West Virginia

195.....

STATE OF WEST VIRGINIA,

County of Raleigh, To-Wit:

I, ....., Editor of The Beckley Post-Herald, a newspaper published in said Raleigh County, do hereby certify that the attached notice was published in said newspapers once a week for ..... consecutive weeks, commencing on the ..... day of ....., 19..... and that a copy of same was posted at the front door of the court house of Raleigh County, West Virginia, on the ..... day of ....., 19.....

Editor BECKLEY POST-HERALD

IN RE: NORTH BACKLEY PUBLIC SERVICE DISTRICT

H. G. Farmer introduced and caused to be read a proposed resolution and order entitled:

"A Resolution and Order Proposing the Creation of a Public Service District within Raleigh County, West Virginia, and Providing for the Establishment of a Date of a Public Hearing Thereon and for Publication of a Notice of such Public Hearing."

And moved that all rules otherwise requiring deferred consideration be suspended and the adoption of said proposed resolution and order. In the absence of A. J. Lilly, Commissioner, John C. Ward, President, seconded said motion, and after due consideration the President called for a vote upon said motion with the following result:

For the Motion: John C. Ward, President  
H. G. Farmer, Commissioner

Against the Motion: None

The said resolution and order follows:

"WHEREAS, the County Court of Raleigh County, deeming it to be in the public interest, on its own motion proposed the creation of a public service district within Raleigh County, West Virginia; and

"WHEREAS, pursuant to the provisions of Article 13A of Chapter 16 of the Code of West Virginia, a public hearing is required to be held relative to the creation of the proposed public service district;

"NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the County Court of Raleigh County, West Virginia, as follows:

"Section 1. That the County Court of Raleigh County, West Virginia, deeming it to be in the public interest, hereby proposes the creation of a public service district within Raleigh County, West Virginia, as provided by Article 13A of Chapter 16 of the Code of West Virginia.

"Section 2.

"a) The name and corporate title of said public service district shall be the North Backley Public Service District;

"b) The Territory to be embraced in the public service district shall be as follows:

NORTH BECKLEY PUBLIC SERVICE DISTRICT

Beginning at a point of latitude and longitude as shown on a general highway map of Raleigh County, Revised January 1, 1957, said point being N 37° 48' 30" W 81° 14' 40" said point being the east northerly point of the Crab Orchard-McArthur Public Service District; thence in a northeasterly direction approximately 3 1/2 miles with a point of latitude and longitude N 37° 50' 38" W 81° 11' 54"; thence due east approximately .4 mile to a point of latitude and longitude N 37° 50' 38" W 81° 11' 20"; thence due south approximately .7 mile to a point of latitude and longitude N 37° 50' 00" W 81° 11' 20"; thence due east approximately 2.6 mile to a point of latitude and longitude N 37° 50' 00" W 81° 08' 40"; thence in a northeasterly direction approximately 1.1 miles to the extreme end of West Virginia State Highway 41/4; thence with West Virginia State Route 41/4 to its intersection with State Routes 41 and 61; thence with routes 41 and 19 to the south side of New River at Royal; thence with the south side of New River in a general easterly direction to the mouth of Glade Creek; thence in a general southerly direction with Glade Creek and with the Shady Spring Public Service District # 1 line to its intersection with the District line of Shady Spring and Richmond District at the mouth of Scott Branch; thence with Scott Branch and the north boundary line of the Shady Spring Public Service District # 1 to its intersection with State Route 22; thence in a westerly direction with State Route 22 to its intersection with State Route 9; thence continuing in a westerly direction with State Route 9 to its intersection with State Route D/7; thence in a general northwesterly direction and continuing with the north boundary line of the Shady Spring Public Service District # 1 to the northern west corner of the Shady Spring Public Service District # 1, said corner being at the intersection of Route D/7, commonly called the Old Worley Road and the corporate limits to the City of Beckley; thence in a northwesterly direction and with the corporate line of the City of Beckley to its intersection with Little Whitestick Creek; thence continuing with the corporate line of the City of Beckley in a general westerly direction to the most northwestern corner of the corporation line of the City of Beckley, said corner being approximately .3 mile north of West Virginia State Route 3, commonly known as the Harper Road, said point <sup>also</sup> being a corner of the Crab Orchard-McArthur Public Service District.

North Beckley Public Service District

Page Two

thence in a general northwesterly direction and with the northern boundary line of the Crab Orchard-McArthur Public Service District and parallel with West Virginia State Route 3 approximately .3 mile north thereof, to the point of beginning.

"c) The purpose of said public service district shall be to construct or acquire by purchase or otherwise and maintain, operate and improve and extend properties supplying coverage of water services or both within such territory.

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

"Section 3. That on the 11th day of December, 1962, at the hour of 1:30 p.m. this County Court shall meet in the County Courtroom in the courthouse at Beckley, 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 and shall have an opportunity to be heard for and against the creation of said district, and, at such hearing, the County Court shall consider and determine the feasibility of the creation of the proposed public service district.

"Section 4. That the Clerk of this Court is hereby authorized and directed to cause notice of such hearing in substantially the form hereinafter set out to be published on November 30, 1962, in The Beckley Post-Herald, a newspaper of general circulation published in Raleigh County.

**NOTICE OF PUBLIC HEARING ON CREATION OF NORTH  
BECKLEY PUBLIC SERVICE DISTRICT**

Notice is hereby given that deeming it to be in the public interest the County Court of Raleigh County, West Virginia, on its own motion, has proposed the creation of a public service district within Raleigh County for the purpose of constructing or acquiring by purchase or otherwise and the maintenance, operation and extension of public service properties supplying sewerage or water services or both within the district hereinafter described, to be named North Beckley Public Service District and having the following description:

NORTH BECKLEY PUBLIC SERVICE DISTRICT

Beginning at a point of latitude and longitude as shown on a general highway map of Raleigh County, Revised January 1, 1957, said point being N 37° 48' 30" W 81° 14' 40" said point being the east northerly point of the Crab Orchard-MacArthur Public Service District; thence in a northeasterly direction approximately 3 1/2 miles with a point of latitude and longitude N 37° 50' 38" W 81° 11' 54"; thence due east approximately 1/4 mile to a point of latitude and longitude N 37° 50' 38" W 81° 11' 20"; thence due south approximately 7 miles to a point of latitude and longitude N 37° 50' 00" W 81° 11' 20"; thence due east approximately 2.6 mile to a point of latitude and longitude N 37° 50' 00" W 81° 08' 40"; thence in a northeasterly direction approximately 1.7 miles to the extreme end of West Virginia State Highway 41/A; thence with West Virginia State Route 41/A to its intersection with State Route 41 and 61; thence with routes 41 and 61 to the south side of New River at Royal; thence with the south side of New River in a general easterly direction to the mouth of Clane Creek; thence in a general southerly direction with Clane Creek and with the Shady Spring Public Service District # 1 line to its intersection with the district line of Shady Spring and Richmond District at the mouth of Scott Branch; thence with Scott Branch and the north boundary line of the Shady Spring Public Service District # 1 to its intersection with State Route 22; thence in a westerly direction with State Route 22 to its intersection with State Route 2; thence continuing in a westerly direction with State Route 2 to its intersection with State Route 6/7; thence in a general northwesterly direction and continuing with the north boundary line of the Shady Spring Public Service District # 1 to the northern east corner of the Shady Spring Public Service District # 1, said corner being at the intersection of State 6/7, commonly called the Old Horner Road and the corporate limits to the City of Beckley; thence in a northwesterly direction and with the corporate line of the City of Beckley to its intersection with Little Whiteslick Creek; thence continuing with the corporate line of the City of Beckley in a general westerly direction to the most northwestern corner of the corporation line of the City of Beckley, said corner being approximately 3 mile north of West Virginia State Route 3, commonly known as the Harter Road, said point <sup>also</sup> being a corner of the Crab Orchard-MacArthur Public Service District;

Thence in a general northwesterly direction and with the northern boundary line of the Crab Orchard-MacArthur Public Service District and parallel with West Virginia State Route 3 approximately 13 mile north thereof, to the point of beginning.

IN RE: NORTH BECKLEY PUBLIC SERVICE  
DISTRICT

This being the date fixed by prior action of the County Court for conducting the public hearing on the creation of the Proposed North Beckley Public Service District, as contemplated and provided for in an order heretofore passed by this Court on the 13th day of November, 1962, the President announced that all persons residing in, or owning, or having any interest in property in such proposed public service district desiring to be heard for or against the creation would be heard, and all such interested persons desiring to be heard were given full opportunity. Among those present at the meeting were W. Beverly Hume, County Sanitarian, Raleigh County, Dennis M. Loary, Jr., Engineer, W. H. Fife, Jr., Attorney, and several residents and property owners from the proposed district.

The County Court, having further discussed and considered the feasibility of the creation of the proposed district, is of the opinion that in the public interest, the said district should be created.

Thereupon, H. G. Farah, Commissioner, moved the passage of the following resolution and order, which motion was duly seconded by A. J. Lilly, Commissioner, and passed unanimously by said Court:

WHEREAS, the County Court of Raleigh County, West Virginia, did heretofore, by an order passed on the 13th day of November, 1962,

fix a date for a public hearing on the creation of the proposed North Beckley Public Service District, and in and by said order, provide that all persons residing in or owning, or having any interest in property in the proposed public service district might appear before the County Court at this meeting and have the opportunity to be heard for and against the creation of said district; and

WHEREAS, notice of this hearing was duly given in the manner provided and required by said order and by Article 13a of Chapter 16 of the Code of West Virginia, 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 Received and Ordered by the County Court of Raleigh County, West Virginia, as follows:

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

BEGINNING at a point of latitude and longitude as shown on a general highway map of Raleigh County, Revised January 1, 1957, said point being N 37° 45' 30" W 81° 14' 40" said point being the most northerly point of the Crab Orchard-MacArthur Public Service District; thence in a northeasterly direction approximately 3 1/2 miles with a point of latitude and longitude N 37° 50' 38" W 81° 11' 54"; thence due east approximately 1/4 mile to a point of latitude and

longitude N 37° 50' 38" W 01' 11" 20" thence due south approximately  
7.716 to a point of latitude and longitude N 37° 50' 00" W 01'  
11' 20" thence due east approximately 2.6 mile to a point of  
latitude and longitude N 37° 50' 00" W 01' 08" 40" thence in a  
northeasterly direction approximately 1.1 mile to the extreme end  
of West Virginia State Highway 41/4; thence with West Virginia  
State Route 41/4 to its intersection with State Routes 41 and 19;  
thence with routes 41 and 19 to the south side of New River;  
thence with the south side of New River in a general easterly  
direction to the mouth of Glade Creek; thence in a general easterly  
direction with Glade Creek and with the Shady Spring Public Service  
District #1 line to its intersection with the district line of the  
Shady Spring and Richmond District at the mouth of Scott Branch;  
thence with Scott Branch and the north boundary line of the Shady  
Spring Public Service District #1 to its intersection with State  
Route 22; thence in a westerly direction with State Route 22 to its  
intersection with State Route 9; thence continuing in a westerly  
direction with State Route 9 to its intersection with State Route  
9/7; thence in a general northwesterly direction and continuing  
with the north boundary line of the Shady Spring Public Service  
District #1 to the northern east corner of the Shady Spring Public  
Service District #1; said corner being at the intersection of route  
9/7, commonly called the Old North Road and the corporate line  
to the City of Beckley; thence in a northwesterly direction and  
the corporate line of the City of Beckley to its intersection with  
Little Whitesick Creek; thence continuing with the corporate line  
of the City of Beckley in a general westerly direction to the north  
northwestern corner of the corporation line of the City of Beckley,  
said corner being approximately 23.716 north of West Virginia  
State Route 3, commonly known as the Harper Road, said point of

being a corner of the Crab Orchard-MacArthur Public Service District, thence in a general northwesterly direction and with the northern boundary line of the Crab Orchard-MacArthur Public Service District and parallel with West Virginia State Route 3 approximately .3 mile north thereof, to the point of beginning.

Section 2. That said public service district so created shall have the name and corporate title of "North Beckley 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 13, Chapter 16, of the Code of West Virginia.

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

I, BETTY RIFFE, Clerk of the County Commission of Raleigh County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix my seal of said Commission this the <sup>26th</sup> day of <sup>June</sup> 19<sup>99</sup>.

BETTY RIFFE, Clerk

By *Betty Riffe* Clerk



BEFORE THE COUNTY COMMISSION OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: SHADY SPRING PUBLIC SERVICE DISTRICT,  
BRADLEY PUBLIC SERVICE DISTRICT,  
NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
CRAB ORCHARD/MACARTHUR PUBLIC SERVICE DISTRICT.

This the 17th day of December, 1996, came the Petitioners and petitions the County Commission to approve the agreed Boundary modifications and corrections of all the Public Service Districts providing sewer service in Raleigh County, West Virginia. In addition, the Petitioners are requesting the County Commission approve transfer of all property from the dissolved Public Service Districts to the appropriate new Public Service District. The purpose of the realignment shall be to provide definite boundaries of each Public Service District and provide more efficient service to the citizens of Raleigh County. The new boundary for each Public Service District is attached and marked as Exhibit A.

Wherefore, the Petitioners request the County Commission to accept the new boundary lines for the Public Service Districts providing sewer service in Raleigh County, West Virginia, and set a public hearing as required by West Virginia Code 16-13A-2 and such other general relief this Court deems just and proper.

SHADY SPRING PUBLIC SERVICE  
DISTRICT, BRADLEY PUBLIC SERVICE  
DISTRICT, NORTH BECKLEY PUBLIC  
SERVICE DISTRICT, CRAB  
ORCHARD/MACARTHUR PUBLIC  
SERVICE DISTRICT

## Shady Spring Public Service District Legal Description

Beginning at a point where the centerline of the West Virginia Turnpike (I-77) intersects Piney Creek, thence approximately 0.2 miles in a southeasterly direction along the centerline of the West Virginia Turnpike (I-77) to a point of Latitude and Longitude N37°42'28" W81°10'42", said point being on the ridge line of Griffiths Ridge, thence following Griffiths Ridge approximately 6.4 miles in a southeasterly direction to a point of Latitude and Longitude N37°38'35" W81°07'59", thence leaving Griffiths Ridge approximately 2.5 miles in a southerly direction to the intersections of the centerlines of Odd Road (County Route 48) and Bob Vines Road (County Route 48/4), thence approximately 1.2 miles in a southerly direction along the centerline of Bob Vines Road (County Route 48/4) to a point where County Route 48/4 intersect the Raleigh County line, thence into Mercer County approximately 1.6 miles in a southeasterly direction to a point of Latitude and Longitude N37°34'02" W81°07'11", thence approximately 0.6 miles due east to a point of Latitude and Longitude, N37°34'02" W81°06'33", thence approximately 0.4 miles in a northerly direction to a point of Latitude and Longitude N37°34'23" W81°06'31", thence approximately 0.3 miles in an easterly direction to a point of Latitude and Longitude N37°34'24" W81°06'09", thence approximately 0.8 miles in a northerly direction to a point of Latitude and Longitude N37°35'05" W81°06'09", thence approximately 0.5 miles to a northeasterly direction to a point where the Raleigh, Summers, and Mercer County lines have a common boundary point, thence along the Raleigh County line 45.9 miles in a northeasterly and northwesterly direction to the confluence of the Piney Creek and New River, thence approximately 2.3 miles in a southwesterly direction along the centerline of Piney Creek upstream to the confluence of Piney Creek and Fat Creek, said point being a common boundary between North Beckley, Shady Spring Public Service Districts and the City of Beckley Sanitary Board, thence following Fat Creek in a southerly direction from the confluence of Piney Creek and Fat Creek approximately 16,500 feet to the confluence of Fat Creek and Pedge Branch, a tributary of Fat Creek;

thence, following Pedge Branch in a southerly and easterly direction approximately 750 feet to an unnamed tributary of Pedge Branch;

thence, following the unnamed tributary of Pedge Branch approximately 1,800 feet in a southerly direction to the centerline of Interstate 64;

thence, following the centerline of Interstate 64 in a westerly direction approximately 12,600 feet to the intersection of Airport Road (West Virginia Route );

thence, following Airport Road (West Virginia Route 9/9) approximately 1,150 feet to the intersection of Airport Road and Orchard Hill Road (West Virginia Route 9)

thence, following Orchard Hill Road in a southerly and westerly direction approximately 3,900 feet to a point opposite the southernmost property corner of the Cherry Hills subdivision;

thence, following the property lines and two foot reservation easement of the Cherry Hills subdivision approximately 100 feet north-northwest and 800 feet west-northwesterly to a point on a ridge, being a common corner to Parcel 8, Shady Spring District 11, Tax Map No. 8.

thence, following the top of a ridge across Parcels 8, 8C and 5, Shady Spring District 11, Tax Map No. 8 to a point where Beaver Creek flows into Piney Creek, this line is further described as follows:

Leaving a point at the center of an existing gate at or near the property corner of the Cherry Hills subdivision and the Leon Lucas property further described as Parcel 8, Shady Spring District 11, Tax Map No. 8 (and having coordinates in the West Virginia State Plane Coordinate System of N276675, E1960025; thence approximately 640 feet in a west-southwest direction to a high point (N276340, E1959475 in the West Virginia State Plane Coordinate system);

thence approximately 500 feet west-northwest to a point on the ridge (N276630, E1959070); thence approximately 850 feet west-southwest to a high point (N276305, E1958290); thence approximately 575 feet southwest to a high point (N275880, E1957910); thence approximately 1,170 feet to a point on the centerline of Interstate 64 (N276360, E1956850) this point also being about 30 feet south of a sign crossing over the east bound lane of the road; thence following the centerline approximately 680 feet south (west-bound) to the center of a bridge crossing the highway (N275735, E1956590); thence leaving the Interstate centerline and following the ridge approximately 1,950 feet west to the point where Beaver Creek flows into Piney Creek (N275800, E1954640).

thence, following the centerline of Piney Creek upstream approximately 3,150 feet to a point where an old Chesapeake and Ohio railroad bridge crossed Piney Creek;

thence, leaving the centerline of Piney Creek and heading due south to the centerline of the Chesapeake and Ohio Railroad tracks;

thence, following the centerline of the Chesapeake and Ohio Railroad tracks in a southerly and westerly direction 4,300 feet to the centerline of a railroad bridge crossing Piney Creek;

thence, leaving the center line of the railroad tracks and following the centerline of Piney Creek approximately 3,600 feet to a point where a natural gas pipeline crosses Piney Creek; said point being a common boundary between Crab Orchard/MacArthur and Shady Spring Public Service Districts and the City of Beckley Sanitary Board, thence following the centerline of Piney Creek upstream approximately 3.7 miles in a southwesterly direction to a point of beginning.

## Crab Orchard/MacArthur Public Service District Legal Description

Beginning at a point of Latitude and Longitude N37°48'38" W81°14'07", said point being a common boundary between Crab Orchard/MacArthur, North Beckley, and Bradley Public Service Districts, thence approximately 12.4 miles in a southwesterly direction to a point of Latitude and Longitude N37°46'40" W81°27'26", said point being a point on the Raleigh County line, thence with the Raleigh County line in a southeasterly and then northeasterly direction approximately 37.2 miles to a point where Bob Vines Road (County Route 48/4) intersects the Raleigh County line, thence approximately 1.2 miles in a northerly direction along the centerline of Bob Vines Road (County Route 48/4) to its intersection with Odd Road (County Rte. 48), thence approximately 2.5 miles in a northerly direction to a point of Latitude and Longitude N37°38'35" W81°07'59", said point being on the ridge line of Griffiths Ridge, thence following Griffiths Ridge approximately 6.4 miles in a northwesterly direction to a point of Latitude and Longitude N37°42'28" W81°10'42", thence leaving Griffiths Ridge in a northwesterly direction approximately 1.0 mile to the intersections of the centerlines of the West Virginia Turnpike (I-77) and Sullivan Road (County Rte. 25), thence approximately 2.0 miles in a northwesterly direction along the centerline of the West Virginia Turnpike (I-77) to its intersection with Piney Creek, thence following the centerline of Piney Creek downstream approximately 5.7 miles in a northeasterly to a point where a natural gas pipeline crosses Piney Creek, said point being a common boundary between Crab Orchard/MacArthur and Shady Spring Public Service Districts and the City of Beckley Sanitary Board, thence leaving Piney Creek and following a natural gas pipeline approximately 5,200 feet to its intersection with Raleigh Ridge Road (WV Route 19/10);

thence, following the centerline of Raleigh Ridge Road (WV Route 19/10) approximately 2,400 feet westerly to the intersection with the centerline of Fitzpatrick Road (WV Route 20);

thence, following the centerline of Fitzpatrick Road westerly approximately 3,500 feet to the centerline of the intersection with Old Pemberton Road and Old Soak Creek Road;

thence, leaving the intersection of Fitzpatrick Road, Old Pemberton Road, and Old Soak Creek Road and following a line across the West Virginia Turnpike Robert C. Byrd Drive interchange approximately 2250 feet to the west-southwest to a point at the intersection of the centerlines of Old Eccles Road (WV Route 3/18) and Highland Road;

thence, leaving the intersection of Old Eccles Road (WV Route 3/18) and Highland Drive and following Old Eccles Road in a westerly direction approximately 4,500 feet to the centerline of Old Mill Road (WV Route 3/21);

thence, leaving the centerline of Old Eccles Road and following the centerline of Old Mill Road approximately 2,000 feet in an easterly direction to the center a bridge over the West Virginia Turnpike;

thence, leaving Old Mill Road and following the centerline of the West Virginia Turnpike (Interstates 77 & 64) northerly approximately 2,650 feet to the centerline of the Chesapeake and Ohio railroad tracks following Whitestick Creek;

thence, leaving the West Virginia Turnpike centerline and following the centerline of the railroad tracks approximately 850 feet west to the centerline of Old Wickham Road;

thence, following the centerline of Old Wickham Road to the east approximately 600 feet to a point opposite the right-of-way of Hutchinson Road (not constructed);

thence, leaving the centerline of Old Wickham Road and following the centerline of the Hutchinson Road right-of-way to the north approximately 800 feet;

thence, leaving the right-of-way and following the property line between Tax Map District 10, Map No. 200-3 Parcels 65 through 75 and Parcels 117.1 through 123 for a total distance of approximately 618 feet;

thence, following the property line between Parcels 78 and 75 100.1 feet in an easterly direction to a property corner;

thence, leaving the property corner and following the property line between Parcel 78 and Parcels 76, 77, 79, and 80 northerly for a distance of 215 feet to the centerline of the Harold Road right-of-way;

thence, leaving the Harold Road right-of-way and following the property line between Parcels 81 through 87 and Parcels 106 and 107 northerly for a distance of 450 feet to the centerline of the Oppie Road right-of-way;

thence, leaving the Oppie Road right-of-way and following the property line between Parcel 93 and Parcel 94 northerly for a distance of 239 feet to the Harper Industrial Park tract;

thence, following Harper Industrial park property line approximately 860 feet in a northwesterly direction to a corner, approximately 1,400 feet northerly to a corner, approximately 1,200 feet east-northeasterly to a corner, being a common corner between ~~Parcels 106 and 107~~ on Town District 10, Tax Map No. 26;

thence, following the property line approximately 300 feet southeast to the centerline of George Street;

thence, following a line 800 feet due east to the centerline of Harper Park Drive;

thence approximately 520 feet east to the centerline of Harper Road (WV Rte. 3) and the centerline of the West Virginia Turnpike (I-77), thence following the centerline of the West Virginia Turnpike (I-77) in a northerly direction 600 feet to a point, said point being a common boundary between North Beckley and Crab Orchard/MacArthur Public Service Districts and the City of Beckley Sanitary Board; thence following a line 600 feet parallel to the north of the centerline of Harper Road (WV Rte. 3) in a northwesterly direction approximately 0.6 miles to a point where the

600 feet parallel offset intersects the Tamarack Entrance Road, thence 335± feet in a southwesterly direction along the centerline of the Tamarack Entrance Road to its intersection with Dry Hill Road (County Rte. 11), thence 0.4 miles in a northwesterly direction along the centerline of Dry Hill Road (County Rte. 11) to its intersection with Summit Drive, thence approximately 0.2 miles in a northwesterly direction to a point of Latitude and Longitude N37°48'06" W81°13'45", thence approximately 0.2 miles in a northwesterly direction to a point of Latitude and Longitude N37°48'14" W81°13'54", thence approximately 0.5 miles in a northwesterly direction to a point of beginning.

## North Beckley Public Service District Legal Description

Beginning at a point of Latitude and Longitude N37°48'38" W81°14'07", said point being a common boundary between Bradley, Crab Orchard/MacArthur and North Beckley Public Service Districts, thence approximately 0.5 miles in a southeasterly direction to a point of Latitude and Longitude N37°48'14" W81°13'54", thence approximately 0.2 miles in a southeasterly direction to a point of Latitude and Longitude N37°48'06" W81°13'45", thence approximately 0.2 miles in a southeasterly direction to the intersections of Summit Drive and Dry Hill Road (County Route 11), thence 0.4 miles in a southeasterly direction along the centerline of Dry Hill Road (County Route 11) to its intersection with the Tamarack Entrance Road, thence approximately 335± feet in a northeasterly direction along the centerline of the Tamarack Entrance Road, thence 0.6 miles in a southeasterly direction following a line 600 feet parallel to the north of the centerline of Harper Road (WV Rte. 3) to a point where the 600-foot parallel offset intersects the West Virginia Turnpike (I-77), said point being a common boundary between Crab Orchard/MacArthur and North Beckley Public Service Districts and the City of Beckley Sanitary Board, thence following the West Virginia Turnpike (I-77) right-of-way north approximately 1,400 feet to Pikeview Drive; at a point where the WV Turnpike and Pikeview Drive right-of-way split and the WV Turnpike Highway Maintenance Facility property begins,

thence, following Pikeview Drive north and east approximately 1,800 feet to the intersection of Pikeview Drive and New River Drive;

thence, following New River Drive east approximately 8,200 feet to the intersection of New River Drive and Robert C. Byrd Drive; several properties are excluded on either side of new River Drive that are currently served by the other utility;

thence, following the centerline of Robert C. Byrd Drive south approximately 100 feet to the center of the bridge crossing Little Whitestick Creek;

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thence, following the center of Little Whitestick Creek east approximately 450 feet to the centerline of the bridge crossing Elm Street (formerly Center St.) And adjoining the property of the existing North Beckley PSD Hubbard Street Lift Station;

thence, leaving Elm Street and following the centerline of the alley east approximately 500 feet to the intersection of Lyons Street (formerly South Street);

thence, following the centerline of Lyons Street north approximately 75 feet to a point opposite the property corner dividing parcels 64 and 64.2 on the District 10, Tax Map. 100-3;

thence, leaving the centerline in an easterly direction and following the common boundary between Parcels No. 64 and 64.2 approximately 250 feet to a point, said point being the common corner between Parcels 64, 64.2 and 21 on Tax Map No. 100-3;

thence, in a northerly direction approximately 170 feet and following the common property line between Parcel 64 and Parcels 21, 20.01 and 20 to a point, the point being the common corner between Parcels 64, 20 and 19 on Tax Map No. 100-3;

thence, leaving the corner and traveling in an easterly direction approximately 230 feet following the common property line between Parcels 19 and 20 to a point on the centerline of Mellon Street (WV Route 19/45 and formerly Hancock Road);

thence, following the centerline of Mellon Street north approximately 1,070 feet to the intersection with the centerline of Rural Acres Drive (WV Route 19/8);

Note that there are properties excluded in this area that are currently served by the Sanitary Board or require gravity service to be served. These include the apartments and WV Glass on the north side of Rural Acres Drive.

thence, following the centerline of Rural Acres Drive in an easterly direction approximately 2,500 feet to the intersection with the centerline of Eisenhower Drive (US Routes 19 & 21);

thence, leaving the centerline of Rural Acres Drive and following the centerline of Eisenhower Drive approximately 250 feet in a southerly direction to a point opposite the property corner separating Parcels 97 and 98 between Hankwoods Drive and Neal Street;

thence, leaving the centerline of Eisenhower Drive in an easterly direction 25 feet to the property corner separating Parcels 97 and 98 on Raleigh County Tax Map 100-6, and continuing approximately 640 feet along the property line separating Parcels 91 through 97 from Parcels 98 through 103 and continuing along the same straight line approximately 350 feet to the centerline of Cranberry Creek, for a total distance of approximately 1,015 feet more or less;

thence, following Cranberry Creek approximately 8,500 feet to the point where Cranberry Creek joins Piney Creek;

thence, following the centerline of Piney Creek in a northerly and easterly direction approximately 21,000 feet to the confluence of Piney Creek and Fat Creek, said point being a common boundary between North Beckley and Shady Spring Public Service Districts and the City of Beckley Sanitary Board, thence approximately 1.6 miles in a northeasterly direction along the centerline of Piney Creek to the confluence of Piney Creek and Batoff Creek, said point being a common Boundary between Bradley, North Beckley, and Shady Spring Public Service Districts, thence  $N48^{\circ}58'46''W$  630± feet to the centerline of Stanaford Road (WV Rte. 41), thence westerly approximately 2.2 miles along the centerline of Stanaford Road (WV Rte. 41) to its intersection with Mill Creek Road (WV Rte. 61), thence with the centerline of Stanaford Road (WV Route 41) approximately 120± feet in a southeasterly direction to its intersection with Powderkeg Road (County Route 41/4), thence in a westerly direction along the centerline of County Route 41/4 approximately 0.2 miles to the extreme end of Powderkeg Road (County Route 41/4), thence approximately 2.3 miles in a westerly direction to a point of Latitude and Longitude  $N37^{\circ}50'47'' W81^{\circ}10'46''$ , thence approximately 1.5 miles in a southwesterly direction to a point of Latitude and Longitude

$N37^{\circ}49'35'' W81^{\circ}11'26''$ , thence approximately 0.8 miles in a northwesterly direction to a point of Latitude and Longitude  $N37^{\circ}49'54'' W81^{\circ}12'11''$ , thence approximately 0.7 miles in a southeasterly direction to a point of Latitude and Longitude  $N37^{\circ}49'38'' W81^{\circ}12'51''$ , thence approximately 1.1 miles in a northwesterly direction to a point of Latitude and Longitude  $N37^{\circ}49'54'' W81^{\circ}13'59''$ , thence approximately 1.3 miles in a southeasterly direction to a point of Latitude and Longitude  $N37^{\circ}48'51'' W81^{\circ}13'29''$ , thence approximately 840± feet in a southwesterly direction to a point of Latitude and Longitude  $N37^{\circ}48'43'' W81^{\circ}13'32''$ , thence approximately 0.5 miles in a southwesterly direction to a point of beginning.

## Bradley Public Service District Legal Description

Beginning at a point of Latitude and Longitude N37°48'38" W81°14'07", said point being a common boundary between Crab Orchard/MacArthur, North Beckley, and Bradley Public Service Districts, thence approximately 12.4 miles in a southwesterly direction to a point of Latitude and Longitude N37°46'40" W81°27'26", said point being a point on the Raleigh County line, thence with the Raleigh County line in a northwesterly and then easterly direction approximately 57.9 miles to a point where the Raleigh County line intersects the New River, thence with the Raleigh County line and the New River upstream in a southerly direction approximately 3.3 miles to the confluence of the Piney Creek and New River, thence along the centerline of Piney Creek upstream in a southerly direction approximately 0.4 miles to the confluence of Batoff Creek and Piney Creek, said point being a common boundary between Shady Spring, North Beckley, and Bradley Public Service Districts, thence N48°58'46"W 630± feet to the centerline of Stanaford Road (WV Rte. 41), thence westerly approximately 2.2 miles along the centerline of Stanaford Road (WV Rte. 41) to its intersection with Mill Creek Road (WV Rte. 61), thence with the centerline of Stanaford Road (WV Route 41) approximately 120± feet in a southeasterly direction to its intersection with Powderkeg Road (County Route 41/4), thence in a westerly direction along the centerline of Powderkeg Road (County Route 41/4) approximately 0.2 miles to the extreme end of Powderkeg Road (County Route 41/4), thence approximately 2.3 miles in a westerly direction to a point of Latitude and Longitude N37°50'47" W81°10'46", thence approximately 1.5 miles in a southwesterly direction to a point of Latitude and Longitude N37°49'35" W81°11'26", thence approximately 0.8 miles in a northwesterly direction to a point of Latitude and Longitude N37°49'54" W81°12'11", thence approximately 0.7 miles in a southeasterly direction to a point of Latitude and Longitude N37°49'38" W81°12'51", thence approximately 1.1 miles in a northwesterly direction to a point of Latitude and Longitude N37°49'54" W81°13'59", thence approximately 1.3 miles in a southeasterly direction to a point of Latitude and Longitude N37°48'51" W81°13'29", thence approximately 840± feet in a southwesterly direction to a point of Latitude and Longitude N37°48'43" W81°13'32", thence approximately 0.5 miles in a southwesterly direction to a point of beginning.

# AFFIDAVIT OF PUBLICATION

BECKLEY NEWSPAPERS INC.

BECKLEY, WEST VIRGINIA

January 14, 19 97

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

I, Jack L. Scott, being first duly sworn upon my oath, do depose and say that I am Director of Advertising for Beckley Newspapers Inc., a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily, for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh County, West Virginia; that such newspaper is a newspaper of "general circulation," as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspaper averages in length four or more pages, exclusive of any cover, per issue; that such newspaper is circulated to the general public at a definite price of consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices; that the annexed notice

of Notice of Public Hearing  
(Description of notice)

was duly published in said newspaper once a week for two successive weeks (Class II), commencing with the issue of the 7th day of January, 1997, and ending with the issue of the 14th day of January, 1997, (and was posted at the

on the \_\_\_\_\_ day of \_\_\_\_\_); that said annexed notice was published on the following dates: January 7 & 14, 1997

and that the cost of publishing said annexed notice as aforesaid was \$ 673.09.

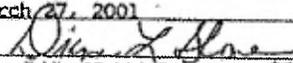
Signed \_\_\_\_\_

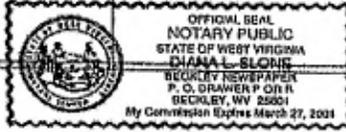
Jack L. Scott  
Director of Advertising  
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this

14th day of January, 19 97

My commission expires March 27, 2001

  
Notary Public of Raleigh County,  
West Virginia



R/H

COPY OF PUBLICATION

BEFORE THE COUNTY COMMISSION OF RALEIGH COUNTY, WEST VIRGINIA
E. SHADY SPRING PUBLIC SERVICE DISTRICT, BRADLEY PUBLIC SERVICE DISTRICT, NORTH BECKLEY PUBLIC SERVICE DISTRICT, CRAB ORCHARD/MACARTHUR PUBLIC SERVICE DISTRICT.

NOTICE

The County Commission of Raleigh County, West Virginia, shall hold a public hearing on January 20, 1997, at 11:00 am to modify, correct and...

Shady Spring Public Service District Legal Description

beginning at a point where the centerline of the West Virginia Turnpike (I-77) intersects Piney Creek, thence approximately 2.0 miles in a southerly direction along the centerline of Sullivan Road (County Route 25), thence approximately 1.0 miles in a northwesterly direction to a point of Latitude and Longitude N 37 degrees 42' 28" W 81 degrees 10' 42", said point being on the ridge line of Griffiths Ridge, thence following Griffiths Ridge approximately 0.4 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 38' 28" W 81 degrees 07' 59", thence leaving Griffiths Ridge approximately 2.5 miles in a southerly direction to the intersection of the centerline of Odd Road (County Route 48/4) and Bob Vines Road (County Route 48/4), thence approximately 1.2 miles in a southerly direction along the centerline of Bob Vines Road (County Route 48/4) to a point where County Route 48/4 intersects the Raleigh County line, thence into Mercer County approximately 1.0 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 34' 02" W 81 degrees 07' 11", thence approximately 0.6 miles due east to a point of Latitude and Longitude, N 37 degrees 34' 02" W 81 degrees 05' 33", thence approximately 0.3 miles in an easterly direction to a point of Latitude and Longitude N 37 degrees 34' 23" W 81 degrees 05' 21", thence approximately 0.8 miles in a northerly direction to a point of Latitude N 37 degrees 35' 05" W 81 degrees 05' 09", thence approximately 0.5 miles to a northeasterly direction to a point where the Raleigh, Summers, and Mercer County lines have a common boundary point, thence along the Raleigh County line 45.9 miles in a northeasterly and northwesterly direction to the confluence of the Piney Creek and New River, thence approximately 2.3 miles in a southwesterly direction along the centerline of Piney Creek upstream to the confluence of Piney Creek and Fat Creek, said point being a common boundary between North Beckley, Shady Spring Public Service Districts and the City of Beckley Sanitary Board, thence following Fat Creek in a southerly direction from the confluence of Fat Creek and Fat Creek approximately 16,500 feet to the confluence of Fat Creek and Podge Branch, a tributary of Fat Creek; thence, following Podge Branch in a southerly and easterly direction approximately 750 feet to an unnamed tributary of Podge Branch; thence, following the unnamed tributary of Podge Branch approximately 1,800 feet in a southerly direction to the centerline of Interstate 64; thence, following the centerline of Interstate 64 in a westerly direction approximately 12,600 feet to the intersection of Airport Road (West Virginia Route 9791) approximately 1,150 feet to the intersection of Airport Road and Orchard Hill Road (West Virginia Route 9791); thence, following Orchard Hill Road in a southerly and westerly direction approximately 3,900 feet to a point opposite the southernmost property corner of the Cherry Hills subdivision; thence, following the property lines and two foot reservation easement of the Cherry Hills subdivision approximately 100 feet north-northwest 1,800 feet west-northwest to a point on a ridge, being a common corner to Parcel 8, Shady Spring District 11, Tax Map No. 8; thence, following the top of a ridge across Parcels 8, BC and 5, Shady Spring District 11, Tax Map No. 8 to a point where Beaver Creek flows into Piney Creek, this line is further described as follows: beginning at the center of an existing gate at or near the property corner of the Cherry Hills subdivision and the Leon Lucas property (as described as Parcel 8, Shady Spring District 11, Tax Map No. 8 land having coordinates in the West Virginia State Plane Coordinate System of 18675, E196022; thence approximately 640 feet in a west-southwest direction to a high point (N276310, E1959475 in the West Virginia State Plane Coordinate system); thence approximately 500 feet west-northwest to a point on the ridge (N276300, E1959290); thence approximately 575 feet southwest to a high point (N275680, E1957910); thence west-southwest to a high point (N276205, E1959290); thence approximately 575 feet southwest to a high point (N276360, E1956850) this point also being about 30 feet south of a sign across the east bound lane of the road; thence following the centerline approximately 880 feet south (west-bound) to the center of a bridge crossing the highway (N275735, E1956580); thence leaving the Interstate centerline and following the ridge approximately 1,950 feet west to the point where Beaver Creek flows into Piney Creek (N275800, E1954840); thence, following the centerline of Piney Creek upstream approximately 3,150 feet to a point where an old Chesapeake and Ohio railroad bridge crosses Piney Creek; thence, leaving the centerline of Piney Creek and heading due south to the centerline of the Chesapeake and Ohio Railroad tracks; thence, following the centerline of the Chesapeake and Ohio Railroad tracks in a southerly and westerly direction 4,300 feet to the centerline of a railroad bridge crossing Piney Creek; thence, leaving the center line of the railroad tracks and following the centerline of Piney Creek approximately 3,600 feet to a point where a natural gas pipeline crosses Piney Creek; said point being a common boundary between Crab Orchard/MacArthur and Shady Spring Public Service Districts and the City of Beckley Sanitary Board, thence following the centerline of Piney Creek upstream approximately 3.7 miles in a southerly direction to a point of beginning.

Crab Orchard/MacArthur Public Service District Legal Description

beginning at a point of Latitude and Longitude N 37 degrees 48' 28" W 81 degrees 14' 07", said point being a common boundary between Crab Orchard/MacArthur, North Beckley, and Bradley Public Service Districts, thence approximately 12.4 miles in a southwesterly direction to a point of Latitude and Longitude N 37 degrees 46' 40" W 81 degrees 27' 28", said point being a point on the Raleigh County line, thence with the Raleigh County line in a southeasterly and then northeasterly direction approximately 37.2 miles to a point where Bob Vines Road (County Route 48/4) intersects the Raleigh County line, thence approximately 1.2 miles in a northerly direction along the centerline of Bob Vines Road (County Route 48/4) to its intersection with Odd Road (County Rte. 48), thence approximately 2.5 miles in a northerly direction to a point of Latitude and Longitude N 37 degrees 28' 35" W 81 degrees 07' 59", said point being on the ridge line of Griffiths Ridge approximately 0.4 miles in a northwesterly direction to a point of Latitude and Longitude N 37 degrees 42' 28" W 81 degrees 10' 42", thence leaving Griffiths Ridge in a northwesterly direction approximately 1.0 mile to the intersection of the centerline of the West Virginia Turnpike (I-77) and Sullivan Road (County Rte. 25), thence approximately 2.0 miles in a northwesterly direction along the centerline of Piney Creek downstream approximately 3.7 miles in a northeasterly to a point where a natural gas pipeline crosses Piney Creek, said point being a common boundary between Crab Orchard/MacArthur and Shady Spring Public Service Districts and the City of Beckley Sanitary Board, thence leaving Piney Creek and following a natural gas pipeline approximately 5,200 feet to its intersection with Raleigh Ridge Road (WV Route 19110); thence, following the centerline of Raleigh Ridge Road (WV Route 19110) approximately 2,400 feet westerly to the intersection with the centerline of Fitzpatrick Road (WV Route 2091); thence, following the centerline of Fitzpatrick Road westerly approximately 3,500 feet to the centerline of the intersection with Old Pemberton and Old Soak Creek Road; thence, leaving the intersection of Fitzpatrick Road, Old Pemberton Road, and Old Soak Creek Road and following a line across the West Virginia Turnpike (I-77) C. Byrd Drive interchange approximately 2250 feet to the west-southwest to a point at the intersection of the centerline of Old Eccles Road (WV Route 3718) and Highland Road; thence, leaving the intersection of Old Eccles Road (WV Route 3718) and Highland Drive and following Old Eccles Road in a westerly direction approximately 4,500 feet to the centerline of Old Mill Road (WV Route 3711); thence, leaving the centerline of Old Eccles Road and the following the centerline of Old Mill Road approximately 2,000 feet in an easterly direction to the center of a bridge over the West Virginia Turnpike; thence, leaving Old Mill Road and following the centerline of the West Virginia Turnpike (Interstates 77 & 64) northerly approximately 2,650 feet to the centerline of the Chesapeake and Ohio railroad tracks following Whiteslick Creek; thence, leaving the West Virginia Turnpike centerline and following the centerline of the railroad tracks approximately 850 feet west to the centerline of Old Wickham Road; thence, following the centerline of Old Wickham Road and following the centerline of the Hutchinson Road right-of-way to the north approximately 800 feet; thence, leaving the right-of-way and following the property line between Tax Map District 10, Map No. 200-3 Parcels 65 through 75 and Parcels 71 through 123 for a total distance of approximately 618 feet; thence, following the property line between Parcels 78 and 75 100.1 feet in an easterly direction to a property corner; thence, leaving the property corner and following the property line between Parcel 78 and Parcels 76, 77, 79 and 80 northerly for a distance of 5 feet to the centerline of the Harold Road right-of-way; thence, leaving the Harold Road right-of-way and following the property line between Parcels 81 through 87 and Parcels 107 northerly for a distance of 450 feet to the centerline of the Oggle Road right-of-way; thence, leaving the Oggle Road right-of-way and following the property line between Parcel 93 and Parcel 94 northerly for a distance of 239 feet to the Harper Industrial Park tract; thence, following Harper Industrial park property line approximately 880 feet in a northwesterly direction to a corner, approximately 1,400 feet thence to a corner, approximately 1,200 feet east-northeasterly to a corner, being a common corner between Parcels 138.1 and 138.1 on Town street 10, Tax Map No. 26; thence, following the property line approximately 300 feet southeast to the centerline of George Street; thence, following a line 800 feet due east to the centerline of Harper Park Drive; thence, approximately 520 feet east to the centerline of Harper Road (WV Rte. 2) and the centerline of the West Virginia Turnpike (I-77), thence following the centerline of the West Virginia Turnpike (I-77), thence following the centerline of the West Virginia Turnpike (I-77) in a northerly direction 600 feet to a point, said point being a common boundary between North Beckley and Crab Orchard/MacArthur Public Service Districts and the City of Beckley Sanitary Board, thence following a line 500 feet parallel to the north of the centerline of Harper Road (WV Rte. 2) in a northwesterly direction approximately 0.6 miles to a point where the 600 feet parallel offset intersects the Tamarack Entrance Road, thence 325 feet in a southwesterly direction along the centerline of the Tamarack Entrance Road to its intersection with Dry Hill Road (County Rte. 11), thence 0.4 miles in a northwesterly direction along the centerline of Dry Hill Road (County Rte. 11) to its intersection with Summit Drive, thence approximately 0.2 miles in a northwesterly direction to a point of Latitude and Longitude N 37 degrees 48' 05" W 81 degrees 13' 45", thence approximately 0.2 miles in a northwesterly direction to a point of Latitude and Longitude N 37 degrees 48' 05" W 81 degrees 13' 45", thence approximately 0.2 miles in a northwesterly direction to a point of Latitude and Longitude N 37 degrees 40' 14" W 81 degrees 13' 54", thence approximately 0.5 miles in a northwesterly direction to a point of beginning.

North Beckley Public Service District Legal Description

Beginning at a point of Latitude and Longitude N 37 degrees 48' 30" W 81 degrees 14' 07", said point being a common boundary between Bradley, Crab Orchard/MacArthur and North Beckley Public Service Districts, thence approximately 05. miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 48' 14" W 81 degrees 13' 54", thence approximately 0.2 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 48' 08" W 81 degrees 13' 45", thence approximately 0.2 miles in a southeasterly direction to the intersection of Summit Drive and Dry Hill Road (County Route 11) to its intersection with the Tamarack Entrance Road, thence approximately 335+ feet in a northeasterly direction along the centerline of the Tamarack Entrance Road, thence 0.8 miles in a southeasterly direction following a line 800 feet parallel to the north of the centerline of Harper Road (WV Rte. 3) to a point where the 600-foot parallel offset intersects the West Virginia Turnpike (I-77), said point being a common boundary between Crab Orchard/MacArthur and North Beckley Public Service Districts and the City of Beckley Sanitary Board, thence following the West Virginia Turnpike (I-77) right-of-way north approximately 1,400 feet to Pikeview Drive; at a point where the WV Turnpike and Pikeview Drive right-of-way split and the WV Turnpike Highway Maintenance Facility property begins, thence, following Pikeview Drive north and east approximately 1,800 feet to the intersection of Pikeview Drive and New River Drive; thence, following New River Drive east approximately 8,200 feet to the intersection of New River Drive and Robert C. Byrd Drive; several properties are excluded on either side of New River Drive that are currently served by the sewer utility; thence, following the centerline of Robert C. Byrd Drive south approximately 100 feet to the center of the bridge crossing Little Whiteslick Creek; thence, following the center of Little Whiteslick Creek east approximately 450 feet to the centerline of the bridge crossing Elm Street (formerly Center St.) And adjoining the property of the existing North Beckley PSD Hubbard Street Lift Station; thence, leaving Elm Street and following the centerline of the alley east approximately 500 feet to the intersection of Lyons Street (formerly South Street); thence, following the centerline of Lyons Street north approximately 75 feet to a point opposite the property corner dividing parcels 64 and 64.2 on the District 18, Tap Map, 100-3; thence, leaving the centerline in an easterly direction and following the common boundary between Parcels No. 64 and 64.2 approximately 260 feet to a point, said point being the common corner between Parcels 64, 64.2 and 21 on Tax Map No. 100-3; thence, in a northerly direction approximately 170 feet and following the common property line between Parcel 64 and Parcels 21, 20.01 and 20 to a point, the point being the common corner between Parcels 64, 20 and 19 on Tax Map No. 100-3; thence, leaving the corner and traveling in an easterly direction approximately 230 feet following the common property line between Parcels 19 and 20 to a point on the centerline of Mellon Street (WV Route 19) 45 and formerly Henlock Road; thence, following the centerline of Mellon Street north approximately 1,070 feet to the intersection with the centerline of Rural Acres Drive (WV Route 19/8); Note that there are properties excluded in this area that are currently served by the Sanitary Board or require gravity service to be served. These include the apartments and WV Glass on the north side of Rural Acres Drive. thence, following the centerline of Rural Acres Drive in an easterly direction approximately 2,800 feet to the intersection with the centerline of Eisenhower Drive (US Routes 19 & 21); thence, leaving the centerline of Rural Acres Drive and following the centerline of Eisenhower Drive approximately 250 feet in a southerly direction to a point opposite the property corner separating Parcels 97 and 98 between Henlock Drive and Neal Street; thence, leaving the centerline of Eisenhower Drive in an easterly direction 25 feet to the property corner separating Parcels 97 and 98 on Raleigh County Tax Map 100-8, and continuing approximately 840 feet along the property line separating Parcels 81 through 87 from Parcels 88 through 103 and continuing along the same straight line approximately 350 feet to the centerline of Cranberry Creek, for a total distance of approximately 1,015 feet more or less; thence, following Cranberry Creek approximately 8,500 feet to the point where Cranberry Creek joins Pinesy Creek; thence, following the centerline of Pinesy Creek in a northerly and easterly direction approximately 21,000 feet to the confluence of Pinesy Creek and Fat Creek, said point being a common boundary between North Beckley and Shady Spring Public Service Districts and the City of Beckley Sanitary Board, thence approximately 1.6 miles in a northeasterly direction along the centerline of Pinesy Creek to the confluence of Pinesy Creek and Batoff Creek, said point being a common boundary between Bradley, North Beckley, and Shady Spring Public Service Districts, thence N 48 degrees 58' 45" W 83° 00' feet to the centerline of Stensford Road (WV Rte. 41), thence westerly approximately 2.2 miles along the centerline of Stensford Road (WV Rte. 41) to its intersection with Mill Creek Road (WV Rte. 61), thence with the centerline of Stensford Road (WV Route 41) approximately 120+ feet in a southeasterly direction to its intersection with Powderkeg Road (County Route 41/4), thence in a westerly direction along the centerline of County Route 41/4 approximately 0.2 miles to the extreme end of Powderkeg Road (County Route 41/4), thence approximately 2.3 miles in a westerly direction to a point of Latitude and Longitude N 37 degrees 50' 47" W 81 degrees 10' 46", thence approximately 1.5 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 49' 35" W 81 degrees 11' 26", thence approximately 0.8 miles in a northeasterly direction to a point of Latitude and Longitude N 37 degrees 48' 54" W 81 degrees 12' 11", thence approximately 0.7 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 49' 38" W 81 degrees 12' 51", thence approximately 1.1 miles in a northeasterly direction to a point of Latitude and Longitude N 37 degrees 49' 54" W 81 degrees 13' 59", thence approximately 1.3 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 48' 51" W 81 degrees 13' 29", thence approximately 840+ feet in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 48' 43" W 81 degrees 13' 32", thence approximately 0.5 miles in a southwesterly direction to a point of beginning.

Bradley Public Service District Legal Description

Beginning at a point of Latitude and Longitude N 37 degrees 48' 38" W 81 degrees 14' 07", said point being a common boundary between Crab Orchard/MacArthur, North Beckley, and Bradley Public Service Districts, thence approximately 12.4 miles in a southwesterly direction to a point of Latitude and Longitude N 37 degrees 48' 40" W 81 degrees 27' 28", said point being a point on the Raleigh County line; thence with the Raleigh County line in a northwesterly and then easterly direction approximately 57.8 miles to a point where the Raleigh County line intersects the New River, thence with the Raleigh County line and the New River upstream in a southerly direction approximately 2.3 miles to the confluence of the Pinesy Creek and New River, thence along the centerline of Pinesy Creek upstream in a southerly direction approximately 0.4 miles to the confluence of Batoff Creek and Pinesy Creek, said point being a common boundary between Shady Spring, North Beckley, and Bradley Public Service Districts, thence N 48 degrees 58' 45" W 83° 00' feet to the centerline of Stensford Road (WV Rte. 41), thence westerly approximately 2.2 miles along the centerline of Stensford Road (WV Rte. 41) to its intersection with Mill Creek Road (WV Rte. 61), thence with the centerline of Stensford Road (WV Route 41) approximately 120+ feet in a southeasterly direction to its intersection with Powderkeg Road (County Route 41/4), thence in a westerly direction along the centerline of Powderkeg Road (County Route 41/4) approximately 0.2 miles to the extreme end of Powderkeg Road (County Route 41/4), thence approximately 2.3 miles in a westerly direction to a point of Latitude and Longitude N 37 degrees 50' 47" W 81 degrees 10' 46", thence approximately 1.5 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 49' 35" W 81 degrees 11' 26", thence approximately 0.8 miles in a northeasterly direction to a point of Latitude and Longitude N 37 degrees 49' 54" W 81 degrees 12' 51", thence approximately 1.1 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 48' 51" W 81 degrees 13' 59", thence approximately 1.3 miles in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 48' 51" W 81 degrees 13' 29", thence approximately 840+ feet in a southeasterly direction to a point of Latitude and Longitude N 37 degrees 48' 43" W 81 degrees 13' 32", thence approximately 0.5 miles in a southwesterly direction to a point of beginning.

1-14-Tve-2-NH

IN RE: BUDGET REVISION, COAL SEVERANCE

Commissioner Baker moved to approve the revision as recommended by County Administrator, Dennis Sizemore, motion seconded by Commissioner Humphrey and carried.

(see following page)

I, BETTY RIFFE, Clerk of the County Commission of Raleigh County, West Virginia, hereby certify that the foregoing is a true copy from the records of my office.

In Testimony Whereof, I hereunto place my hand and affix my seal of said Commission this the 30 day of May, 02

BETTY RIFFE, Clerk

By Shirley Seale, Deputy

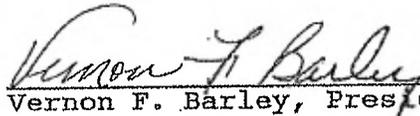
BEFORE THE COUNTY COMMISSION OF RALEIGH COUNTY, WEST VIRGINIA

RE: Shady Spring Public Service District, Bradley Public Service District, North Beckley Public Service District and Crab Orchard - MacArthur Public Service District

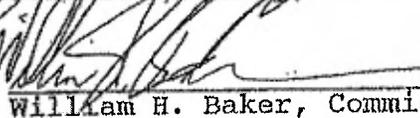
This the 28th day of January, 1997, came the Petitioners, Shady Spring Public Service District, Bradley Public Service District, North Beckley Public Service District and Crab Orchard - MacArthur Public Service District by Representatives and requested the County Commission amend, modify, correct, dissolve and realign the current boundaries for the Public Service Districts providing sewer service within Raleigh County. A petition was properly filed before the County Commission satisfying the requirements of West Virginia Code 16-13A-2. Furthermore, notice of the Public Hearing before the County Commission was published in the Register-Herald as a Class II legal advertisement pursuant to West Virginia Code 16-13A-2. In addition, a representative of the Petitioners posted a notice of the petition and hearing in at least five (5) conspicuous places within each affected area. Thus, the notice requirements set forth in West Virginia Code 16-13A-2 was satisfied.

During the Public Hearing, overwhelming support was expressed for the Public Service Districts boundary realignment.

Therefore, based upon the requirements set forth in West Virginia Code 16-13A-2 being satisfied and the support expressed at the public hearing, the County Commission doth Adjudge, Order and Decree the new boundaries for each Public Service District shall be as set forth in Exhibit A attached hereto and made a part hereof.

  
Vernon F. Barley, President

  
John D. Humphrey, Commissioner

  
William H. Baker, Commissioner

**BEFORE THE COUNTY COMMISSION OF RALEIGH COUNTY, WEST VIRGINIA**

**IN RE: SHADY SPRING PUBLIC SERVICE DISTRICT,  
BRADLEY PUBLIC SERVICE DISTRICT,  
NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
CRAB ORCHARD/MACARTHUR PUBLIC SERVICE DISTRICT.**

**NOTICE**

The County Commission of Raleigh County, West Virginia, shall hold a public hearing on January 28, 1997, at 11:00 am to modify, correct and realign the boundaries for the Public Service Districts providing sewer service in Raleigh County, West Virginia. In addition, the County Commission shall consider the transfer of all property from the dissolved Public Service Districts to the appropriate new Public Service Districts. The purpose of the realignment shall be to provide definite boundaries of each Public Service District and provide more efficient service to the citizens of Raleigh County. The new boundary for each Public Service District is attached and marked as Exhibit A.

**SHADY SPRING PUBLIC SERVICE  
DISTRICT, BRADLEY PUBLIC SERVICE  
DISTRICT, NORTH BECKLEY PUBLIC  
SERVICE DISTRICT, CRAB  
ORCHARD/MACARTHUR PUBLIC  
SERVICE DISTRICT**



# County Commission of Raleigh County

received  
1-26-12

P O BOX 2518  
116 1/2 NORTH HEBER STREET  
BECKLEY, WEST VIRGINIA 25802-2518

January 24, 2011

Mr. Jan Datsko  
710 Teel Road  
Beckley, WV 25801

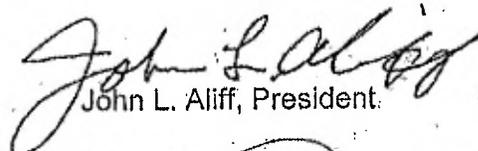
Dear Mr. Datsko:

We are pleased to inform you that the County Commission, at their meeting on January 24, 2012, reappointed you to the North Beckley Public Service District Board and your new term will expire December 31, 2017.

Please stop by the County Clerk's office at your earliest convenience to take the oath of office.

We appreciate your past service and continued willingness to serve the citizens of Raleigh County in this manner.

Respectfully,

  
John L. Aliff, President.

  
Pat Reed, Commissioner

  
David L. Tolliver, Commissioner

cc: North Beckley PSD

RECEIVED  
11-16-12

# County Commission of Raleigh County



P O BOX 2518  
116 1/2 NORTH HEBER STREET  
BECKLEY, WEST VIRGINIA 25802-2518

November 13, 2012

Mr. Todd Robinson  
112 Springwood Lane  
Beckley, WV 25801

Dear Mr. Robinson:

We are pleased to inform you that on November 13, 2012, in a regular meeting, the Raleigh County Commission appointed you to the North Beckley Public Service District to fill a vacancy. Your term will expire on December 31, 2015.

Please stop by the County Clerk's office at your earliest convenience to take the oath of office.

We appreciate your willingness to serve the citizens of Raleigh County in this manner.

Respectfully,

Handwritten signature of John L. Aliff in cursive script.

John L. Aliff, President

Handwritten signature of Pat Reed in cursive script.

Pat Reed, Commissioner

Handwritten signature of Dave Tolliver in cursive script.

Dave Tolliver, Commissioner

cc: North Beckley Public Service District



# County Commission of Raleigh County

RECEIVED  
2/6/14

P O BOX 2518  
116 1/2 NORTH HEBER STREET  
BECKLEY, WEST VIRGINIA 25802-2518

February 4, 2014

Mr. Tom Fotl  
3 4 Hummingbird Lane  
Beckley, WV 25801

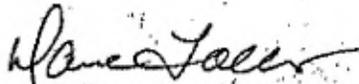
Dear Mr. Fotl:

We are pleased to inform you that on February 4, 2014, in a regular meeting, the Raleigh County Commission appointed you to the North Beckley Public Service District and your term will expire on December 31, 2019.

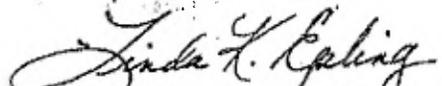
Please stop by the County Clerk's Office at your earliest convenience to take the oath of office.

We appreciate your willingness to serve the citizens of Raleigh County in this manner.

Respectfully,

  
Dave Tolliver, President

  
Pat Reed, Commissioner

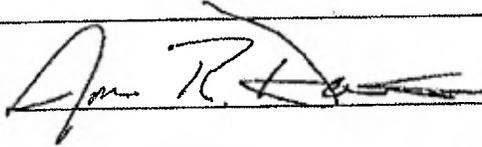
  
Linda K. Epling, Commissioner

cc: ✓ North Beckley PSD

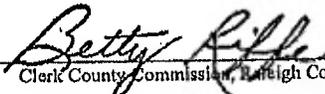
# OATH

STATE OF WEST VIRGINIA }  
COUNTY OF RALEIGH } ss.

I, JAN RICHARD DATSKO, do solemnly swear that I will support the constitution of the United States  
and the constitution of this State and that I will faithfully discharge the duties of my office of NORTH BECKLEY PUBLIC SERVICE  
DISTRICT BOARD CHAIRMAN  
to the best of my skill and judgment, so help me God.



Subscribed and sworn to before the undersigned, this the 2nd day of APRIL 2015.

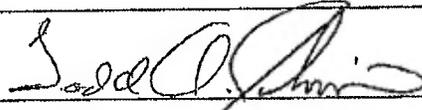
  
Clerk County Commission, Raleigh County, W. Va.

# OATH

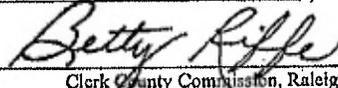
STATE OF WEST VIRGINIA }  
COUNTY OF RALEIGH } ss.

I, TODD AUSTEN ROBINSON, do solemnly swear that I will support the constitution of the United States  
and the constitution of this State and that I will faithfully discharge the duties of my office of NORTH BECKLEY P.S.D.

to the best of my skill and judgment, so help me God.



Subscribed and sworn to before the undersigned, this the 11th day of DECEMBER, 2012



Clerk County Commission, Raleigh County, W. Va.

# OATH

STATE OF WEST VIRGINIA }  
COUNTY OF RALEIGH }

ss.

I, TOM FOTT, do solemnly swear that I will support the constitution of the United States and the constitution of this State and that I will faithfully discharge the duties of my office of \_\_\_\_\_

NORTH BECKLEY PUBLIC SERVICE DISTRICT

to the best of my skill and judgment, so help me God.

*Tom Fott*

Subscribed and sworn to before the undersigned,

this the 20TH day of FEBRUARY, 19 2014

*Betty Riffe*  
Clerk County Commission, Raleigh County, WV

## RULES OF PROCEDURE

### NORTH BECKLEY PUBLIC SERVICE DISTRICT

#### ARTICLE I

##### NAME AND PLACE OF BUSINESS

Section 1. Name: NORTH BECKLEY PUBLIC SERVICE DISTRICT.

Section 2. The principal office of North Beckley Public Service District (the "District") will be located at 122 Clear Water Lane, Beckley, Raleigh County, West Virginia.

Section 3. The Common Seal of the District shall consist of 2 concentric circles between which circles shall be inscribed North Beckley Public Service District, and in the center shall be inscribed the corporate seal.

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

#### ARTICLE II

##### PURPOSE

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

#### ARTICLE III

##### MEMBERSHIP

Section 1. The members of the Board of the District (the "Board") shall be those persons appointed by The County Commission of Raleigh County, West Virginia, or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

Section 2. Should any member of the Board resign or otherwise become legally disqualified to serve as a member of the Board, the Secretary shall immediately notify the County Commission or other entity provided under the Act and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Board, the Secretary shall notify the County Commission or other entity provided under the Act of the pending termination and request the County Commission or other entity provided under the Act to enter an order of appointment or re-appointment to maintain a fully qualified membership of the Board.

## ARTICLE IV

### MEETINGS OF THE PUBLIC SERVICE BOARD

Section 1. The members of the Board shall hold regular monthly meetings on the 2nd Thursday of each month, at such place and hour as the members shall determine from time to time. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Board may be called at any time by the Chairman or by a quorum of the Board.

Section 2. At any meeting of the Board, two (2) members shall constitute a quorum. Each member of the Board shall have one vote at any membership meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise agreed, notice to members of regular meetings shall not be required. Unless otherwise waived, notice of each special meeting of the membership shall be given to all members by the Secretary by fax, telephone, mail or other satisfactory means at least two (2) days before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted. No business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

### PUBLIC NOTICE OF MEETINGS

Section 4. Pursuant to Section 3, Article 9A, Chapter 6 of the West Virginia Code of 1931, as amended (1999 Revision), notice of the date, time, place and agenda of all regularly scheduled meetings of 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 (except in the event of an emergency requiring immediate action) as follows:

A. Regular Meetings. A notice shall be posted and maintained by the Secretary of the Board at the front door or bulletin board of the office of the District and, if different from the office, at the front door or bulletin board of the place fixed for regular meetings of the Board not less than three (3) business days before a regularly scheduled meeting is to be held, stating the date, time and place fixed and entered of record by the Board for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same locations by the Secretary of the Board not less than three (3) business days before such regular meeting is to be held. The agenda listing the matters requiring official action that may be addressed at the meeting may be amended up to two (2) business days prior to the meeting. If a particular regularly scheduled meeting is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the same locations as soon as feasible after such cancellation or postponement has been determined.

B. Special Meetings. A notice shall be posted by the Secretary of the Board at the front door or bulletin board of the office of the District and at the front door or bulletin board of the place fixed for the regular meetings of the Board not less than two (2) business days before a special meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. In addition, a copy of the agenda listing the matters requiring official action that may be addressed at the meeting for each special meeting shall be posted at the same locations by the Secretary of the Board not less than two (2) business days before such special meeting is to be held. If the

special meeting is cancelled, a notice of such cancellation shall be posted at the same locations as soon as feasible after such cancellation has been determined.

For the purposes of calculating the number of days in any notice period based upon business days, Saturdays, Sundays, legal holidays and the day of the meeting are not counted.

## ARTICLE V

### OFFICERS

Section 1. The officers of the Public Service Board shall be a Chairman, a Secretary and a Treasurer. The Chairman shall be elected from the members of the Public Service Board. The Secretary and Treasurer need not be members of the Public Service Board, and may be the same person.

## ARTICLE V

### OFFICERS

Section 1. The officers of the Public Service Board shall be a Chairman, a Secretary and a Treasurer. The Chairman shall be elected from the members of the Public Service Board. The Secretary and Treasurer need not be members of the Public Service Board, and may be the same person.

Section 2. The officers of the Public Service Board shall be elected each year by the members at the first meeting held in such year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Public Service Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following January meeting of the Board when their successors shall be elected hereinabove provided.

## ARTICLE VI

### DUTIES OF OFFICERS

Section 1. When present, the Chairman shall preside as Chairman at all meetings of the Public Service Board. The Chairman shall, together with the Secretary, sign the minutes of all meetings at which he or she shall preside. The Chairman shall attend generally to the executive business of the Board and exercise such powers as may be conferred by the Board, by these Rules of Procedure, or as prescribed by law. The Chairman shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements or other papers necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. The Secretary shall, together with the Chairman, sign the minutes of the meetings at which he or she is present. The Secretary shall have charge of the minute book, be the custodian of the Common Seal of the District and all deeds and other writings and papers of the Board. The Secretary shall also perform such other duties as he or she may have under law by virtue of the office or as may be conferred from time to time by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 3. The Treasurer shall be the lawful custodian of all funds of the District and shall disburse funds of the District on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 4. If the Chairman, Secretary or Treasurer is absent from any meeting, the remaining members of the Board shall select a temporary chairman, secretary or treasurer, as necessary, who shall have all of the powers of the absent officer during such period of absence.

## ARTICLE VII

### AMENDMENTS TO RULES OF PROCEDURE

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

These Rules of Procedure shall replace any and all previous rules of procedure, bylaws or similar rules heretofore adopted by the District.

Adopted this 11th day of September, 2003.

Joseph W. Dickson  
Chairman and Member

A. King Winter III  
Member

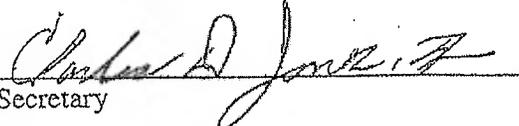
Charles D. Jones III  
Member

CERTIFICATION

Certified a true copy of the Rules of Procedure duly adopted by the Board of North Beckley Public Service District on September 11, 2003.

Dated this 11<sup>th</sup> day of September, 2003.

[SEAL]

  
Secretary

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
BOARD OF DIRECTORS MEETING

March 12, 2015

The regular monthly meeting of the Board of Directors was held in the District's office at 122 Clear Water Ln, Beckley, WV on March 12, 2015.

Chairman, Jan Datsko called the meeting to order at 4:30 pm

**DIRECTORS PRESENT:** Jan Datsko, Todd Robinson and Tom Foti

**DIRECTORS ABSENT:** None

**STAFF PRESENT:** Donna Sawyers, General Manager; Tammey Lewis, Secretary; Attorney John Rist and Engineer, Mike Lawson

**OTHERS PRESENT:** Eric Combs from Region I

Mr. Robinson made a motion to accept the minutes of the regular monthly meeting of February 12, 2015 after the correction to the election of officers. The position of Secretary should be Mr. Todd Robinson and the position of Treasurer should be Mr. Tom Foti. Mr. Datsko seconded the motion and it was carried by unanimous vote.

After reviewing the bills received since the February 12, 2015 meeting, Mr. Foti made a motion to approve the bills for payment. Mr. Datsko seconded the motion and it was carried by unanimous vote.

Mr. Eric Combs with Region One updated the Board on the Stanaford Acres Project. A pre-bid meeting was held Wednesday March 4<sup>th</sup> at 10:00 a.m. and 8 contractors attended the meeting. The bid opening will be Friday March 20<sup>th</sup> at 10:00 a.m., and a Special Meeting will be held on Tuesday April 28<sup>th</sup> at 4:30 p.m. for the bond closing. He will set up a conference call after the bid opening.

Ms. Sawyers will contact B B & T to confirm the Interest rate has not changed from what was provided to the PSC for the Stanaford Acres Project for the financing of the \$210,000 tie-in loan.

Ms. Sawyers informed the Board that no one had applied for the SCBG and she has asked Region I to revise the District's last application for resubmittal for the Phase III B Piney View project. It must be submitted to IJDC by April 10<sup>th</sup>. The Board agreed to have Region 1 apply for the SCBG for the District.

After Attorney Rist reviewed the District's drug policy, he stated that it covered all that was necessary for the District.

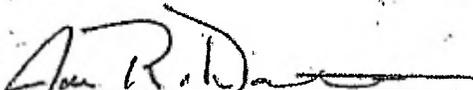
Engineer, Mike Lawson told the Board that he will prepare any necessary addendums resulting from the pre bid meeting.

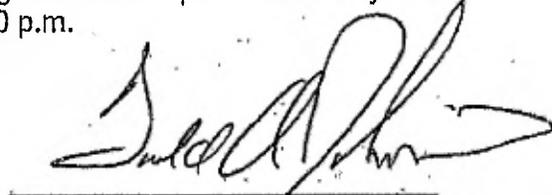
Ms. Sawyers told the Board that there are some businesses that are either not having their grease traps cleaned properly or not often enough. The Board's policy and/or sewer user ordinance will be reviewed to determine the best corrective action to be taken.

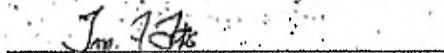
Engineer Mike Lawson will get the cost of the line extension to pick up approximately 30 homes that would flow by gravity to the pump station that was installed in the last project. The County Commission may assist in the cost of this extension.

The Board was told that the vendor for the ultra violet (UV) disinfection system was here to evaluate the system and give pricing for the upgrade or replacement of the system.

No further business came before the meeting and it was upon motion duly made and seconded unanimously adjourned at 5:10 p.m.

  
Jan R. Datsko, Chairman

  
Todd A. Robinson, Secretary

  
Tom F. Foti, Treasurer

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
BOARD OF DIRECTORS MEETING

February 12, 2015

The regular monthly meeting of the Board of Directors was held in the District's office at 122 Clear Water Ln, Beckley, WV on February 12, 2015.

Chairman, Jan Datsko called the meeting to order at 4:30 pm

DIRECTORS PRESENT: Jan Datsko, Todd Robinson and Tom Foti

DIRECTORS ABSENT: None

STAFF PRESENT: Donna Sawyers, General Manager; Tammy Lewis, Secretary; and Engineer, Mike Lawson

OTHERS PRESENT: Eric Combs from Region I

Mr. Foti made a motion to dispense with the reading of the minutes of the regular monthly meeting of January 8, 2015 and to accept them as presented. Mr. Datsko seconded the motion and it was carried by unanimous vote.

After reviewing the bills received since the January 8, 2015 meeting, Mr. Foti made a motion to approve the bills for payment. Mr. Datsko seconded the motion and it was carried by unanimous vote.

In the election of officers for the year 2015, Mr. Robinson made a motion to name Mr. Jan Datsko as Chairman. Mr. Foti seconded the motion and it was carried by unanimous vote. Mr. Robinson made a motion to name Mr. Tom Foti as Secretary. Mr. Datsko seconded the motion and it was carried by unanimous vote. Mr. Datsko made a motion to name Mr. Todd Robinson as Treasurer. Mr. Foti seconded the motion and it was carried by unanimous vote.

Mr. Eric Combs with Region One updated the Board on the Stanaford Acres Project. IJDC gave the authorization to bid the project. The advertisement for bids will be in the newspaper February 17<sup>th</sup> and 24<sup>th</sup>. The following meetings will be held at the Districts office. A pre-bid meeting will be held Wednesday March 4<sup>th</sup> at 10:00 a.m., the bid opening will be Friday March 20<sup>th</sup> at 10:00 a.m., and a Special Meeting will be held on Tuesday April 28<sup>th</sup> at 4:30 p.m. for the bond closing.

Ms. Sawyers provided the Board with a proposal letter from B B & T for the financing of the \$210,000 tie-in loan that reflects the interest rate that has been provided to the PSC for the Stanaford Acres Project.

Due to the attorney being absent from the meeting, any discussion on the drug testing was tabled again.

A quote from Precision Pump & Valve Service was given to the Board by Ms. Sawyers for the rebuild or replacement of the 105 hp pump for the Sprague pump station. The replacement cost is \$57,793 and the rebuild price is \$18,092. After reviewing the quote, Mr. Foti made a motion to have the pump rebuilt at the cost of \$18,092. Mr. Robinson seconded the motion and it was carried by unanimous vote.

After reviewing the agreement with the Beckley-Raleigh County Health Department to perform the necessary immunizations for the District employees, Mr. Robinson made a motion for the Chairman to sign the contract. Mr. Foti seconded the motion and it was carried by unanimous vote.

Mr. Robinson made a motion to adopt the resolution to sign signature cards for the bank account to be established for the Stanaford Acres Project that will be administered by Region I Development. Mr. Datsko seconded the motion and it was carried by unanimous vote.

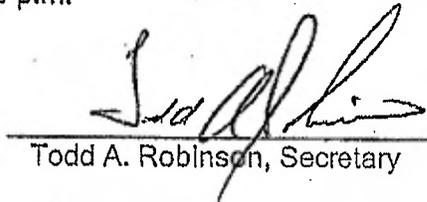
Engineer, Mike Lawson told the Board that it is at the Engineers discretion as to whether the pre-bid meeting is mandatory or not and he has decided that the pre-bid meeting will be held but it will not be mandatory. He also informed the Board that the District would obtain the permit from DEP to de-water the ponds in the Stanaford Acres Project; however, the work will be done by the contractors.

The Board went into executive session at 5:30 p.m. to discuss personnel.

The Board returned to regular session at 5:36 p.m. Mr. Foti made a motion to make the salary adjustment effective March 1, 2015 as discussed in the executive session for Adam Farley, the employee that has been on a 90 day probationary period and will become a permanent employee at that time. Mr. Robinson seconded the motion and it was carried by unanimous vote.

No further business came before the meeting and it was upon motion duly made and seconded unanimously adjourned at 5:40 p.m.

  
Jan R. Datsko, Chairman

  
Todd A. Robinson, Secretary

  
Tom F. Foti, Treasurer

**AFFIDAVIT OF PUBLICATION  
BECKLEY NEWSPAPERS  
BECKLEY, WEST VIRGINIA 25801**

05/29/2015

STATE OF WEST VIRGINIA  
COUNTY OF RALEIGH, to wit:

I, Tara Meyer, being duly sworn upon my oath, do depose and say that I am Legal Advertising Clerk for Beckley Newspapers, a corporation, publisher of the newspaper entitled The Register-Herald, an Independent newspaper; that I have been duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published for more than one year prior to publication of the annexed notice described below; that such newspaper is regularly published daily for at least fifty weeks during the calendar year, in the municipality of Beckley, Raleigh 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 of 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 matter, advertisements and other notices; that the annexed notice

of NOTICE OF PUBLIC HEARING

(Description of notice)

was duly published in said newspaper once a week for 1 successive

weeks (Class 1), commencing with the issue of 05/29/2015

and ending with the issue of 05/29/2015, that said annexed notice was

published on the following dates: 05/29/2015,

and that the cost of publishing said annexed notice as aforesaid was \$ 69.88

Signed

*Tara Meyer*

Tara Meyer  
Legal Advertising Clerk  
Beckley Newspapers

Taken, subscribed and sworn to before me in my said county this day:  
05/29/2015

My commission expires March 27, 2021



**COPY OF PUBLICATION**

NOTICE OF  
PUBLIC HEARING  
ON NORTH BECKLEY  
PUBLIC SERVICE  
DISTRICT BOND  
RESOLUTION

The Public Service Board (the "Board") of North Beckley Public Service District (the "District") will meet in regular session on Thursday, June 11, 2015, at 4:30 p.m., prevailing time, at the District's offices at 122 Clear Water Lane, Beckley, Raleigh County, West Virginia, to hold a public hearing on the following Bond Resolution:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWER TREATMENT AND DISTRIBUTION FACILITIES OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$2,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, 2015 SERIES B (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The Bonds will be issued to finance (i) the costs of acquisition and construction of additions, betterments, improvements and extensions to the existing public sewerage facilities of the District, including, but not limited to, the construction of a new sewer collection system to replace the existing sewer collection system of the Stanaford Acres subdivision and line extensions to the existing System (the "Project"), (ii) funding a debt service reserve fund, if required, (iii) paying capitalized interest, if necessary, and (iv) the costs of issuance of the Bonds and related costs of the Project.

The Board of the District expects to adopt the Bond Resolution following the public hearing. A copy of the Bond Resolution is on file at the District's office.

/s/ *Todd Robinson*  
Secretary

NORTH BECKLEY PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, 2015 Series B  
(West Virginia Infrastructure Fund)

EXCERPT OF MINUTES ON ADOPTION OF BOND RESOLUTION,  
SUPPLEMENTAL RESOLUTION, DRAW RESOLUTION AND SWEEP RESOLUTION

The undersigned SECRETARY of the Public Service Board of North Beckley Public Service District hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

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The Public Service Board of North Beckley Public Service District met in special session, pursuant to notice duly posted, on the 11<sup>th</sup> day of June, in Raleigh County, West Virginia, at the hour of 4:30 p m.

PRESENT:

Jan Datsko, Chairman	Elizabeth Benedetto, Esquire
Todd Robinson, Secretary	Karrie Mattox
Tom Foti, Treasurer	Mike Lawson
Donna Sawyer, General Manager	Eric Combs
Tammy Lewis	John Rist, Esquire

ABSENT:

NONE

Jan Datsko, Chairman, presided and Todd Robinson, acted as Secretary. The Chairman announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Chairman opened the floor for the Public Hearing for any objections and suggestions on the bond financing. Hearing no objections or suggestions, the Public Hearing was closed.

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

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWER TREATMENT AND DISTRIBUTION FACILITIES OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT

MORE THAN \$2,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, 2015 SERIES B (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

Thereupon, the Chairman then presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, REDEMPTION PROVISIONS AND OTHER TERMS OF THE SEWER REVENUE BONDS, 2015 SERIES B (WEST VIRGINIA INFRASTRUCTURE FUND), OF NORTH BECKLEY PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

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

Next, the Chairman presented a proposed Sweep Resolution for the authorization of electronic monthly debt service and reserve fund payments to the Municipal Bond Commission. Thereupon, on motion duly made by Mr. Robinson and seconded by Mr. Foti, it was unanimously ordered that the said Sweep Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Chairman presented a proposed Draw Resolution for the approval of invoices. Thereupon, on motion duly made by Mr. Robinson and seconded by Mr. Foti, it was unanimously ordered that the said Draw Resolution be adopted and be in full force and effect on and from the date hereof.

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

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CERTIFICATION

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE COPY OF THE MINUTES OF North Beckley Public Service District and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 18<sup>th</sup> day of June, 2015.



Secretary

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 17<sup>th</sup> day of April, 2015.

CASE NO. 14-1924-PSD-CN

NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
a public utility, Beckley, Raleigh County.

Application for a certificate of  
convenience and necessity to construct  
the Stanaford Replacement Project.

COMMISSION ORDER

The Commission corrects language in the tariff.

BACKGROUND

The sewer system at Stanaford Acres needs replaced. North Beckley Public Service District's facilities can treat the flows from Stanaford Acres and North Beckley agreed to take over the Stanaford Acres system. The Commission approved the acquisition in an earlier case.<sup>1</sup>

In the pending case, North Beckley applied for a certificate of convenience and necessity to install new lines and manholes at Stanaford Acres and to decommission the wastewater treatment plants there. North Beckley also asked the Commission to approve a rate increase and funding for the certificate project.

On December 2, 2014, the case was referred to the Division of Administrative Law Judges for further proceedings. Comm'n Referral Order at 1-2.

On February 18, 2015, Commission Staff recommended a five percent rate increase (CN Step 1 rates) to be "effective upon substantial completion of the project and during the remaining three-year period after the acquisition of Stanaford Acres." Staff also recommended a 3.3 percent rate decrease (CN Step 2 rates) that would become "effective upon substantial completion of the project and after the remaining three-year

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<sup>1</sup> On April 25, 2012, in North Beckley Public Service District & Stanaford Acres Sewerage Systems, Inc., Case Number 11-0086-PSD-S-PC, the Commission granted its prior consent for North Beckley and Stanaford Acres to enter into an Asset Purchase Agreement. Comm'n Order at 1-7 & Att. A (Joint Stipulation and Agreement for Settlement).

period after the acquisition of Stanaford Acres.” Final Joint Staff Memorandum at 1-3 & attached Utilities & Engineering Divisions Final Recommendation at 1-9.

On March 18, 2015, the ALJ approved the certificate, Staff-recommended rates and proposed financing, with this clarification:

Referring [to] the three-year loan period as the “3 year period after the acquisition of Stanaford Acres,” as provided in the Staff-recommended tariffs, is unclear. The phrase will be changed to the “three-year period after January 28, 2014.”

Rec. Dec. at 3, 4 (Mar. 18, 2015) (Concl. of Law 6).

On March 27, 2015, North Beckley filed Exceptions, explaining that the CN Step 1 rates in this case are designed to generate sufficient revenues to pay back the project funding from the West Virginia Infrastructure and Jobs Development Council (Infrastructure) as well as a loan with BB&T that was previously approved by the Commission. By changing the Staff tariff language for the CN Step 1 rates from “3 year period after *the acquisition of Stanaford Acres*” to “three-year period *after January 28, 2014*,” the Recommended Decision shortens the period of CN Step 1 rates that are necessary to pay back both the BB&T and Infrastructure loans. Exceptions at 1-6.

In an earlier proceeding, North Beckley obtained consent to enter into a \$210,000 loan with BB&T at 1.65 percent interest for three years to fund the initial tie-in, as well as approval of increased rates for Stanaford Acres customers for three years that would generate sufficient revenue to pay the debt service on the BB&T loan (19A Step 1 rates). After the BB&T loan was repaid, Staff recommended that all North Beckley customers pay the same rates (19A Step 2 rates). North Beckley PSD, Case No. 13-1267-PSD-PC-19A, Rec. Dec. at 6 & App. A, (Dec. 16, 2013); Comm’n Order at 2-3 (Apr. 1, 2014) (correcting Schedule VI rates in Rec. Dec.)

In the Exceptions, North Beckley advised that it has not been able to meet the required debt service on its existing financing, so its bondholders would not agree to the BB&T loan on a parity basis. As a result, North Beckley has not yet closed on the BB&T loan. To proceed with the takeover of Stanaford Acres, North Beckley filed this case to obtain a certificate as well as rates sufficient to meet its debt service requirements, thus allowing the BB&T loan to be issued on parity with existing debt and proposed project debt. North Beckley will close both the BB&T tie-in loan and the Infrastructure project loan upon approval of the certificate, project financing and increased rates requested in this case. The rate structure proposed by Staff provides sufficient revenues to pay the debt service for both loans (CN Step 1 rates) and upon the complete pay-down of the BB&T loan, revenues sufficient to pay the debt service on the Infrastructure loan only (CN Step 2 rates).

## DISCUSSION

Although in 2013 the Commission granted its consent for North Beckley to enter into a three-year loan with BB&T, as well as increased rates for three years for customers residing in Stanaford Acres, to date North Beckley has not been able to close on the tie-in loan and the three-year 19A Step 1 rates have not taken effect.

In the pending certificate case, North Beckley requested rates that will generate sufficient revenues to allow North Beckley to close on both the BB&T tie-in loan, as well as the Infrastructure funding for the certificate project. Increased rates were designed in this certificate case with two steps so that all customers will pay the same rates after the BB&T loan is repaid.

Staff's tariff reflects this schedule with the language that the CN Step 1 rates will be "effective upon substantial completion of the project and during the remaining three-year period after the acquisition of Stanaford Acres" and that the decreased CN Step 2 rates would become "effective upon substantial completion of the project and after the remaining three-year period after the acquisition of Stanaford Acres."

Upon these facts, substituting a specific date for the phrase "after the acquisition of Stanaford Acres" does not provide clarification or specificity as the ALJ intended. The Staff-proposed language is necessary to provide that the CN Step 1 rates will be in effect for the entire three-year period when the BB&T loan is being repaid. The Commission will grant the Exceptions and restore the language that Staff proposed.

Because North Beckley's takeover of the Stanaford Acres involves multiple loans and rates, it is helpful to provide this summary:

around April 24, 2015	BB&T loan closing, three-year payback period begins. 19A Step 1 rates commence.
May 7, 2015	Infrastructure loan closing, start of certificate project.
around April 1, 2016	Substantial completion of certificate project, about one year into the BB&T three-year payback period. CN Step 1 rates begin and continue in effect until the BB&T loan is repaid (about two more years).
around May 1, 2018	BB&T loan is paid off, lower CN Step 2 rates commence. Revenues for the BB&T loan are no longer needed.

### FINDINGS OF FACT

1. In the Staff-proposed tariff for the CN Step 1 rates, the ALJ substituted "after January 28, 2014" for the phrase "after the acquisition of Stanaford Acres." Rec. Dec. at 3, 4 (Mar. 18, 2015) (Concl. of Law 6).

2. North Beckley opposed the ALJ's substitution and requested that the Staff-proposed language be approved. North Beckley Exceptions at 1-6 (Mar. 27, 2015).

### CONCLUSIONS OF LAW

1. Upon these facts, substituting a specific date for the phrase "after the acquisition of Stanaford Acres" does not provide clarification or specificity of the time period during which the CN Step 1 rates will be in effect.

2. The Staff-proposed language is necessary to provide that the CN Step 1 rates will be in effect for the entire three-year period when the BB&T loan is being repaid.

### ORDER

IT IS THEREFORE ORDERED that the Exceptions filed by North Beckley PSD are granted. The Commission adopts the Staff-recommended tariff that appears in Appendix A to this Order.

IT IS FURTHER ORDERED that the Recommended Decision is adopted to the extent that it is consistent with this Order.

IT IS FURTHER ORDERED that upon entry of this Order this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell  
Executive Secretary

CLW/sek  
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STAFF RECOMMENDED STEP 1 TARIFF

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanaford Acres)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, industrial and sale for resale sewer service.

(I) RATES (customers with metered water supply)

First	2,000 gals used per month	\$ 9.52	per 1,000 gallons
Next	23,000 gals used per month	\$ 8.19	per 1,000 gallons
All Over	25,000 gals used per month	\$ 5.47	per 1,000 gallons

(I) MINIMUM CHARGE

No bill shall be rendered for less than \$ 19.04 per month which is the equivalent of  
2,000 gallons of usage.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service, which has been disconnected for non-payment of sewer bills in conjunction  
with a water service termination agreement with Beckley Water, a disconnection fee of \$25 shall be  
charged; or in the event the delinquent sewer bill is collected by the water company, an  
administrative fee of \$25.00 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for  
non-payment of a sewer bill in conjunction with a water service termination agreement with  
Beckley Water, is reconnected, a reconnection fee of \$25.00 shall be charged.

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 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 an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$300.00 will be charged to customers applying for service outside of a certificate  
proceeding before the Commission for each new tap to the system.

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.

(I) LEAK ADJUSTMENT

\$0.77 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can  
be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such  
consumption above the customer's historical average usage.

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanaford Acres)

SCHEDULE II

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

APPLICABILITY

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

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

S = The surcharge in dollars.

A = The area under roof and/or the area of any other water collection surface connected to the District's sanitary sewer, in square feet.

R = The measured monthly rainfall in inches.

.0006233 = A conversion factor to change inches of rain x square feet of surface thousands of gallons of water.

C = the District's approved rate per thousand gallons of metered water usage.

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

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

Note: The surcharge is not cumulative so as not to reduce the incentive of the larger users to disconnect. The minimum charge does not apply to the surcharge.

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanford Acres)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN THE CASES OF USERS PRODUCING UNUSUAL WATER

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

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

$C_i$  = charge to unusual users per year

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

$V_i$  = volume of wastewater from unusual users, in gallons per year

$B_o$  = average unit cost of treatment, chargeable to Biochemical Oxygen  
Demand (BOD), in dollars per pound

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

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

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

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. The total cost of any such study performed shall be borne entirely by the unusual user. Waste containing materials which, in the judgement of the utility, should not be introduced into the sewer system, will not be accepted. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefore, based upon the formula set out above.

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

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanford Acres)

SCHEDULE IV

Where the amount of sanitary sewage discharge into the Utility's wastewater collection and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Utility a sewer charge calculated at fifty gallons of water per each employee at the plant each working day.

SCHEDULE V

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Commodity charge - Each customer shall pay a commodity charge of \$40 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined, or verified solely, by the Utility.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or 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.

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanaford Acres)

SCHEDULE VI

APPLICABILITY

Applicable to those customers formerly served by the Stanaford Acres Sewerage System.

AVAILABILITY

Available for general domestic, commercial and industrial Service.

RATES (customers with metered water supply)

First	3,000 gallons used per month	\$ 16.32 per 1,000 gallons
		(Includes a surcharge of \$7.82 for debt repayment)
All Over	3,000 gallons used per month	\$ 11.91 per 1,000 gallons
		(Includes a surcharge of \$5.71 for debt repayment)

MINIMUM CHARGE

No minimum bill will be rendered for less than \$48.96 per month, which is the equivalent of 3,000 gallons with a 5/8 inch meter. (Includes a surcharge of \$23.45 for debt repayment)

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage or \$63.63 per month.  
(Includes a surcharge of \$32.01 for debt repayment)

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

TAP FEE

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

A tap fee of \$300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to Stanaford 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.

LEAK ADJUSTMENT

\$1.91 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

STAFF RECOMMENDED STEP 2 TARIFF

(Effective upon substantial completion of the project and after the remaining 3 year period after the acquisition of Stanaford Acres)

APPLICABILITY

Applicable within the entire territory served, including the former Stanaford Acres Sewerage System.

AVAILABILITY

Available for general domestic, commercial, industrial and sale for resale sewer service.

(I) RATES (customers with metered water supply)

First	2,000 gals used per month	\$ 9.47 per 1,000 gallons
Next	23,000 gals used per month	\$ 8.14 per 1,000 gallons
All Over	25,000 gals used per month	\$ 5.44 per 1,000 gallons

(I) MINIMUM CHARGE

No bill shall be rendered for less than 2,000 gallons of usage.	\$ 18.94 per month which is the equivalent of
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DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service, which has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Beckley Water, a disconnection fee of \$25 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of \$25.00 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Beckley Water, is reconnected, a reconnection fee of \$25.00 shall be charged.

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 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 an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

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.

(I) LEAK ADJUSTMENT

\$0.77 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(Effective upon substantial completion of the project and after  
the remaining 3 year period after the acquisition of Stanaford Acres)

SCHEDULE II

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

APPLICABILITY

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

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

S = The surcharge in dollars.

A = The area under roof and/or the area of any other water collection surface connected to the District's sanitary sewer, in square feet.

R = The measured monthly rainfall in inches.

.0006233 = A conversion factor to change inches of rain x square feet of surface thousands of gallons of water.

C = the District's approved rate per thousand gallons of metered water usage.

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

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

Note: The surcharge is not cumulative so as not to reduce the incentive of the larger users to disconnect. The minimum charge does not apply to the surcharge.

(Effective upon substantial completion of the project and after  
the remaining 3 year period after the acquisition of Stanford Acres)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN THE CASES OF USERS PRODUCING UNUSUAL WATER

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

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

$C_i$  = charge to unusual users per year

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

$V_i$  = volume of wastewater from unusual users, in gallons per year

$B_o$  = average unit cost of treatment, chargeable to Biochemical Oxygen  
Demand (BOD), in dollars per pound

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

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

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

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. The total cost of any such study performed shall be borne entirely by the unusual user. Waste containing materials which, in the judgement of the utility, should not be introduced into the sewer system, will not be accepted. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefore, based upon the formula set out above.

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

STAFF RECOMMENDED STEP 2 TARIFF

(Effective upon substantial completion of the project and after  
the remaining 3 year period after the acquisition of Stanaford Acres)

SCHEDULE IV

Where the amount of sanitary sewage discharge into the Utility's wastewater collection and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Utility a sewer charge calculated at fifty gallons of water per each employee at the plant each working day.

SCHEDULE V

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Commodity charge - Each customer shall pay a commodity charge of \$40 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined, or verified solely, by the Utility.

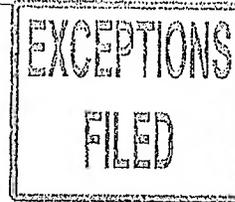
DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or 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.

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON



Entered: December 16, 2013

CASE NO. 13-1267-PSD-PC-19A

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
a public utilities, Raleigh County.

Rule 19A application to increase sewer rates and charges  
of Stanaford Acres Sewerage System, Inc., and  
request for approval of a bank loan.

RECOMMENDED DECISION

A \$210,000 loan is approved and the Staff-recommended rate increase for the Stanaford customers is approved.

CASE RECORD

On August 21, 2013, North Beckley Public Service District (District or NBPSD), by counsel Susan J. Riggs, filed with the Public Service Commission (Commission), pursuant to Rule 19A of the Commission's Rules for the Construction and Filing of Tariffs (Tariff Rules), an application for the implementation of a monthly surcharge for the customers of Stanaford Acres Sewerage System, Inc. (Stanaford), in order to fund the costs of the initial tie-in of the Stanaford sewer system to the District's system. The District related as follows: In North Beckley Pub. Serv. Dis. and Stanaford Acres Sewer Sys., Inc., Case No. 11-0086-PSD-S-PC (2012), the Commission approved the District's constructing a tie-in between its system and the Stanaford system preparatory to the District's taking over the Stanaford system. The Stanaford system has three uninterconnected discharge points; two can be connected to the District's system by gravity, but connecting the third will require a lift station. The estimated cost of the project is \$246,116.32. The District plans to use \$37,079.79 of its cash on hand for the project, but needs a loan of approximately \$210,000 to fully fund the project; the District contemplates a loan payable over three years at a 4% annual interest rate. The District requested that such a loan be approved and that a monthly surcharge of \$24.28, to be charged the Stanaford customers and to be in effect for three years, be approved; the surcharge would increase the District's revenue by \$56,232, a 65% increase for the Stanaford customers, and would be sufficient to pay the debt service on the loan.

KAC

On September 19, 2013, Staff Attorney Chris Howard filed an Initial Joint Staff Memorandum, advising the District of the notice requirements of Tariff Rule 8.2, and an attached memorandum from William A. Nelson, of the Utilities Division.

On October 1, 2013, the Commission issued an Order referring this matter to the Division of Administrative Law Judges for decision no later than April 18, 2014. Staff was ordered to file its final report no later than December 2, 2013, and the District was ordered to mail to each individual customer, no later than October 31, 2013, a notice of its requested increase, as required by Tariff Rule 8.2.f, and to file a certificate evidencing such mailing no later than November 15, 2013.

On October 23, 2013, the District, by counsel, filed a joint motion with Stanaford that Stanaford be joined as a party in this matter.

On November 7, 2013, Stanaford, by its manager Dianna Powell, filed a statement providing five reasons why it supported the District's requests, including the following:

Stanaford is an upper middle class community with very nice homes served by a troubled sewer system. Part of the reason the system is troubled was the very low rates charged by Stanaford to its customers for over 30 years.

The District requested the three year payback as it will coincide with the payoff of another District loan which will be substituted with the proposed loan to replace the entire Stanaford collection system and remove the Stanaford treatment systems. The result will be that the rates of Stanaford and the District can be blended immediately after a Stanaford project so that the Stanaford customers will see a significant rate decrease. Stanaford fully supports this approach.

On November 15, 2013, the undersigned issued a Procedural Order granting the motion for joinder; Stanaford was added as a party.

Also on November 15, 2013, the District, by counsel, filed a motion for leave to include substitute language in the notice of its requested rate increase and a completed Tariff Form 6-A, which stated that, on October 30, 2013, it had mailed to each of the Stanaford customers an attached notice, which was a detailed statement of what was being proposed in this matter, as well as background information. It also advised the customers of a meeting on the proposal on November 7, 2013. The motion requested approval of the District's having sent the letter instead of the limited information normally included in the notice of a requested rate increase.

By Procedural Order issued November 18, 2013, the motion was granted; it was therefore declared that the District had completed the requirements of Tariff Rules 8.2.f and 8.2.g.

On December 3, 2013, Mr. Howard filed the Final Joint Staff Memorandum and the Staff Report, consisting of a Rule 42 Exhibit and a document that included the Staff-recommended rates, prepared by Mr. Nelson, of the Utilities Division, which included the following: The purpose of

the agreement approved in Case No. 11-0086-PSD-S-PC was for the District to acquire Stanaford; one condition of the agreement for finalization of the acquisition was that the District establish rates to be charged the Stanaford customers. The District serves approximately 3,588 customers and Stanaford serves approximately 193 customers, all residential. The District has been offered a \$210,000 loan from BB&T, at an annual interest rate of 1.65% and payable over three years. Staff examined the District's records for the fiscal year ending June 30, 2012, and Stanaford's books and records for the year ending December 31, 2012. Staff's cash flow analysis for the District shows that the District is operating at a deficit.<sup>1</sup> However, because the District and Stanaford in this matter have requested increased charges only for the Stanaford customers and the District apparently is using unencumbered investment savings to offset its cash flow deficit when needed, Staff's recommendations related only to a new Schedule VI of the District's tariff, applicable to the Stanaford customers alone. Staff recommended a Step 1 increase for the Stanaford customers, to become effective when this decision becomes final and remain in effect for three years; at the end of the three years the Stanaford customers would pay the same rates as the District's customers, which, unless modified in another case, will be the District's current rates; Schedule VI would be discontinued; those rates Staff presented as Step 2 rates.<sup>2</sup> The Step 1 rates would provide \$58,570 in additional annual revenue, and would be sufficient to pay the debt service on the loan.

On December 13, 2013, the District, by counsel, filed a letter accepting the Staff-recommended rates, and stating, "Due to the immediate environmental concerns related to the Stanaford system's inadequate treatment of its customers' sewage, the District desires to proceed as quickly as possible with obtaining the requested loan and completing the initial tie-in of the Stanaford system to the District's system."

#### DISCUSSION

The Staff-recommended Step 1 rates will be approved. Under the Stanaford current tariff, a customer using 4,000 gallons in a month pays \$34.50. Adding the proposed \$24.28 monthly surcharge would result in a monthly bill of \$58.78. Under the Step 1 Schedule VI rates, a Stanaford customer using 4,000 gallons in a month will be billed \$57.96. Under Tariff Rule 8.2.i, a utility that accepts the Staff-recommended rates is required to publish and post a notice of them. However, because the rate changes approved here affect only the Stanaford customers; the letter sent in October by the District to the Stanaford customers apprised them of the proposed surcharge and no Stanaford customer objected to the surcharge; and the Staff-recommended Step 1 rates will not cause higher monthly bills for the average customer than the surcharge would have, no further

<sup>1</sup> The cash flow chart shows, at going level, total annual revenue of \$2,302,171 and total annual cash requirements of \$1,515,651, including \$1,463,850 in operation and maintenance expenses, leaving \$786,520 for debt service. However, the District's debt service requirements total \$1,069,492, creating an annual deficit of \$282,972 and a debt service coverage factor of 75.17%.

<sup>2</sup> The cash flow chart shows that under Step 1 the District's total revenue would be \$2,360,741; its cash requirements total \$1,515,651, leaving \$845,090 for debt service. With debt service requirements totaling \$1,069,492, the District would have a deficit of \$224,402 and a debt service coverage factor of 80.76%. Under Step 2, the District's total annual revenue would be \$2,295,243 and its total annual cash requirements would be \$1,512,908, leaving \$782,334 for debt service. With debt service requirements totaling \$976,900, the District would have a deficit of \$194,566 and a debt service coverage factor of 80.28%.

notice needs to be issued and the District will be deemed to have substantially complied with Tariff Rule 8.2.i.

The October letter to the Stanaford customers advised them that, at the end of the three years needed to repay the \$210,000 loan, the District "will be filing for a general adjustment in the rate it charges to all of its customers." W.Va. Code §24-2-3 requires the Commission to set reasonable rates whenever it finds any existing rates "unjust, unreasonable, insufficient or unjustly discriminatory" or otherwise in violation of the law. The District's last rate increase was approved in 2006 (Case No. 06-0503-PSD-19A) and the record in this matter makes clear that the District's rates for its customers as a whole are already grossly inadequate to pay for its expenses and to provide adequate debt service coverage. Because the information needed to fix reasonable rates for all of the District's customers has not been provided and the undersigned does not wish to hold up the Stanaford tie-in and approval of the loan needed for that construction, she will not require in this matter the further information needed to approve rate increases for all of the District's customers. However, the District will be ordered to file, within sixty days of the date on which this decision becomes final, an application for a general rate increase. Further, because those rates undoubtedly will become effective within three years, the Step 2 rates will not be approved.

#### FINDINGS OF FACT

1. On August 21, 2013, North Beckley Public Service District filed with the Public Service Commission, pursuant to Rule 19A of the Commission's Rules for the Construction and Filing of Tariffs, an application for the implementation of a monthly surcharge for the customers of Stanaford Acres Sewerage System, Inc., in order to fund the costs of the initial tie-in of the Stanaford sewer system to the District's system, which was approved in North Beckley Pub. Serv. Dis. and Stanaford Acres Sewer Sys., Inc., Case No. 11-0086-PSD-S-PC (2012). (See application).

2. The Stanaford system has three uninterconnected discharge points; two can be connected to the District's system by gravity, but connecting the third will require a lift station. The estimated cost of the project is \$246,116.32. (See application).

3. The District plans to use \$37,079.79 of its cash on hand for the project, but needs a loan of approximately \$210,000 to fully fund the project. (See application).

4. The District has been offered a \$210,000 loan from BB&T, at an annual interest rate of 1.65% and payable over three years. (See Final Joint Staff Memorandum filed December 3, 2013).

5. Staff examined the District's records for the fiscal year ending June 30, 2012, and Stanaford's books and records for the year ending December 31, 2012. (See Final Joint Staff Memorandum).

6. Staff's cash flow analysis for the District shows that the District is operating at a deficit. At going level, the District has total annual revenue of \$2,302,171 and total annual cash requirements of \$1,515,651, including \$1,463,850 in operation and maintenance expenses, leaving \$786,520 for debt service. However, the District's debt service requirements total \$1,069,492, creating an annual deficit of \$282,972 and a debt service coverage factor of 75.17%. (See Final Joint Staff Memorandum).

7. Because the District and Stanaford in this matter have requested increased charges only for the Stanaford customers and the District apparently is using unencumbered investment savings to offset its cash flow deficit when needed, Staff's recommendations related only to a new Schedule VI of District tariff, applicable to the Stanaford customers alone. Staff recommended a Step 1 increase for the Stanaford customers, to become effective when this decision becomes final and remain in effect for three years; at the end of the three years the Stanaford customers would pay the same rates as the District's customers and Schedule VI would be discontinued; Staff presented those rates as Step 2 rates. (See Final Joint Staff Memorandum).

8. The Step 1 rates would provide \$58,570 in additional annual revenue, and would be sufficient to pay the debt service on the loan. (See Final Joint Staff Memorandum).

9. Under Step 1 the District's total revenue would be \$2,360,741; its cash requirements total \$1,515,651, leaving \$845,090 for debt service. With debt service requirements totaling \$1,069,492, the District would have a deficit of \$224,402 and a debt service coverage factor of 80.76%. Under Step 2, the District's total annual revenue would be \$2,295,243 and its total annual cash requirements would be \$1,512,908, leaving \$782,334 for debt service. With debt service requirements totaling \$976,900, the District would have a deficit of \$194,566 and a debt service coverage factor of 80.28%. (See Final Joint Staff Memorandum).

10. The District accepted the Staff-recommended rates. (See filing of December 13, 2013).

11. On October 30, 2013, the District mailed to each of the Stanaford customers an attached notice, which was a detailed statement of what was being proposed in this matter, including the proposed \$24.28 surcharge, as well as background information. No objection was filed. (See filing of November 15, 2013; Commission case file).

12. Under the Stanaford current tariff, a customer using 4,000 gallons in a month pays \$34.50. Adding the proposed \$24.28 monthly surcharge would result in a monthly bill of \$58.78. Under the Step 1 Schedule VI rates, a Stanaford customer using 4,000 gallons in a month would be billed \$57.96. Accordingly, the bills issued the Stanaford customers under the Staff-recommended Step 1 rates are generally lower than what the bills would have been had the proposed surcharge been approved. (See filing of November 15, 2013; Final Joint Staff Memorandum).

## CONCLUSIONS OF LAW

1. Because the Stanaford customers were fully informed of proposed monthly charges greater than the Step 1 rates recommended by Staff, it is not necessary for the District to provide further notice; it has substantially complied with Tariff Rule 8.2.i.
2. It is appropriate to approve the loan stated at Finding of Fact 4 because it is reasonable.
3. It is appropriate to approve the Staff-recommended Step 1 rates, as provided in Appendix A, because they will be sufficient to pay the debt service on the loan.
4. Because the District's current rates are insufficient to pay its expenses and to provide adequate debt service coverage, the District will be ordered to file, within sixty days of the date on which this decision becomes final, an application for a general rate increase and the Step 2 rates recommended by Staff will not be approved.

## ORDER

IT IS, THEREFORE, ORDERED that the \$210,000 loan, at an annual interest rate of 1.65% and payable over three years, IS APPROVED.

IT IS FURTHER ORDERED that the rates, as provided in Appendix A hereto, are approved, to become effective on the date on which this decision becomes final, because they are sufficient to pay the debt service on said loan.

IT IS FURTHER ORDERED that North Beckley Public Service District file an original and at least five (5) copies of a proper tariff reflecting the rates approved herein within thirty (30) days of the date on which this decision becomes final.

IT IS FURTHER ORDERED that North Beckley Public Service District file with the Commission, no later than sixty (60) days after the date on which this decision becomes final, an application to increase its rates.

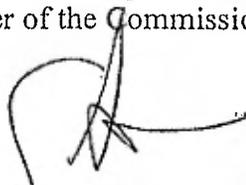
IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon the Commission by hand delivery, and by electronic service upon all parties of record who have filed an e-service agreement with the Commission and by United States Certified Mail, return receipt requested, and upon all parties of record who have not filed an e-service agreement with the Commission.

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

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission.



Sunya Anderson  
Administrative Law Judge

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NORTH BECKLEY PUBLIC SERVICE DISTRICT  
CASE NO. 13-0962-PSD-42T

APPROVED TARIFF

SCHEDULE I

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, industrial and sale for resale sewer service.

RATES (customers with metered water supply)

First	2,000 gals used per month	\$9.07 per 1,000 gallons
Next	23,000 gals used per month	\$7.80 per 1,000 gallons
All Over	25,000 gals used per month	\$5.21 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than \$18.14 per month, which is the equivalent of 2,000 gallons of usage.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Beckley Water, a disconnection fee of \$25.00 shall be charged, or in the event the delinquent sewer bill is collected by the water company, an administrative fee of \$25.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Beckley Water, is reconnected, a reconnection fee of \$25.00 shall be charged.

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 an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$300.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

#### 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.

#### LEAK ADJUSTMENT

\$0.47 per 1,000 gallons is to be used when the bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

### SCHEDULE II

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

##### APPLICABILITY

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

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

S	=	the surcharge in dollars
A	=	the area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
R	=	the measured monthly rainfall in inches
0.000623	=	a conversion factor to change inches of rain x square feet of surface to thousands of gallons of water

C = the District's approved rate per thousand gallons of metered water usage

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

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

Note: The surcharge is not cumulative so as not to reduce the incentive of the larger users to disconnect. The minimum charge does not apply to the surcharge.

### SCHEDULE III

#### SURCHARGE FORMULA TO BE APPLIED IN THE CASES OF USERS PRODUCING UNUSUAL WASTE

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

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

$C_i$  = charge to unusual users per year

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

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

$B_o$  = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound

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

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

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

When an unusual user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Public Service District, should not be introduced into the sewer system need not be handled

by it. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

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

#### SCHEDULE IV

Where the amount of sanitary sewage discharge into the Utility's wastewater collection and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Utility a sewer charge calculated at fifty gallons of water per each employee at the plant each working day.

#### SCHEDULE V

##### APPLICABILITY

Applicable within the entire territory served.

##### AVAILABILITY

Available for wastewater and leachate haulers.

##### RATES

Commodity charge – Each customer shall pay a commodity charge of \$40.00 per 1,000 gallons per load. Load will be actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined, or verified solely, by the Utility.

##### DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

##### RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or 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.

SCHEDULE VI

APPLICABILITY

Applicable to those customers formerly served by the Stanaford Acres Sewerage System.

AVAILABILITY

Available for general domestic, commercial and industrial service.

RATES (customers with metered water supply)

First	3,000 gals used per month	\$15.54 per 1,000 gallons (Includes a surcharge of \$7.82 for debt repayment)
All Over	3,000 gals used per month	\$11.34 per 1,000 gallons (Includes a surcharge of \$7.82 for debt repayment)

MINIMUM CHARGE

No bill will be rendered for less than \$46.62 per month, which is the equivalent of 3,000 gallons with a 5/8-inch meter. (Includes a surcharge of \$23.45 for debt repayment)

FLAT RATE CHARGE (customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage or \$63.63 per month. (Includes a surcharge of \$32.01 for debt repayment)

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

TAP FEE

The following charge is to be made whenever the utility installs a new tap to serve an applicant:

A tap fee of \$300.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the Stanaford 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.

LEAK ADJUSTMENT

\$1.91 per 1,000 gallons is to be used when the bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.



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 28th day of January, 2014.

CASE NO. 13-1267-PSD-PC-19A

NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
a public utility, Beckley, Raleigh County.

Rule 19A application to increase sewer rates and charges of Stanaford Acres Sewerage System, Inc. and request for approval of a bank loan.

COMMISSION ORDER

The Commission modifies a Recommended Decision to remove a requirement that a rate case be filed within sixty days and conditionally approves the use of Step 2 rates.

BACKGROUND

On August 21, 2013, North Beckley Public Service District filed to increase rates under Rule 19A of the Commission Rules for the Construction and Filing of Tariffs, 150 C.S.R. Series 2, to add a \$24.28 monthly surcharge for three years for the former customers of Stanaford Acres Sewerage System, Inc. The Commission approved North Beckley's takeover of the Stanaford system in 2012 in Case Number 11-0086-PSD-S-PC. Rule 19A Application at 1-2 & Exs. A-B (Aug. 21, 2013).

The Stanaford system has three discharge points. Two can be connected to North Beckley by gravity, and the third discharge point requires a lift station that is estimated to cost \$246,116. North Beckley proposed to use \$37,079 from cash on hand and requested approval of a \$210,000 loan at 1.65 percent interest for three years. North Beckley later plans to enter into a separate loan for a project to replace the entire Stanaford collection system and remove the Stanaford treatment systems. North Beckley and Stanaford rates then will be blended and rates for customers of the former Stanaford system will significantly decrease. Id.; Staff Rule 42 Financial Ex. Transmittal Ltr. at 2 (Dec. 3, 3012). Stanaford supported this approach. Stanaford Ltr. at 1-3 (Nov. 7, 2013).

North Beckley serves 3,588 customers and Stanaford serves 193, all residential. Staff Rule 42 Financial Ex. Transmittal Ltr. at 2 (Dec. 3, 3012); North Beckley's Tariff Form No. 2 (Aug. 21, 2013).

On October 1, 2013, the case was referred to the Division of Administrative Law Judges. Comm'n Referral Order at 1.

On December 3, 2013, Commission Staff filed recommended rates, accompanied by a cash flow analysis that showed North Beckley was operating at a deficit. Staff Rule 42 Financial Ex. Transmittal Ltr. at 4, Statement D Schedule 1 & Statement F Schedule 2 (Dec. 3, 2013).

Because increased charges were requested only for former Stanaford customers and North Beckley was apparently using unencumbered investment savings to offset the cash flow deficit when needed, Staff only proposed increased rates for former Stanaford customers. Staff Recommended Revenue Requirements & Rates Report at 1-2 (Dec. 3, 2013). Under Step 1 the Stanaford surcharge will apply, but under Step 2 (at the end of three years), Stanaford customers will pay the same rates as other North Beckley customers. Step 1 rates for Stanaford customers will generate \$58,570 annually in additional revenues, and operating expenses at both North Beckley and Stanaford will be reduced after the takeover. The combination of the additional revenue from the surcharge and reduced operating expenses is sufficient to pay the \$71,891 annual debt service on the proposed \$210,000 loan. Staff Rule 42 Financial Ex. Transmittal Ltr. at 3, Statement C (debt service amount) & Statements G & A2 (adjustments to operating expenses).

On December 13, 2013, North Beckley and Stanaford accepted the Staff rates. Joint Response to Final Joint Staff Memorandum at 1. Because of environmental concerns related to the Stanaford system's inadequate treatment of sewage, North Beckley proposed to proceed as quickly as possible. Id.

The ALJ approved North Beckley's entry into the \$210,000 loan and Staff's Step 1 rates for former Stanaford customers. She also noted that the Staff cash flow analysis showed an annual deficit. Rec. Dec. at 3, 5 (Dec. 16, 2013). Because W. Va. Code § 24-2-3 requires the Commission to set reasonable rates and the record was clear that current rates are inadequate to pay expenses and provide adequate debt service coverage, the ALJ required North Beckley to file a rate case. Because the information needed to establish reasonable rates for all customers was not provided and the ALJ did not wish to delay the Stanaford tie-in, she required a rate case to be filed within sixty days of a final Order in this proceeding. Id. at 4. The ALJ did not approve the Staff Step 2 rates because they were not proposed to be effective until three years later. Id.

On December 30, 2013, North Beckley filed Exceptions to the Recommended Decision, asserting that Staff's revenue requirement erroneously included \$241,552 for the 2009B State Revolving Fund issue, but this was a forgivable State Revolving Fund/American Recovery and Reinvestment Act of 2009 loan. The "debt service" is forgiven annually and is not a draw on cash flow. Exceptions at 3. Although removal of this item does not completely erase the Staff cash flow deficit, the operating deficit is reduced dramatically. Id. at 3-4.

North Beckley plans to file a combination certificate application and rate case in 2014. Id. at 3-4. North Beckley has submitted a preliminary application to the West Virginia Jobs and Infrastructure Development Council for the Stanaford replacement project with a draft Rule 42 financial exhibit that takes these matters into account:

- a) The combination rate and certificate case will address approval of loan funding and appropriate rates;
- b) The 1999A Water Development Authority/State Revolving Fund bond issue, with a \$404,544 annual principal payment and a \$40,960 annual administrative fee, will mature in 2020 and has a fully funded reserve account;
- c) The proposed loan scenario for the replacement project contemplates wrapping the \$210,000 loan so that part of the principal payments is deferred beyond the three-year term approved in the Recommended Decision; and
- d) Until the certificate and rate case are filed, unencumbered cash balances are more than sufficient to cover any operating cash deficit. Average annual capital expenditures of \$79,862 over the last five years indicate that North Beckley is not in a distressed cash flow position.

Id. Under these circumstances, North Beckley argued that requiring a rate case within sixty days of a final Order would be an unnecessary expenditure of funds by the utility and the inefficient use of Commission resources. Id. at 4.

Staff recommended that the Exceptions be granted. When the ARRA debt requirement is forgiven, the annual operating deficit is only \$41,420. Staff Response to Exceptions at 1-3 (Dec. 31, 2013).

On January 8, 2014, Stanaford also supported the Exceptions. Stanaford Response to Exceptions at 1.

### DISCUSSION

The ALJ correctly notes that reasonable rates are required by statute. Usually, a utility will not operate at a deficit under reasonable rates. Upon these particular facts, though, requiring a rate proceeding within sixty days of a final Order would be an unnecessary expenditure of funds by North Beckley and the inefficient use of Commission resources because North Beckley is preparing a combination certificate and rate proceeding for a project to complete its takeover of the Stanaford system and can

absorb the operating deficit for a short while. The Commission will grant the Exceptions and remove the requirement to file a rate case within sixty days.

The Commission also will approve the Staff Step 2 rates for use at the end of the three-year loan period. Because North Beckley will file a combination rate and certificate proceeding in 2014, the Step 2 rates may never take effect. Instead, revised rates will be set in the combination rate and certificate proceeding that will apply to all North Beckley customers. We approve the use of the Staff Step 2 rates for use, but only if revised rates for all North Beckley customers that will be established in the forthcoming rate and certificate proceeding are not in effect at the end of the three-year loan period.

As modified by this Order, the Commission will adopt the Recommended Decision.

### FINDINGS OF FACT

1. Under Step 1 rates, North Beckley will operate at a \$41,420 deficit. Staff Rule 42 Financial Ex. Transmittal Ltr. at 4, Statement D Schedule 1 & Statement F Schedule 2 (Dec. 3, 2013); Staff Response to Exceptions at 1-3 (Dec. 31, 2013).

2. During the last five years, North Beckley's average annual capital expenditures have been \$79,862. North Beckley Exceptions at 3-4.

3. North Beckley will file a combined certificate and rate proceeding in 2014 that will, among other matters, request approval of a loan for the Stanaford replacement project and blended rates that will apply to all customers. Id.

4. Until the certificate and rate case are filed, North Beckley's unencumbered cash balances should be sufficient to cover the \$41,420 operating cash deficit. Id.

### CONCLUSIONS OF LAW

1. Requiring a rate proceeding within sixty days of a final Order would be an unnecessary expenditure of funds by North Beckley and the inefficient use of Commission resources because North Beckley is preparing a combination certificate and rate proceeding to be filed in 2014 for a project to complete its takeover of the Stanaford system and North Beckley should be able to absorb a \$41,420 operating deficit for a short while.

2. The Staff Step 2 rates should be approved for use at the end of the three-year loan period, but only if revised rates for all North Beckley customers that will be established in the forthcoming rate and certificate proceeding are not in effect at the end of that three-year loan period.

ORDER

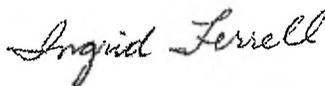
IT IS THEREFORE ORDERED that the North Beckley Exceptions are granted. North Beckley is not required to file a rate proceeding within sixty days of the date of this Order and the Staff Step 2 rates are approved for use at the end of the three-year loan period, but only if revised rates for all North Beckley customers that will be established in the forthcoming rate and certificate proceeding are not in effect at the end of the three-year loan period.

IT IS FURTHER ORDERED that the Recommended Decision, as modified by this Commission Order, is adopted.

IT IS FURTHER ORDERED that upon entry of this Order this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell  
Executive Secretary

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PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 1<sup>st</sup> day of April 2014.

CASE NO. 13-1267-PSD-PC-19A

NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
a public utility, Beckley, Raleigh County.

Rule 19A application to increase sewer rates and charges of Stanaford Acres Sewerage System, Inc. and request for approval of a bank loan.

**COMMISSION ORDER**

The Commission corrects the rates under Schedule VI of the tariff attached as Appendix A to the December 16, 2013 Recommended Decision.

**BACKGROUND**

On August 21, 2013, North Beckley Public Service District (North Beckley) filed to increase rates under Rule 19A of the Commission Rules for the Construction and Filing of Tariffs, 150 C.S.R. Series 2, to add a \$24.28 monthly surcharge for three years for the former customers of Stanaford Acres Sewerage System, Inc. (Stanaford). The Commission approved North Beckley's takeover of the Stanaford system in 2012 in Case Number 11-0086-PSD-S-PC.

On October 1, 2013, the case was referred to the Division of Administrative Law Judges (ALJ).

On December 3, 2013, Commission Staff filed recommended rates, accompanied by a cash flow analysis that showed North Beckley was operating at a deficit. These rates were accepted by North Beckley and Stanaford.

On December 16, 2013, the ALJ issued a Recommended Decision approving North Beckley's entry into the \$210,000 loan and Staff's Step 1 rates for former Stanaford customers. Further, because the information needed to establish reasonable rates for all customers was not provided and the ALJ did not wish to delay the Stanaford tie-in, she required a rate case to be filed within sixty days of a final Order in this proceeding. The ALJ did not approve the Staff Step 2 rates because they were not proposed to be effective until three years later.

On December 30, 2013, North Beckley filed Exceptions to the Recommended Decision, asserting that Staff's revenue requirement erroneously included \$241,552 for the 2009B State Revolving Fund issue, but this was a forgivable State Revolving Fund/American Recovery and Reinvestment Act of 2009 (ARRA) loan. The "debt service" is forgiven annually and is not a draw on cash flow. Although removal of this item does not completely erase the Staff cash flow deficit, the operating deficit is reduced dramatically. Under these circumstances, North Beckley argued that requiring a rate case within sixty days of a final Order would be an unnecessary expenditure of funds by the utility and the inefficient use of Commission resources.

Staff and Stanaford supported the Exceptions, with Staff recommending the Exceptions be granted. When the ARRA debt requirement is forgiven, the annual operating deficit is only \$41,420.

On January 28, 2014, the Commission issued an Order modifying the December 16, 2013 Recommended Decision to remove the requirement that North Beckley file a rate case within sixty days and conditionally approved the use of Step 2 rates.

On March 18, 2014, North Beckley filed a Motion requesting the Commission correct the rates set forth in Schedule VI of the tariff attached as Appendix A to the December 16, 2013 Recommended Decision. North Beckley explained these rates were the approved Step 1 rates, and that the January 28, 2013 Commission Order did not address or modify the Step 1 rates. North Beckley further explained that the usage blocks under Schedule VI included different surcharge amounts for the first 3,000 gallons and each additional 1,000 gallons used per month. The tariff attached to the Recommended Decision used the same surcharge for both blocks. North Beckley closed by stating that Staff and Stanaford Acres support this Motion.

#### DISCUSSION

Staff recommended an embedded surcharge amount of \$7.82 per 1,000 gallons for the first 3,000 gallons used per month, dropping to \$5.71 for each additional 1,000 gallons used per month. The December 16, 2013 Recommended Decision approved an embedded surcharge amount of \$7.82 per 1,000 gallons in each block.

It is appropriate for the Commission to amend the rates set forth in Schedule VI of the tariff approved by the Recommended Decision to indicate the correct surcharge for each block.

#### FINDINGS OF FACT

1. North Beckley filed to increase rates to add a \$24.28 monthly surcharge for three years for the former customers of Stanaford. August 21, 2013 Application.

2. This case was referred to the Division of Administrative Law Judges. October 1, 2013 Commission Referral Order.

3. The ALJ approved the Staff-recommended Step 1 rates for former Stanaford customers, and required North Beckley file a rate case within sixty days of a final Order in this proceeding. The ALJ did not approve the Staff Step 2 rates because they were not proposed to be effective until three years later. December 16, 2013 Recommended Decision.

4. North Beckley filed Exceptions to the Recommended Decision, asserting that requiring a rate case within sixty days of a final Order would be an unnecessary expenditure of funds by the utility and the inefficient use of Commission resources. December 30, 2013 Exceptions.

5. The Commission modified the December 16, 2013 Recommended Decision by removing the requirement that North Beckley file a rate case within sixty days and conditionally approved the use of Step 2 rates. January 28, 2014 Commission Order.

6. North Beckley filed a Motion requesting the Commission correct the rates set forth in Schedule VI of the tariff attached as Appendix A to the December 16, 2013 Recommended Decision because the ALJ had approved the same embedded surcharge for both blocks. March 18, 2014 Motion.

#### CONCLUSION OF LAW

The Commission will correct the rates as set forth in Schedule VI of the tariff attached as Appendix A to the December 16, 2013 Recommended Decision.

#### ORDER

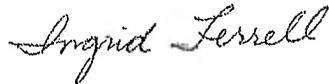
IT IS THEREFORE ORDERED that the rates attached to this Order as Appendix A will replace the rates for Schedule VI that were approved by the December 16, 2013 Recommended Decision.

IT IS FURTHER ORDERED that North Beckley Public Service District file an original and six copies of a proper tariff reflecting the rates approved within thirty days of the date of this Order.

IT IS FURTHER ORDERED that on entry of this Order this matter be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell  
Executive Secretary

LHG/lrm  
131267cb

SCHEDULE VI

APPLICABILITY

Applicable to those customers formerly served by the Stanaford Acres Sewerage System.

AVAILABILITY

Available for general domestic, commercial and industrial Service.

(I) RATES (customers with metered water supply)

First	3,000 gallons used per month	\$ 15.54 per 1,000 gallons (Includes a surcharge of \$7.82 for debt repayment)
All Over	3,000 gallons used per month	\$ 11.34 per 1,000 gallons (Includes a surcharge of \$5.71 for debt repayment)

(I) MINIMUM CHARGE

No minimum bill will be rendered for less than \$46.62 per month, which is the equivalent of 3,000 gallons with a 5/8 inch meter.  
(Includes a surcharge of \$23.45 for debt repayment)

(I) FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage or \$63.63 per month.  
(Includes a surcharge of \$32.01 for debt repayment)

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

TAP FEE

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

A tap fee of \$300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to Stanaford 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.

(D) LEAK ADJUSTMENT

\$1.91 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(I) Indicates Increase

(D) Indicates Decrease

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**CERTIFICATE OF REGISTRAR**

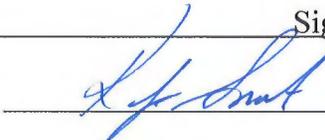
UNITED BANK, INC., Charleston, West Virginia (the "Bank"), as Registrar for the above-captioned Bonds (the "Bonds"), hereby certifies on this 18th day of June, 2015 as follows:

1. The Bank is a state banking corporation duly organized, validly existing, and in good standing under the laws of the State of West Virginia, may lawfully conduct business in West Virginia, and is lawfully empowered, pursuant to such laws, to accept the duties and obligations contemplated and as provided under the Bond Resolution of North Beckley Public Service District adopted on June 11, 2015, as supplemented by the Supplemental Resolution adopted on June 11, 2015 (collectively, the "Resolution") and to serve in the capacity of Registrar under the Resolution. All capitalized terms used herein but not defined herein shall have the same meanings as set forth in the Resolution.

2. The Bank has duly authorized, by all necessary action, the authentication of the Bonds and the execution and delivery of this Certificate and the acceptance of all duties of Registrar under the Resolution, and any and all other documents and agreements as may be required to be executed, delivered and received by the Bank in order to carry out, give effect to, and consummate the transactions contemplated thereby.

3. The person indicated in paragraph 4 below was at the time of the authentication of the Bonds, and is now, a duly elected, qualified and acting incumbent in his office; and, pursuant to authorization from the Board of Directors of the Bank, such person, in his official capacity, was and is authorized to authenticate the Bonds for and on behalf of the Bank.

4. Appearing opposite the name and title of the person indicated below is a true and correct specimen of her signature.

Name	Title	Signature
Kathy Smith	Vice President	

5. The Bonds have been duly authenticated, registered and delivered to the Authority, and the proceeds of the Bonds have been deposited as required by the Resolution.

IN WITNESS WHEREOF, UNITED BANK, INC., Charleston, West Virginia, has caused this Certificate to be executed by its duly authorized officer as of the day and year first written above.

UNITED BANK, INC.

By: Michelle R. Pitts kind  
Its: Authorized Officer

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 18<sup>th</sup> day of June, 2015, by and between NORTH BECKLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia (the "Issuer"), and UNITED BANK, INC. ("Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$2,354,862 principal amount of Sewer Revenue Bonds, 2015 Series A (West Virginia Infrastructure Fund), in fully registered form (the "Bonds"), pursuant to a Bond Resolution of the Issuer adopted on June 11, 2015, as supplemented by a Supplemental Resolution of the Issuer adopted on June 11, 2015 (collectively, the "Bond 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 Bond Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Bond Resolution provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Bond Resolution and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Bond 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 Registrant and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Bond Resolution, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer.

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 for services rendered as provided in the attached schedule.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Bond Resolution with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Bond Resolution, the terms of the Bond 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 Bond 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 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: North Beckley Public Service District  
122 Clear Water Lane  
Beckley, West Virginia 25801  
Attention: General Manager

REGISTRAR: United Bank, Inc.  
500 Virginia Street, East  
Charleston, West Virginia  
Attention: Trust Department

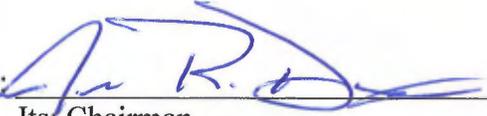
8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Bond Resolution.

9. This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, NORTH BECKLEY PUBLIC SERVICE DISTRICT and UNITED BANK, INC. have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first written above.

NORTH BECKLEY PUBLIC SERVICE DISTRICT

By:  \_\_\_\_\_  
Its: Chairman

UNITED BANK, INC.

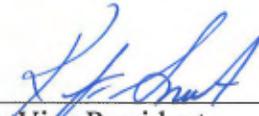
By:  \_\_\_\_\_  
Its: Vice President

EXHIBIT A

Bond Resolution

(See Tabs No. 1 and 2)

SCHEDULE OF COMPENSATION

(Please see attached)



PROCESS FOR PAYMENT

GRANT# Slane Ford Acres Sewer  
LINE ITEM Registration Fees  
BY EC DATE 6.10.15

I N V O I C E

Date: June 10, 2015  
To: North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801  
Re: North Beckley Public Service District  
Sewer REvenue Bonds  
Series 2015 B

Amount Due: \$ 500.00  
Acceptance Fee \$ 500.00  
Total \$ 500.00

Please remit to United Bank  
Corporate Trust Department  
P. O. Box 393  
Charleston, WV 25322

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK**

United Bank, Inc., Beckley, West Virginia, hereby accepts appointment as Depository Bank in connection with the Bond Resolution of the Public Service Board of North Beckley Public Service District in Raleigh County, West Virginia (the "Issuer"), adopted on June 11, 2015, as supplemented by the Supplemental Resolution adopted on June 11, 2015, authorizing the issuance of the Issuer's Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund), dated June 18, 2015, in the principal amount of \$2,354,862, all as set forth in the Bond Resolution.

WITNESS my signature on this 18<sup>th</sup> day of June, 2015.

UNITED BANK, INC.

By: Michael A. Jarro VP  
Its: Authorized Officer



WEST VIRGINIA

**Water Development Authority**

*Celebrating 41 Years of Service 1974 - 2015*

**\$2,354,862**

**NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)**

**CONSENT TO ISSUANCE OF PARITY BONDS**

In reliance upon a certificate of John Blackwell, CPA, independent certified public accountant, and the opinion of Spilman Thomas & Battle, PLLC, Bond Counsel, stating that the coverage and parity requirements have been met (copies of which are attached hereto), the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund) (the "Bonds"), in the original principal amount of \$2,354,862, by the North Beckley Public Service District (the "Issuer"), under the terms of the Bond Resolution authorizing the Bonds, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898 (the "Series 1999 Bonds"), (ii) Sewerage System Revenue Bonds, Series 2003 A (West Virginia SRF Program), dated September 29, 2003, issued in the original aggregate principal amount of \$5,307,741 (the "Series 2003 Bonds"), (iii) Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated October 29, 2009, issued in the original aggregate principal amount of \$4,544,324, (iv) Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated October 29, 2009, issued in the original aggregate principal amount of \$2,415,521, and (v) Sewer Revenue Bonds, 2015 Series A (Branch Banking and Trust Company), dated May 7, 2015, issued in the original aggregate principal amount of \$210,000 (collectively, the "Prior Bonds"),.

WITNESS my signature on this 18th day of June, 2015.

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

By: Sheena Chadwell  
Its: Authorized Representative

**WV MUNICIPAL BOND COMMISSION**  
 900 Pennsylvania Avenue, Suite 1117  
 Charleston, WV 25302  
 (304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: June 18, 2015

ISSUE: North Beckley Public Service District Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund)	
ADDRESS: 122 Clear Water Lane Beckley, WV 25801	COUNTY: Raleigh
PURPOSE OF ISSUE: <u>New Money: X</u> Refunding:	REFUNDS ISSUE(S) DATED:
ISSUE DATE: June 18, 2015	CLOSING DATE: June 18, 2015
ISSUE AMOUNT: \$2,354,862	RATE: 1.00%
1ST DEBT SERVICE DUE: March 1, 2017	1ST PRINCIPAL DUE: March 1, 2017
1ST DEBT SERVICE AMOUNT: \$11,811.16	PAYING AGENT: WV Municipal Bond Commission
BOND COUNSEL: Spilman Thomas & Battle, PLLC Contact Person: Elizabeth Benedetto, Esquire Phone: (304) 340-3861	UNDERWRITER'S COUNSEL: Jackson Kelly PLLC Contact Person: Samme Gee Phone: (304) 340-1318
CLOSING BANK: United Bank, Inc. (Registrar) Contact Person: Kathy Smith Phone: 304-348-8427	ESCROW TRUSTEE: Contact Person: Phone:
KNOWLEDGEABLE ISSUER CONTACT Contact Person: Donna Sawyers Position: General Manager Phone: (304) 253-2191	OTHER: Contact Person: Function: Phone:
DEPOSITS TO MBC AT CLOSE: By: _____ Wire _____ _____ Check _____ _____ In-House Transfer _____ _____ Other _____	Accrued Interest: \$ _____ Capitalized Interest: \$ _____ Reserve Account: \$ _____ Other: Escrow to Refund \$ _____
REFUNDS & TRANSFERS BY MBC AT CLOSE By: _____ Wire _____ _____ Check _____ _____ IGT _____ _____ To Other: _____	_____ To Escrow Trustee: \$ _____ _____ To Issuer \$ _____ (less any fees) (Release of Surplus Funds) _____ To Cons. Invest. Fund \$ _____
NOTES: The Issuer is required to fund the reserve account over a 10-year period. The Issuer expects to make regular payments to the 2015 Series B Bonds Reserve Account; provided, that upon payment in full of its Sewerage System Revenue Bonds, Series 1999 issued on January 28, 1999, the Issuer requests that the Commission transfer from any monies remaining in the Series 1999 Bonds Reserve Account held by the Commission to the 2015 Series B Bonds Reserve Account an amount to fully fund the 2015 Series B Reserve Account to the 2015 Series B Bonds Reserve Requirement. The Issuer has approved said transfer in its Supplemental Resolution adopted on June 11, 2015.	
FOR MUNICIPAL BOND COMMISSION USE ONLY: Documents Required: _____ Transfers Required: _____	

The purpose of the NEW ISSUE REPORT FORM is to provide the WV Municipal Bond Commission with an early warning of three basic facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the West Virginia Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all supplements, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes."

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at closing are required, please submit this form before closing. If no significant facts change by closing, no resubmission at closing is required. If, however, there are changes, please submit an updated form, with changes noted, at closing.

If you should have any questions concerning this form, please call the Commission.

Bond Debt Service

North Beckley PSD

IF

\$2,354,862

1% Interest Rate

40 Years from Closing Date

Dated Date 6/18/2015

Delivery

Date 6/18/2015

Period Ending	Principal	Coupon	Interest	Debt Service
3/1/2017	5,924	1.000%	5,887.16	11,811.16
6/1/2017	5,939	1.000%	5,872.35	11,811.35
9/1/2017	5,954	1.000%	5,857.50	11,811.50
12/1/2017	5,968	1.000%	5,842.61	11,810.61
3/1/2018	5,983	1.000%	5,827.69	11,810.69
6/1/2018	5,998	1.000%	5,812.74	11,810.74
9/1/2018	6,013	1.000%	5,797.74	11,810.74
12/1/2018	6,028	1.000%	5,782.71	11,810.71
3/1/2019	6,043	1.000%	5,767.64	11,810.64
6/1/2019	6,058	1.000%	5,752.53	11,810.53
9/1/2019	6,074	1.000%	5,737.39	11,811.39
12/1/2019	6,089	1.000%	5,722.20	11,811.20
3/1/2020	6,104	1.000%	5,706.98	11,810.98
6/1/2020	6,119	1.000%	5,691.72	11,810.72
9/1/2020	13,565	1.000%	5,676.42	19,241.42
12/1/2020	13,599	1.000%	5,642.51	19,241.51
3/1/2021	13,633	1.000%	5,608.51	19,241.51
6/1/2021	13,667	1.000%	5,574.43	19,241.43
9/1/2021	13,702	1.000%	5,540.26	19,242.26
12/1/2021	13,736	1.000%	5,506.01	19,242.01
3/1/2022	13,770	1.000%	5,471.67	19,241.67
6/1/2022	13,805	1.000%	5,437.24	19,242.24
9/1/2022	13,839	1.000%	5,402.73	19,241.73
12/1/2022	13,874	1.000%	5,368.13	19,242.13
3/1/2023	13,908	1.000%	5,333.45	19,241.45
6/1/2023	13,943	1.000%	5,298.68	19,241.68
9/1/2023	13,978	1.000%	5,263.82	19,241.82
12/1/2023	14,013	1.000%	5,228.87	19,241.87
3/1/2024	14,048	1.000%	5,193.84	19,241.84
6/1/2024	14,083	1.000%	5,158.72	19,241.72
9/1/2024	14,118	1.000%	5,123.51	19,241.51
12/1/2024	14,154	1.000%	5,088.22	19,242.22
3/1/2025	14,189	1.000%	5,052.83	19,241.83
6/1/2025	14,224	1.000%	5,017.36	19,241.36
9/1/2025	14,260	1.000%	4,981.80	19,241.80
12/1/2025	14,296	1.000%	4,946.15	19,242.15
3/1/2026	14,331	1.000%	4,910.41	19,241.41
6/1/2026	14,367	1.000%	4,874.58	19,241.58
9/1/2026	14,403	1.000%	4,838.67	19,241.67
12/1/2026	14,439	1.000%	4,802.66	19,241.66
3/1/2027	14,475	1.000%	4,766.56	19,241.56
6/1/2027	14,511	1.000%	4,730.37	19,241.37

9/1/2027 14,548 1.000% 4,694.10 19,242.10

Jun 4, 2015 10:19 am Prepared by Piper Jaffray & Co.

(WDA:LOANS-NBECK115) 2

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
12/1/2027	14,584	1.000%	4,657.73	19,241.73
3/1/2028	14,621	1.000%	4,621.27	19,242.27
6/1/2028	14,657	1.000%	4,584.71	19,241.71
9/1/2028	14,694	1.000%	4,548.07	19,242.07
12/1/2028	14,731	1.000%	4,511.34	19,242.34
3/1/2029	14,767	1.000%	4,474.51	19,241.51
6/1/2029	14,804	1.000%	4,437.59	19,241.59
9/1/2029	14,841	1.000%	4,400.58	19,241.58
12/1/2029	14,878	1.000%	4,363.48	19,241.48
3/1/2030	14,916	1.000%	4,326.28	19,242.28
6/1/2030	14,953	1.000%	4,288.99	19,241.99
9/1/2030	14,990	1.000%	4,251.61	19,241.61
12/1/2030	15,028	1.000%	4,214.14	19,242.14
3/1/2031	15,065	1.000%	4,176.57	19,241.57
6/1/2031	15,103	1.000%	4,138.90	19,241.90
9/1/2031	15,141	1.000%	4,101.15	19,242.15
12/1/2031	15,179	1.000%	4,063.29	19,242.29
3/1/2032	15,216	1.000%	4,025.35	19,241.35
6/1/2032	15,255	1.000%	3,987.31	19,242.31
9/1/2032	15,293	1.000%	3,949.17	19,242.17
12/1/2032	15,331	1.000%	3,910.94	19,241.94
3/1/2033	15,369	1.000%	3,872.61	19,241.61
6/1/2033	15,408	1.000%	3,834.19	19,242.19
9/1/2033	15,446	1.000%	3,795.67	19,241.67
12/1/2033	15,485	1.000%	3,757.05	19,242.05
3/1/2034	15,524	1.000%	3,718.34	19,242.34
6/1/2034	15,562	1.000%	3,679.53	19,241.53
9/1/2034	15,601	1.000%	3,640.62	19,241.62
12/1/2034	15,640	1.000%	3,601.62	19,241.62
3/1/2035	15,679	1.000%	3,562.52	19,241.52
6/1/2035	15,719	1.000%	3,523.32	19,242.32
9/1/2035	15,758	1.000%	3,484.03	19,242.03
12/1/2035	15,797	1.000%	3,444.63	19,241.63
3/1/2036	15,837	1.000%	3,405.14	19,242.14
6/1/2036	15,876	1.000%	3,365.55	19,241.55
9/1/2036	15,916	1.000%	3,325.86	19,241.86
12/1/2036	15,956	1.000%	3,286.07	19,242.07
3/1/2037	15,996	1.000%	3,246.18	19,242.18
6/1/2037	16,036	1.000%	3,206.19	19,242.19
9/1/2037	16,076	1.000%	3,166.10	19,242.10
12/1/2037	16,116	1.000%	3,125.91	19,241.91
3/1/2038	16,156	1.000%	3,085.62	19,241.62
6/1/2038	16,197	1.000%	3,045.23	19,242.23
9/1/2038	16,237	1.000%	3,004.73	19,241.73
12/1/2038	16,278	1.000%	2,964.14	19,242.14

3/1/2039	16,318	1.000%	2,923.45	19,241.45
6/1/2039	16,359	1.000%	2,882.65	19,241.65

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Jun 4, 2015 10:19 am Prepared by Piper Jaffray & Co.

(WDA:LOANS-NBECK115) 3

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
9/1/2039	16,400	1.000%	2,841.75	19,241.75
12/1/2039	16,441	1.000%	2,800.75	19,241.75
3/1/2040	16,482	1.000%	2,759.65	19,241.65
6/1/2040	16,523	1.000%	2,718.45	19,241.45
9/1/2040	16,565	1.000%	2,677.14	19,242.14
12/1/2040	16,606	1.000%	2,635.73	19,241.73
3/1/2041	16,648	1.000%	2,594.21	19,242.21
6/1/2041	16,689	1.000%	2,552.59	19,241.59
9/1/2041	16,731	1.000%	2,510.87	19,241.87
12/1/2041	16,773	1.000%	2,469.04	19,242.04
3/1/2042	16,815	1.000%	2,427.11	19,242.11
6/1/2042	16,857	1.000%	2,385.07	19,242.07
9/1/2042	16,899	1.000%	2,342.93	19,241.93
12/1/2042	16,941	1.000%	2,300.68	19,241.68
3/1/2043	16,984	1.000%	2,258.33	19,242.33
6/1/2043	17,026	1.000%	2,215.87	19,241.87
9/1/2043	17,069	1.000%	2,173.30	19,242.30
12/1/2043	17,111	1.000%	2,130.63	19,241.63
3/1/2044	17,154	1.000%	2,087.85	19,241.85
6/1/2044	17,197	1.000%	2,044.97	19,241.97
9/1/2044	17,240	1.000%	2,001.98	19,241.98
12/1/2044	17,283	1.000%	1,958.88	19,241.88
3/1/2045	17,326	1.000%	1,915.67	19,241.67
6/1/2045	17,369	1.000%	1,872.35	19,241.35
9/1/2045	17,413	1.000%	1,828.93	19,241.93
12/1/2045	17,456	1.000%	1,785.40	19,241.40
3/1/2046	17,500	1.000%	1,741.76	19,241.76
6/1/2046	17,544	1.000%	1,698.01	19,242.01
9/1/2046	17,588	1.000%	1,654.15	19,242.15
12/1/2046	17,632	1.000%	1,610.18	19,242.18
3/1/2047	17,676	1.000%	1,566.10	19,242.10
6/1/2047	17,720	1.000%	1,521.91	19,241.91
9/1/2047	17,764	1.000%	1,477.61	19,241.61
12/1/2047	17,809	1.000%	1,433.20	19,242.20
3/1/2048	17,853	1.000%	1,388.68	19,241.68
6/1/2048	17,898	1.000%	1,344.04	19,242.04
9/1/2048	17,943	1.000%	1,299.30	19,242.30
12/1/2048	17,987	1.000%	1,254.44	19,241.44
3/1/2049	18,032	1.000%	1,209.47	19,241.47
6/1/2049	18,077	1.000%	1,164.39	19,241.39
9/1/2049	18,123	1.000%	1,119.20	19,242.20
12/1/2049	18,168	1.000%	1,073.89	19,241.89
3/1/2050	18,213	1.000%	1,028.47	19,241.47
6/1/2050	18,259	1.000%	982.94	19,241.94
9/1/2050	18,305	1.000%	937.29	19,242.29

12/1/2050	18,350	1.000%	891.53	19,241.53
3/1/2051	18,396	1.000%	845.66	19,241.66

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(WDA:LOANS-NBECK115) 4

Bond Debt Service  
 North Beckley PSD  
 IF  
 \$2,354,862  
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12/1/2052	18,721	1.000%	521.30	19,242.30
3/1/2053	18,767	1.000%	474.50	19,241.50
6/1/2053	18,814	1.000%	427.58	19,241.58
9/1/2053	18,861	1.000%	380.54	19,241.54
12/1/2053	18,908	1.000%	333.39	19,241.39
3/1/2054	18,956	1.000%	286.12	19,242.12
6/1/2054	19,003	1.000%	238.73	19,241.73
9/1/2054	19,051	1.000%	191.22	19,242.22
12/1/2054	19,098	1.000%	143.60	19,241.60
3/1/2055	19,146	1.000%	95.85	19,241.85
6/1/2055	19,194	1.000%	47.99	19,241.99
	2,354,862		504,348.67	2,859,210.67



## SWEEP RESOLUTION

### North Beckley Public Service District

**WHEREAS**, North Beckley Public Service District (the "Issuer") is a governmental body and political subdivision of West Virginia;

**WHEREAS**, the Issuer has issued its \$2,354,862 Sewer Revenue Bonds, 2015 Series B (West Virginia Infrastructure Fund) (the "Bonds");

**WHEREAS**, the Issuer makes monthly debt service payments on the Bonds by check to the West Virginia Municipal Bond Commission (the "MBC") which in turn pays the owners of the Bonds and deposits funds in the reserve accounts;

**WHEREAS**, the MBC may accept such monthly payments by electronic funds transfer thereby eliminating delay in payments and lost checks;

**WHEREAS**, pursuant to Section 5a of Chapter 13, Article 3 of the Code of West Virginia, 1931, as amended, the MBC has established fees for its services (the "MBC Fee"); and

**WHEREAS**, the Issuer finds and determines that it is in the best interest of the Issuer, its citizens and the owners of the Bonds that the monthly debt service payments be made by electronic funds transfer with the State Treasurer sweeping the Issuer's account.

#### **NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

1) The monthly debt service payments on the Bonds, as set forth in Exhibit A, along with the MBC Fee, shall be made to the MBC by electronic funds transfer by the State Treasurer from the accounts set forth in Exhibit A in such form and at such directions as are provided by the MBC.

2) The Chairman, Secretary and Treasurer are hereby authorized to sign and execute all such documents as are necessary to facilitate the electronic transfer of the Bond debt service and reserve fund payments.

3) This resolution shall be effective immediately upon adoption.

Adopted this 11<sup>th</sup> day of June, 2015.

  
Chairman

Exhibit A

List each bond issue account and the Bank account number  
from which the electronic transfer will be made.

<u>Bond Issue</u>	<u>Bank Account Information – Last 4 Digits</u>	<u>Monthly Amount</u>
Sewer Revenue Bonds, 2015 Series B Sinking Fund	3055	See Amortization Schedule attached hereto

Bond Debt Service

North Beckley PSD

IF

\$2,354,862

1% Interest Rate

40 Years from Closing Date

Dated Date 6/18/2015

Delivery

Date 6/18/2015

Period Ending	Principal	Coupon	Interest	Debt Service
3/1/2017	5,924	1.000%	5,887.16	11,811.16
6/1/2017	5,939	1.000%	5,872.35	11,811.35
9/1/2017	5,954	1.000%	5,857.50	11,811.50
12/1/2017	5,968	1.000%	5,842.61	11,810.61
3/1/2018	5,983	1.000%	5,827.69	11,810.69
6/1/2018	5,998	1.000%	5,812.74	11,810.74
9/1/2018	6,013	1.000%	5,797.74	11,810.74
12/1/2018	6,028	1.000%	5,782.71	11,810.71
3/1/2019	6,043	1.000%	5,767.64	11,810.64
6/1/2019	6,058	1.000%	5,752.53	11,810.53
9/1/2019	6,074	1.000%	5,737.39	11,811.39
12/1/2019	6,089	1.000%	5,722.20	11,811.20
3/1/2020	6,104	1.000%	5,706.98	11,810.98
6/1/2020	6,119	1.000%	5,691.72	11,810.72
9/1/2020	13,565	1.000%	5,676.42	19,241.42
12/1/2020	13,599	1.000%	5,642.51	19,241.51
3/1/2021	13,633	1.000%	5,608.51	19,241.51
6/1/2021	13,667	1.000%	5,574.43	19,241.43
9/1/2021	13,702	1.000%	5,540.26	19,242.26
12/1/2021	13,736	1.000%	5,506.01	19,242.01
3/1/2022	13,770	1.000%	5,471.67	19,241.67
6/1/2022	13,805	1.000%	5,437.24	19,242.24
9/1/2022	13,839	1.000%	5,402.73	19,241.73
12/1/2022	13,874	1.000%	5,368.13	19,242.13
3/1/2023	13,908	1.000%	5,333.45	19,241.45
6/1/2023	13,943	1.000%	5,298.68	19,241.68
9/1/2023	13,978	1.000%	5,263.82	19,241.82
12/1/2023	14,013	1.000%	5,228.87	19,241.87
3/1/2024	14,048	1.000%	5,193.84	19,241.84
6/1/2024	14,083	1.000%	5,158.72	19,241.72
9/1/2024	14,118	1.000%	5,123.51	19,241.51
12/1/2024	14,154	1.000%	5,088.22	19,242.22
3/1/2025	14,189	1.000%	5,052.83	19,241.83
6/1/2025	14,224	1.000%	5,017.36	19,241.36
9/1/2025	14,260	1.000%	4,981.80	19,241.80
12/1/2025	14,296	1.000%	4,946.15	19,242.15
3/1/2026	14,331	1.000%	4,910.41	19,241.41
6/1/2026	14,367	1.000%	4,874.58	19,241.58
9/1/2026	14,403	1.000%	4,838.67	19,241.67
12/1/2026	14,439	1.000%	4,802.66	19,241.66
3/1/2027	14,475	1.000%	4,766.56	19,241.56
6/1/2027	14,511	1.000%	4,730.37	19,241.37
9/1/2027	14,548	1.000%	4,694.10	19,242.10

Bond Debt Service  
North Beckley PSD  
IF  
\$2,354,862  
1% Interest Rate  
40 Years from Closing Date

Period Ending	Principal	Coupon	Interest	Debt Service
12/1/2027	14,584	1.000%	4,657.73	19,241.73
3/1/2028	14,621	1.000%	4,621.27	19,242.27
6/1/2028	14,657	1.000%	4,584.71	19,241.71
9/1/2028	14,694	1.000%	4,548.07	19,242.07
12/1/2028	14,731	1.000%	4,511.34	19,242.34
3/1/2029	14,767	1.000%	4,474.51	19,241.51
6/1/2029	14,804	1.000%	4,437.59	19,241.59
9/1/2029	14,841	1.000%	4,400.58	19,241.58
12/1/2029	14,878	1.000%	4,363.48	19,241.48
3/1/2030	14,916	1.000%	4,326.28	19,242.28
6/1/2030	14,953	1.000%	4,288.99	19,241.99
9/1/2030	14,990	1.000%	4,251.61	19,241.61
12/1/2030	15,028	1.000%	4,214.14	19,242.14
3/1/2031	15,065	1.000%	4,176.57	19,241.57
6/1/2031	15,103	1.000%	4,138.90	19,241.90
9/1/2031	15,141	1.000%	4,101.15	19,242.15
12/1/2031	15,179	1.000%	4,063.29	19,242.29
3/1/2032	15,216	1.000%	4,025.35	19,241.35
6/1/2032	15,255	1.000%	3,987.31	19,242.31
9/1/2032	15,293	1.000%	3,949.17	19,242.17
12/1/2032	15,331	1.000%	3,910.94	19,241.94
3/1/2033	15,369	1.000%	3,872.61	19,241.61
6/1/2033	15,408	1.000%	3,834.19	19,242.19
9/1/2033	15,446	1.000%	3,795.67	19,241.67
12/1/2033	15,485	1.000%	3,757.05	19,242.05
3/1/2034	15,524	1.000%	3,718.34	19,242.34
6/1/2034	15,562	1.000%	3,679.53	19,241.53
9/1/2034	15,601	1.000%	3,640.62	19,241.62
12/1/2034	15,640	1.000%	3,601.62	19,241.62
3/1/2035	15,679	1.000%	3,562.52	19,241.52
6/1/2035	15,719	1.000%	3,523.32	19,242.32
9/1/2035	15,758	1.000%	3,484.03	19,242.03
12/1/2035	15,797	1.000%	3,444.63	19,241.63
3/1/2036	15,837	1.000%	3,405.14	19,242.14
6/1/2036	15,876	1.000%	3,365.55	19,241.55
9/1/2036	15,916	1.000%	3,325.86	19,241.86
12/1/2036	15,956	1.000%	3,286.07	19,242.07
3/1/2037	15,996	1.000%	3,246.18	19,242.18
6/1/2037	16,036	1.000%	3,206.19	19,242.19
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12/1/2037	16,116	1.000%	3,125.91	19,241.91
3/1/2038	16,156	1.000%	3,085.62	19,241.62
6/1/2038	16,197	1.000%	3,045.23	19,242.23
9/1/2038	16,237	1.000%	3,004.73	19,241.73
12/1/2038	16,278	1.000%	2,964.14	19,242.14
3/1/2039	16,318	1.000%	2,923.45	19,241.45
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6/1/2040	16,523	1.000%	2,718.45	19,241.45
9/1/2040	16,565	1.000%	2,677.14	19,242.14
12/1/2040	16,606	1.000%	2,635.73	19,241.73
3/1/2041	16,648	1.000%	2,594.21	19,242.21
6/1/2041	16,689	1.000%	2,552.59	19,241.59
9/1/2041	16,731	1.000%	2,510.87	19,241.87
12/1/2041	16,773	1.000%	2,469.04	19,242.04
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**west virginia** department of environmental protection

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Division of Water and Waste Management  
601 57th Street SE  
Charleston, West Virginia 25304-2345  
Phone: 304-926-0495  
Fax: 304-926-0496

Earl Ray Tomblin, Governor  
Randy C. Huffman, Cabinet Secretary  
[www.dep.wv.gov](http://www.dep.wv.gov)

January 31, 2014

DONNA F. SAWYERS, GEN. MGR.  
NORTH BECKLEY PSD  
122 CLEAR WATER LN  
BECKLEY, WV 25801

**CERTIFIED RETURN RECEIPT REQUESTED**

Dear Permittee:

Enclosed please find WV/NPDES Permit Number WV0027740 dated January 31, 2014.

In response to comments presented in email correspondence dated the 30th day of January 2014 on the draft WV/NPDES Water Pollution Control Permit, the agency presents the following responses.

Comment No. 1 : IU02 - Mercury Monitoring

A reassessment of the maximum allowable headworks loading is completed for various pollutants at permit reissuance. Effluent limits for industrial users are derived to be protective of pass through, interference, inhibition, and sludge disposal criteria. This can potentially result in an increase or decrease of a particular effluent limit for an industrial user. In this case, a reduction in the mercury limit was necessary. Please note, that after further reassessment, the mercury limit had to be reduced even more to be protective of pass through at the wastewater treatment plant. A review of effluent data indicates that the industrial user can easily achieve the new limitation.

Comment No. 2 : Raleigh County Landfill - Process Description

Section E.2.a.2 has been corrected.

Comment No. 3 : IU03 - Monitoring Revisions

As discussed over the phone, this industrial user does not appear to need the additional increase in flow. Further, please note that an increased flow limitation would result in a reduction in some or all of the effluent limitations imposed for this facility. The agency only grants what is necessary for industrial users when considering flow and effluent limitations.

**Promoting a healthy environment.**

DONNA F. SAWYERS, GEN. MGR.

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January 31, 2014

This industrial user is subject to a federal effluent guideline (40 CFR 442.16). This effluent guideline prescribes technology based standards for copper, mercury, and oil and grease. As such, these requirements must be imposed at a minimum. Additionally, an assessment of inhibition and pass through must be conducted for these pollutants and the most stringent limitations imposed. The BOD and TSS limitations were revised in accordance with an overall review and reassessment of influent loadings at the POTW as part of the draft permit. Please note that a correction was made to the oil and grease limitation in the final permit to be consistent with the effluent guideline.

Comment No. 4 : Lewis Nissan - Monitoring

The agency believes that monitoring in conjunction with an oil/water separator log is appropriate. If a facility can demonstrate compliance and routine maintenance, the permittee may request a modification in the future for a reduction in monitoring.

Comment No. 5 : Section D - Numbering Error

The numbering error in Section D has been corrected.

Comment No. 6 : Beckley Garbage Wastewater Introduction

Sections E.2.a.5 and E.2.b.5 have been corrected to reflect that the wastewater is directly connected to the collection system and not trucked to the WWTP. Please note that the previous permit required a permit modification to be submitted prior to the direct connection being made. No modification was submitted.

Comment No. 7 : Little General Store

The contract operator for this remediation has been corrected to Simon and Associates.

Comment No. 8 : Beckley Maintenance

Sections E.2.a.10 and E.2.b.10 were corrected to remove the reference to settling and to remove the oil separator log.

Comment No. 9 : Beckley West Maintenance Garage

The language regarding the waiver of monitoring was removed in this permit because a permit modification was required to effectuate any change in monitoring. This language is unnecessary because the permittee may submit a permit modification request at any time regardless of whether it is stated in the permit or not.

Please note that a Discharge Monitoring Report (DMR) is to be completed and submitted to this Division each month.

DONNA F. SAWYERS, GEN. MGR.  
Page 3  
January 31, 2014

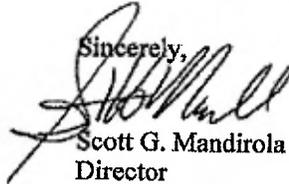
Special Condition: Please note that, pursuant to EPA comments, monitoring for iron has been imposed at Outlet 001 in the final permit due to a completed TMDL.

Finally note that copies of all future correspondence regarding the permit must be forwarded to the Field Inspector and Field Supervisor at the following address:

Department of Environmental Protection  
Environmental Enforcement  
254 Industrial Drive  
Oak Hill, WV 25901

Also, please note the attachment to this permit which describes the annual permit fee requirement. Reissuance of your permit does not change the annual fee billing cycle.

If you have any questions, please contact Bhupinder Gill of this Division at (304) 926-0499 at extension 1017.

Sincerely,  
  
Scott G. Mandirola  
Director

SGM:bg

Enclosures

**Permit Number:** WV0027740

**Permittee:** NORTH BECKLEY PSD

**cc:** Bureau of Public Health  
Construction Assistance  
Env. Insp. Supv.  
Env. Insp.  
Public Service Commission  
US EPA



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.: WV0027740  
 SUBJECT: Sewage

ISSUE DATE: January 31, 2014  
 EFFECTIVE DATE : April 01, 2014  
 EXPIRATION DATE: January 30, 2019  
 SUPERSEDES: Permit No. WV0027740  
 dated February 27, 2009

LOCATION: BECKLEY	Raleigh	Lower New River
(City)	(County)	(Drainage Basin)

See the next page for a list of Outlets.

**TO WHOM IT MAY CONCERN:**

**This is to certify that:** NORTH BECKLEY PSD  
 122 CLEAR WATER LN  
 BECKLEY, WV 25801

**is hereby granted a West Virginia NPDES Water Pollution Control Permit to:**

operate and maintain an existing wastewater collection system and an existing 2.5 million gallons per day sequential batch reactor wastewater treatment plant which are further described as follows.

The wastewater collection system is comprised of approximately 24,400 linear feet of four (4) inch diameter gravity sewer line, 126,168 linear feet of six (6) inch diameter gravity sewer line, 248,509 linear feet of eight (8) inch diameter gravity sewer line, 43,750 linear feet of 10 inch gravity sewer line, 27,091 linear feet of 12 inch diameter gravity sewer line, 30,014 linear feet of 15 inch diameter gravity sewer line, 3,000 linear feet of 21 inch diameter gravity sewer line, 20 linear feet of 30 inch diameter gravity sewer line, 3267 manholes, 220 cleanouts, 13 lift stations, 2,300 linear feet of one and one half (1.5) inch diameter force main, 2,500 linear feet of three (3) inch diameter force main, 2,678 linear feet of four (4) inch diameter force main, 2,912 linear feet of six (6) inch diameter force main, 7,062 linear feet of eight (8) inch diameter force main, 8,600 linear feet of 10 inch diameter force main, and all requisite appurtenances.

The wastewater treatment plant is comprised of an influent lift station with 520 linear feet of 20 inch diameter force main, a mechanical barscreen, a manual barscreen, two (2) mechanical grit removal chambers, two (2) sequential batch reactors with a volume of 1, 237, 200 gallons each which function as an integral clarifier with a surface area of 6,362 square feet each, three (3) 200 horsepower blowers, an effluent flow equalization chamber with a volume of 347,500 gallons, ultraviolet disinfection facilities, cascade post aeration, an aerobic digester with a volume of 347,500 gallons, a 1.7 meter sludge dewatering belt press, a nonpotable water supply system, a dewatered sludge storage bin with a volume of 3,100 cubic feet, an emergency generator, and all requisite appurtenances.

These facilities are to serve a population equivalent of approximately 25,000 persons in the North Beckley Public Service District, and environs, and discharge treated wastewater through Outlet No. 001 to Cranberry Creek, approximately 1.6 miles from its mouth, of Piney Creek of the New River of the Kanawha River.

**This permit is subject to the following terms and conditions :**

The information submitted on, and with, Permit Application No. WV0027740, dated the 29th day of August 2013 and additional information received on November 05, 2013, are all hereby made terms and conditions of this Permit with like effect as if all such Permit application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, and E, 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.**

Inspectable Unit	Latitude	Longitude	Receiving Stream	Dist. to Stream Mouth (In Mile)	Milepost
001	37°47'43"	81°10'16"	CRANBERRY CK	1.6	N/A
IU01	37°47'43"	81°10'16"	N/A	N/A	N/A
IU02	37°47'43"	81°10'16"	N/A	N/A	N/A
IU03	37°47'43"	81°10'16"	N/A	N/A	N/A
IU04	37°47'43"	81°10'16"	N/A	N/A	N/A
IU05	37°47'43"	81°10'16"	N/A	N/A	N/A
IU09	37°47'43"	81°10'16"	N/A	N/A	N/A
IU10	37°47'43"	81°10'16"	N/A	N/A	N/A
IU13	37°47'43"	81°10'16"	N/A	N/A	N/A
IU14	37°47'43"	81°10'16"	N/A	N/A	N/A
IU15	37°47'43"	81°10'16"	N/A	N/A	N/A
IU16	37°47'43"	81°10'16"	N/A	N/A	N/A
IU17	37°47'43"	81°10'16"	N/A	N/A	N/A
IU18	37°47'43"	81°10'16"	N/A	N/A	N/A
S01	37°47'43"	81°10'16"	N/A	N/A	N/A

**A.001 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to discharge from Outlet Number(s) 001 (Sanitary)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>			<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
50050 - (Flow, in Conduit or thru plant) (Year Round) (ML-1) (RF-A)	N/A	N/A	N/A	Rpt Only Minimum	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mgd	Continuous	measured
00310 - (BOD, 5-Day 20 Deg.C) (Year Round) (ML-B) (RF-A)	626 Avg. Monthly	1251 Max. Daily	Lbs/Day	N/A	30 Avg. Monthly	60 Max. Daily	mg/l	1/week	Batch
00530 - (Total Suspended Solids) (Year Round) (ML-A) (RF-A)	626 Avg. Monthly	1251 Max. Daily	Lbs/Day	N/A	30 Avg. Monthly	60 Max. Daily	mg/l	1/week	Batch
81010 - (BOD, % Removal) (Year Round) (ML-K) (RF-A)	N/A	N/A	N/A	85 Month. Avg. Min.	N/A	N/A	Percent	4/Month	Calculated
81011 - (Suspended Solids, % Removal) (Year Round) (ML-K) (RF-A)	N/A	N/A	N/A	85 Month. Avg. Min.	N/A	N/A	Percent	4/Month	Calculated
74055 - (Coliform, Fecal) (Year Round) (ML-A) (RF-A)	N/A	N/A	N/A	N/A	200 Mon. Geo. Mean	400 Max. Daily	Cnts/100ml	1/week	Grab
00400 - (pH) (Year Round) (ML-A) (RF-A)	N/A	N/A	N/A	6 Inst. Min.	N/A	9 Inst. Max.	S.U.	1/week	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

All batch samples shall be collected at the sampling station at the equalization basin. Other effluent samples shall be collected at, or as near as possible to, the point of discharge.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

**A.001 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:  
Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to discharge from Outlet Number(s) 001 (Sanitary)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00300 - (Dissolved Oxygen) (Year Round) (ML-A) (RF-A)	N/A	N/A	N/A	6 Inst. Min.	N/A	N/A	mg/l	1/week	Grab
00610 - (Ammonia Nitrogen) (Summer May 1-Oct 31) (ML-A) (RF-A)	87.6 Avg. Monthly	175 Max. Daily	Lbs/Day	N/A	4.2 Avg. Monthly	8.4 Max. Daily	mg/l	1/week	Batch
00610 - (Ammonia Nitrogen) (Winter Nov 1-Apr 30) (ML-A) (RF-A)	142 Avg. Monthly	284 Max. Daily	Lbs/Day	N/A	6.8 Avg. Monthly	13.6 Max. Daily	mg/l	1/week	Batch
01119 - (Copper, Total Recoverable) (Year Round) (ML-A) (RF-A)	N/A	N/A	N/A	N/A	0.0104 Avg. Monthly	0.0164 Max. Daily	mg/l	1/month	Batch
01114 - (Lead, Total Recoverable) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Batch
01094 - (Zinc, Total Recoverable) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Batch
01002 - (Arsenic, Total (as As)) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Batch

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

All batch samples shall be collected at the sampling station at the equalization basin. Other effluent samples shall be collected at, or as near as possible to, the point of discharge.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules Issued pursuant to Chapter 22B, Article 3.

**A.001 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to discharge from Outlet Number(s) 001 (Sanitary)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>				
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>		
01113 - (Cadmium, Total Recoverable) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Batch
01032 - (Chromium, Hexavalent) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Batch
00718 - (Cyanide, Weak Acid Dissocia (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Grab
71900 - (Mercury, Total (as Hg)) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	ug/l	1/quarter	Grab
01074 - (Nickel, Total Recoverable) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Batch
01079 - (Silver, Total Recoverable) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Batch
00900 - (Hardness, Total (as CaCO3)) (Year Round) (ML-A) (RF-C)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/6 months	Batch

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

All batch samples shall be collected at the sampling station at the equalization basin. Other effluent samples shall be collected at, or as near as possible to, the point of discharge.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

**A.001 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to discharge from Outlet Number(s) 001 (Sanitary)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>				
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>		
00980 - (Iron, Total Recoverable) (Year Round) (ML-A) (RF-B)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Batch
61426 - (Chronic Tox-Ceriodaphnia Du (Year Round) (ML-A) (RF-D)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	TUc	1/year	Batch
61428 - (Chronic Toxicity - Pimephales (Year Round) (ML-A) (RF-D)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	TUc	1/year	Batch

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

All batch samples shall be collected at the sampling station at the equalization basin. Other effluent samples shall be collected at, or as near as possible to, the point of discharge.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

**A.IU01 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU01 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Quantity</u>		<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>		
			<u>Units</u>		<u>Other Units</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	1000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/quarter	Grab
00552 - (Oil and Grease, Hexane EXTRACT) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Beckley West Maintenance Garage: Refer to Section E.02.a.1 and E.02.b.1 for sampling and other requirements.

**A.IU02 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU02 (Pretreatment - Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	100000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	measured
00310 - (BOD, 5-Day 20 Deg.C) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	162 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	2/month	Comp
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	162 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	2/month	Comp
00400 - (pH) (Year Round) (ML-1) (RF-A)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	2/month	Grab
00625 - (Nitrogen, Kjeldahl Total) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	32 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	2/month	Comp
01119 - (Copper, Total Recoverable) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.011 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/month	Comp
01114 - (Lead, Total Recoverable) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.0025 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/month	Comp

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Raleigh County Landfill: Refer to Section E.02.a.2 and E.02.b.2 for sampling and other requirements.

**AIU02 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU02 (Pretreatment - Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>					<u>Monitoring Requirements</u>			
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>		
01094 - (Zinc, Total Recoverable) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.014 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/month	Comp
01113 - (Cadmium, Total Recoverable) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.00075 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/month	Comp
71900 - (Mercury, Total (as Hg)) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.00015 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	ug/l	1/month	Grab
01074 - (Nickel, Total Recoverable) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.007 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/month	Comp
01079 - (Silver, Total Recoverable) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.000751 Max. Daily	Lbs/Day	N/A	N/A	Rpt Only Max. Daily	mg/l	1/month	Comp
00978 - (Arsenic, Total Recoverable) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.003 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/month	Comp
00720 - (Cyanide, Total) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	0.012 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/month	Comp

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Raleigh County Landfill: Refer to Section E.02.a.2 and E.02.b.2 for sampling and other requirements.

**A.IU02 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU02 (Pretreatment - Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
01118 - (Chromium, Total Recoverable) (Year Round) (ML-1) (RF-A)	Rpt Only	0.014	Lbs/Day	N/A	Rpt Only	Rpt Only	mg/l	1/month	Comp
	Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily			

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Raleigh County Landfill: Refer to Section E.02.a.2 and E.02.b.2 for sampling and other requirements.

**A.IU03 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU03 (Pretreatment - Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	2000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	Estimated
00310 - (BOD, 5-Day 20 Deg.C) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	200 Max. Daily	mg/l	1/month	Comp
00530 - (Total Suspended Solids) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	200 Max. Daily	mg/l	1/month	Comp
00400 - (pH) (Year Round) (ML-4) (RF-A)	N/A	N/A	N/A	6 Inst. Min.	N/A	9 Inst. Max.	S.U.	1/month	Grab
71900 - (Mercury, Total (as Hg)) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	3.1 Max. Daily	ug/l	1/month	Grab
01042 - (Copper, Total (as Cu)) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	0.84 Max. Daily	mg/l	1/month	Comp
81017 - (Chem. Oxygen Demand) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	2000 Max. Daily	mg/l	1/month	Comp

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Hercules Ashland inc.:Refer to Section E.02.a.3 and E.02.b.3 for sampling and other requirements.

**A.IU03 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU03 (Pretreatment - Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>				
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00552 - (Oil and Grease, Hexane EXTf (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	26 Max. Daily	mg/l	1/month	Comp

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): Hercules Ashland Inc.: Refer to Section E.02.a.3 and E.02.b.3 for sampling and other requirements.

**A.IU04 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU04 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-N/A)	Rpt Only Avg. Monthly	1000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	measured
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	300 Max. Daily	mg/l	1/month	Grab
00400 - (pH) (Year Round) (ML-1) (RF-A)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	mg/l	1/month	Grab
00552 - (Oil and Grease, Hexane EXTF) (Year Round) (ML-1) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/month	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Caterpillar. Refer to Section E.02.a.4 and E.02.b.4 for sampling and other requirements.

**A.IU05 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU05 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	1000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	measured
00310 - (BOD, 5-Day 20 Deg.C) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	500 Max. Daily	mg/l	1/quarter	Grab
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	500 Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/quarter	Grab
00552 - (Oil and Grease, Hexane EXTRACT) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Beckley Garbage Disposal: Refer to Section E.02.a.5 and E.02.b.5 for sampling and other requirements.

**A.IU09 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU09 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	100 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/quarter	Grab
00552 - (Oil and Grease, Hexane EXTI) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Wal-Mart No. 1351 Refer to Section E.2.a.6 and E.2.b.6 for sampling and other requirements.

**A.IU10 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU10 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	1500 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/quarter	Grab
00552 - (Oil and Grease, Hexane EXT) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Raleigh County Maintenance Headquarters: Refer to Section E.02.a.7 and E.02.b.7 for sampling and other requirements.

**A.IU13 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU13 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	5000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	measured
00400 - (pH) (Year Round) (ML-4) (RF-A)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/month	Grab
34030 - (Benzene) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	50 Max. Daily	ug/l	1/month	Grab
34010 - (Toluene) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	50 Max. Daily	ug/l	1/month	Grab
81551 - (Xylene) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	50 Max. Daily	ug/l	1/month	Grab
01092 - (Zinc, Total (as Zn)) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/month	Grab
45501 - (Petroleum Hydrocarbons, Tot) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	ug/l	1/month	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Little General Store BP#2075 (Simon and Associates) : Refer to Section E.02.a.9 and E.02.b.9 for sampling and other requirements.

**A.IU13 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU13 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>				
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>	<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>		
34371 - (Ethylbenzene) (Year Round) (ML-4) (RF-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	50 Max. Daily	ug/l	1/month	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Little General Store BP#2075 (Simon and Associates) : Refer to Section E.02.a.9 and E.02.b.9 for sampling and other requirements.

**A.IU14 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU14 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Quantity</u>		<u>Discharge Limitations</u>				<u>Units</u>	<u>Monitoring Requirements</u>	
			<u>Units</u>	<u>Other Units</u>		<u>Measurement Frequency</u>		<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	4000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	measured
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/quarter	Grab
00552 - (Oil and Grease, Hexane EXT) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Heritage Equipment: Refer to Section E.2.a.9 and E.2.b.9 for sampling and other requirements.

**A.IU15 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU15 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	5000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	mg/l	1/quarter	Grab
00940 - (Chloride (as Cl)) (Year Round) (ML-4) (RF-B)	Rpt Only Avg. Monthly	250 Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Beckley Maintenance: Refer to Section E.2.a.10 and E.2.b.10 for sampling and other requirements.

**A.IU16 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU16 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Quantity</u>		<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>		
			<u>Units</u>		<u>Other Units</u>		<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	1500 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/quarter	Grab
00552 - (Oil and Grease, Hexane EXTI) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

Lewis Nissan: Refer to Section E.2.a.11 and E.2.b.11 for sampling and other requirements.

**A.IU17 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU17 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	1600 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/quarter	Grab
00552 - (Oil and Grease, Hexane EXT1) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Oak Hill Garbage Disposal Inc.: Refer to Section E.2.a.12 and E.2.b.12 for sampling and other requirements.

**A.IU18 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to accept the discharge from Outlet Number(s) IU18 (Pretreatment - Non Significant Industrial User)

Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>						<u>Monitoring Requirements</u>		
	<u>Quantity</u>		<u>Units</u>	<u>Other Units</u>		<u>Units</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>	
00056 - (Flow Rate) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	1000 Max. Daily	gpd	N/A	N/A	N/A	N/A	1/daily	Estimated
00530 - (Total Suspended Solids) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	mg/l	1/quarter	Grab
00400 - (pH) (Year Round) (ML-1) (RF-B)	N/A	N/A	N/A	5 Inst. Min.	N/A	10 Inst. Max.	S.U.	1/quarter	Grab
00552 - (Oil and Grease, Hexane EXTI) (Year Round) (ML-1) (RF-B)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	mg/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):  
Southern Soil Conservation District. Refer to Section E.2.a.13 and E.2.b.13 for sampling and other requirements.

**A.S01 SEWAGE SLUDGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to dispose sludge in accordance with the following from Outlet Number S01 (Sludge)

<u>Effluent Characteristic</u>	<u>Quantity</u>		<u>Units</u>	<u>Limitations</u>	<u>Other Units</u>	<u>Units</u>	<u>Monitoring Requirements</u>		
							<u>Measurement Frequency</u>	<u>Sample Type</u>	
74055 - (Coliform, Fecal) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	Rpt Only Maximum	col/gr	1/quarter	Grab
00400 - (pH) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	Rpt Only Minimum	N/A	Rpt Only Maximum	S.U.	1/quarter	Grab
61521 - (Arsenic, Sludge Tot. Dry Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	20 Maximum	mg/kg	1/quarter	1 Week Comp
78476 - (Cadmium, Sludge, Tot Dry Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	39 Maximum	mg/kg	1/quarter	1 Week Comp
78473 - (Chromium, Dry Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	1000 Maximum	mg/kg	1/quarter	1 Week Comp
78475 - (Copper, Sludge, Tot, Dry Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	1500 Maximum	mg/kg	1/quarter	1 Week Comp
78468 - (Lead, Dry. Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	250 Maximum	mg/kg	1/quarter	1 Week Comp

**A.S01 SEWAGE SLUDGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to dispose sludge in accordance with the following from Outlet Number S01 (Sludge)

<u>Effluent Characteristic</u>	<u>Quantity</u>		<u>Units</u>	<u>Limitations</u>	<u>Other Units</u>	<u>Units</u>	<u>Monitoring Requirements</u>		
							<u>Measurement Frequency</u>	<u>Sample Type</u>	
78471 - (Mercury, Dry Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	10 Maximum	mg/kg	1/quarter	1 Week Comp
78465 - (Molybdenum, Dry Wgt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	18 Maximum	mg/kg	1/quarter	1 Week Comp
78469 - (Nickel, Dry Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	200 Maximum	mg/kg	1/quarter	1 Week Comp
49031 - (Selenium, Sludge, Tot. Dry Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	36 Maximum	mg/kg	1/quarter	1 Week Comp
78467 - (Zinc, Dry Wt.) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	2800 Maximum	mg/kg	1/quarter	1 Week Comp
00916 - (Calcium, Total (as Ca)) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	Rpt Only Maximum	mg/kg	1/quarter	1 Week Comp
61553 - (Solids, Total Sludge Percent) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	Rpt Only Minimum	Rpt Only Avg.	Rpt Only Maximum	Percent	1/quarter	1 Week Comp

**A.S01 SEWAGE SLUDGE LIMITATIONS AND MONITORING REQUIREMENTS:**

**Final Limitations**

During the period beginning 4/1/2014 and lasting through midnight 1/30/2019 the permittee is authorized to dispose sludge in accordance with the following from Outlet Number S01 (Sludge)

<u>Effluent Characteristic</u>	<u>Quantity</u>		<u>Units</u>	<u>Limitations</u>	<u>Other Units</u>		<u>Units</u>	<u>Monitoring Requirements</u>	
								<u>Measurement Frequency</u>	<u>Sample Type</u>
78472 - (Potassium, Sludge Tot. Dry Wt (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	Rpt Only Maximum	mg/kg	1/quarter	1 Week Comp
78478 - (Phosphorus, Sludge, Tot, Dry Wt (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	Rpt Only Maximum	mg/kg	1/quarter	1 Week Comp
82294 - (Nitrogen, Ammonia Tot. DW) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	Rpt Only Maximum	mg/kg	1/quarter	1 Week Comp
78470 - (Nitrogen, Sludge Tot. Dry Wt) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	Rpt Only Maximum	mg/kg	1/quarter	1 Week Comp
51020 - (Organic Nitrogen) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	Rpt Only Maximum	mg/kg	1/quarter	1 Week Comp
00927 - (Magnesium, Tot (as Mg)) (Year Round) (ML+) (RF-B)	N/A	N/A	N/A	N/A	N/A	Rpt Only Maximum	mg/kg	1/quarter	1 Week Comp

**B. SCHEDULE OF COMPLIANCE**

- 1. The permittee 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

01. 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 shall be maintained during the twenty-five (25) year flood level.
02. The entire sewage treatment facility shall be adequately protected by fencing.
03. The proper operation and maintenance of the listed sewage treatment facility shall be performed, or supervised, by a certified operator possessing at least a Class III certificate for Waste Water Treatment Plant Operators as issued by the State of West Virginia. The on-site attendance of this facility's Class III operator shall be determined and directed by the Bureau for Public Health, Office of Environmental Health Services.
04. The arithmetic mean of values for effluent samples collected in a period of seven (7) consecutive days shall not exceed 45.0 mg/l for five (5) day Biochemical Oxygen Demand (BOD5) and Total Suspended Solids (TSS). Furthermore, the permittee may submit mitigating factors as an attachment to its Discharge Monitoring Report (DMR) related to an excursion of this requirement. The Director may choose to take those mitigating factors into consideration in determining whether enforcement action is required.
05. The permittee shall submit monthly 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 Section A analytically determined to be in the plant effluent(s). Additional information pertaining to effluent monitoring and reporting can be found in Appendix A, Part III.
06. The required DMRs shall be received by the agency no later than 20 days following the end of the reporting period in accordance with the following requirements.
  - a) The agency is now requiring the permittee to utilize our electronic DMR (eDMR) system which is now mandatory.
  - b) The permittee is not required to submit hard copies of the DMRs to the addresses listed below when using eDMR. Special circumstances may result in the agency granting an exemption to eDMR and are considered on case by case basis. If the permittee was exempted by the agency from using the eDMR system, then the permittee is required to send hard copies to the addresses below. The permittee may contact the agency for more information about the eDMR system and potential exemptions from using it.

<p>Director Division of Water and Waste Management 601 57th Street, SE Charleston, West Virginia 25304 Attn: Permitting Program</p>	<p>U. S. Environmental Protection Agency Region III, Water Protection Division NPDES Enforcement Branch (3WP42) 1650 Arch Street Philadelphia, PA 19103</p>
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  - c) Regardless, in accordance with Appendix A, Section III.6 of this permit, the permittee shall maintain copies of DMRs (either hard copies or electronic copies) at the plant site and the DMRs shall be made readily available upon request from DEP personnel.
07. For any noncompliance reports required to be submitted in writing by Appendix A, Part IV, of this permit, a copy shall also be forwarded to the Environmental Protection Agency at the location specified in Section C.06, above.
08. In conjunction with all other reporting requirements of this permit, copies of all future correspondence regarding this permit, including copies of DMRs, will be forwarded to the Environmental Inspector and Environmental Inspector Supervisor at the following address:

<p>Department of Environmental Protection Environmental Enforcement 254 Industrial Drive Oak Hill, West Virginia 25901</p>
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09. The permittee shall not use alternate DMRs without prior approval from this agency.
10. The permittee shall not accept any new nondomestic 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.

### Section C - Other Requirements

11. If any existing nondomestic discharge causes, or is suspected of causing, interference or pass through, as defined by 40 CFR Part 403.3, or otherwise violates any provision of 40 CFR Part 403, the permittee shall notify the Director of such violation or suspected violation.
12. If any existing nondomestic 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.
13. The average daily design flow of the existing Publicly Owned Treatment Works has been established at 2.5 million gallons per day. When the average monthly effluent flow reported on Discharge Monitoring Reports reaches, or exceeds, 90 percent of the average design flow (2.25 million gallons per day) during three(3) consecutive monthly periods, the permittee shall submit a Plan of Action to the Director. The Plan of Action shall present, at a minimum, an analysis of current hydraulic and organic loadings on the plant, an analysis of the future projected loadings, and a Schedule of Tasks to accomplish procedures necessary to maintain required treatment levels.
14. Any future collection system extensions projected to cause an increase in the wastewater flow, equal to, or greater than, 125,000 gallons per day (five (5) percent of the design flow) 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 of the facility, the Director may require the permittee to seek approval through Modification of the Permit.
15. Over the term of this permit, the permittee is allowed up to three (3) excursion of the maximum daily fecal coliform effluent limitation prescribed in Section A.001. The number of allowed excursions is based upon one (1) percent (%) of the number of required self-monitoring events. Utilization of the excursion allowance is conditioned as follows:
  - a) Excursion allowances are afforded only to self-monitoring results and only when self-monitoring activities assess compliance with the maximum daily effluent limitation by analysis of an individual grab sample. No excursion allowance can be applied to analytical results obtained by representatives of the Director in the performance of their compliance assessment activities. Additionally, representatives of the Director may assess compliance with the maximum daily effluent limitation by collection and analysis of an individual grab sample.
  - b) No more than one excursion may be utilized in any calendar month.
  - c) The excursion allowance is contingent upon the permittee's prompt return to compliance as evidenced by the next required fecal coliform self-monitoring event.
  - d) The result for which an excursion allowance is claimed shall be included in the calculation of the average monthly effluent value.
  - e) Should an excursion allowance be utilized by the permittee, said allowance must be reported as an attachment to the Discharge Monitoring Report. This attachment should state that (1) an excursion allowance was taken in accordance with the conditions outlined above, (2) the total number of allowances taken to date during the term of this permit, and (3) the total number of allowances remaining during the term of this permit. The permittee shall maintain an on-site record of the excursion allowances utilized during the term of the permit.
16. The permittee shall be required to test the wastewater treatment plant's influent in order to calculate the percent (%) removal parameters for BOD5 and TSS contained in Section A.001 of this permit. Influent sampling requirements include:
  - a) Percent removal shall be defined as a percentage expression of the removal efficiency across the wastewater treatment plant for a given pollutant parameter, as determined from the thirty day average values of the influent concentrations to the facility and the thirty day average effluent pollutant concentrations. Only influent and effluent samples taken concurrently as specified below shall be used for reporting.
  - b) Influent BOD5 and TSS samples shall be collected using the permittee's established sampling schedule at least four (4) times per month for the wastewater treatment facility.
  - c) The permittee shall collect representative BOD5 and TSS influent samples using their established sampling procedures over an twenty-four (24) hour period.
  - d) Influent BOD5 and TSS sampling shall be performed over the same twenty-four (24) hour time period as the effluent BOD5 and TSS sampling.

**Section C - Other Requirements**

- 17. The analytical test procedures, set forth in 40 CFR Part 136, prescribe colorimetric methods for certain parameters. The digestion process for the performance of total recoverable is not sufficient for the utilization of a colorimetric procedure. Therefore, colorimetric procedures shall not be acceptable for the analysis of parameters prescribed as total recoverable.
- 18. Effluent monitoring for the following pollutants shall be conducted using the most sensitive methods and detection levels commercially available and economically feasible. The following methods are to be used unless the permittee desires to use an EPA Approved Test Method with a listed lower method detection level. Regardless, it is recognized that detection levels can vary from analysis to analysis and that non-detect results at a different MDL for the specified test method would not constitute a permit violation.

Parameter	EPA Method No.	Method Detection Level (ug/l)
Copper, Total Recoverable	200.8	0.5
Lead, Total Recoverable	200.8	0.6
Zinc, Total Recoverable	200.8	1.8
Chromium, Dissolved Hexavalent	218.6	0.6
Arsenic, Total	200.8	1.4
Nickel, Total Recoverable	200.8	0.5
Cadmium, Total Recoverable	200.8	0.5
Silver, Total Recoverable	200.8	0.1
Mercury, Total*	245.7	0.0018
Mercury, Total*	1631	0.0002
Cyanide, Free	Refer to Section C.14	

\*The permittee may use either Method 245.7 or Method 1631 for the analysis of mercury.

- 19. For the measurement of Free Cyanide, the permittee shall use the standard method for weak acid dissociable cyanide, as specified in the latest edition of Standard Methods.
- 20. In incidences where a specific test method is not defined, the permittee shall utilize an EPA approved method with a method detection limit (MDL) sensitive enough to confirm compliance with the permit effluent limit for that parameter. If a MDL is not sensitive enough to confirm compliance, the most sensitive approved method must be used. If a more sensitive EPA approved method becomes available, that method shall be used. Should the current and/or new method not be sensitive enough to confirm compliance with the permitted effluent limit, analytical results reported as "not detected" at the MDL of the most sensitive method available will be deemed compliant for purposes of permit compliance. Results shall be reported on the Discharge Monitoring Reports as a numeric value less than the MDL.
- 21. Any "not detected (ND)" laboratory results from samples collected by the permittee must be "ND" at the method detection limit (MDL) for the test method used for that parameter and must be reported as less than the MDL (<MDL) used. The permittee may not report the result as zero, "ND", or report the result as less than a minimum level (ML), reporting limit (RL), or practical quantitation limit (PQL).

When averaging values of analytical results for DMR reporting purposes for monthly averages, the permittee should use actual analytical results when these results are greater than or equal to the MDL and should use zero (0) when these results are less than the MDL. If all analytical results are non-detect at the MDL (<MDL), then the permittee should use the actual MDL in the calculation for averaging and report the result as less than the average calculation.

- 22. Because the permittee is using ultraviolet light as their disinfection method, no Total Residual Chlorine (TRC) effluent limitation shall currently be imposed. Should the permittee in the future decide to use chlorine as a disinfection method, a TRC effluent limitation shall be promulgated and imposed.  
 The permittee shall perform a daily inspection of the ultraviolet disinfection facilities. A written log recording the date of the inspection, the name of the individual performing the inspection, any deficiencies, and any corrective action implemented shall be maintained. The log shall be maintained at the site and available for review by Division personnel.
- 23. Because of the Sequential Batch Reactor technology being utilized by the permittee, "Batch" samples shall be collected. "Batch" sampling procedures shall be defined as the collection and compositing of one (1) grab sample from each individual batch discharge cycle during a 24-hour period.

### Section C - Other Requirements

24. The permittee shall continue to implement a program to identify and eliminate sources of inflow and infiltration. A written progress report shall be provided on a quarterly basis, as an attachment to the Discharge Monitoring Report, detailing what has been performed in relation to the implementation and accomplishments of the inflow and infiltration elimination program. Failure of the permittee to comply with this requirement shall result in subsequent administrative and/or legal action, as may be necessary in order to obtain the compliance sought herein.
25. 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 outfall 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.
26. The permittee shall annually perform chronic toxicity tests as described below, on the effluent from Outlet No. 001.
- a. Such testing will determine if an appropriate dilute effluent sample affects the survival or reproduction of the test species. Batch samples of the effluent, as prescribed in Section A, shall be collected for testing. An appropriate statistical test shall be used to determine whether differences in control and effluent data are significant.
    - i) The permittee shall conduct a three (3) brood (6-8 days) Ceriodaphnia Dubia survival and reproduction toxicity test on the final effluent diluted by appropriate control water. Toxicity will be demonstrated if there is a statistically significant difference at the 95 percent confidence level in survival or reproduction between Ceriodaphnia Dubia exposed to an appropriate control water and the final effluent. All test solutions shall be renewed using an approved renewal schedule. If, in any control, more than 20% of the test organisms die, or less than 60% of surviving females in controls produced their third brood, that test shall be repeated.
    - ii) The permittee shall conduct a seven (7) day Pimephales Promelas fathead minnow larval survival and growth toxicity test on the final effluent diluted by appropriate control water. Toxicity will be demonstrated if there is a statistically significant difference at the 95 percent confidence level in survival or growth between fathead minnows exposed to an appropriate control water and the final effluent. All test solutions shall be renewed using an approved renewal schedule. If, in any control, more than 20% of the test organisms die, or average dry weight of surviving controls was less than 0.25 mg/l that test shall be repeated.
  - b. Results shall be reported in terms of chronic toxic units (TUc) and shall be submitted with the corresponding monthly Discharge Monitoring Report (DMR).

TUc= 100/NOEC or NOEL  
Where NOEC (or NOEL) is No Observed Effect Concentration (or Level), which is expressed as percent (volume) effluent in dilution water.  
For Example, if NOEC is 10%, TUc= 100/10=10

When the effluent demonstrates no toxicity at 100% effluent (no observed effect), the permittee may report zero TUc.
  - c. The monitoring required, herein, shall be conducted in accordance with the sample collection, preservation, and analytical procedures specified in 40 CFR 136.
  - d. In addition to the monitoring data reporting requirements of 40 CFR 136, the exact age of the test organisms at the initiation of the test shall be reported. Values of less than or equal to 24 hours are acceptable for Pimephales Promelas, fathead minnow. The range of the Ceriodaphnia Dubia used must be reported as a range in hours. All Ceriodaphnia Dubia used in the test must be less than 24 hours of age at test commencement. The age difference between the youngest and oldest Ceriodaphnia Dubia used in the test must not exceed eight (8) hours.
  - e. The chronic toxicity testing shall be performed on an annual (1/year) basis. The first chronic toxicity testing shall be carried out within six (6) months from the effective date of the permit. There shall be a minimum of six (6) months between sampling events.

### Section C - Other Requirements

26. f. If chronic effluent toxicity testing exceeds a target value of 1.6 TUc, the permittee shall immediately resample and test the effluent. This shall be performed within 30 days of the initial demonstration of the exceedance of the target value prescribed herein. Copies of the retesting results shall be provided to the Director immediately upon completion of the test.
  - g. If the second test shows compliance, chronic effluent toxicity testing shall continue in accordance with the requirements, as prescribed herein. However, if the second test shows an exceedance, the Director shall impose further requirements, as may be necessary.
  - h. The Director may impose further requirements should the chronic effluent toxicity testing results demonstrate toxicity.
27. The permittee shall be required to sample the discharge from Outlet No. 001 for the pollutants listed in Appendix J, Table 2 of 40 CFR 122 as part of its next reissuance permit application following the procedures listed below. This data shall be submitted along with the next reissuance permit application.
- a. Grab samples shall be collected for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and volatile organics. Twenty-four (24) hour composite samples shall be collected for all other pollutants found in Appendix J, Table 2 of 40 CFR 122.
  - b. A minimum of three (3) test results for each pollutant shall be obtained a minimum of four (4) months apart. Each sampling result shall be collected in a manner to be representative of seasonal variations (such as April, August, and December).
  - c. All data collected over the term of the previous permit for a specific pollutant shall be summarized and submitted to the agency by the permittee.
  - d. The sample collection, preservation, and analysis shall be conducted in accordance with the procedures of 40 CFR Part 136. The permittee shall assure that the test procedure being utilized has an appropriate method detection level (MDL) for the parameters. Analyses shall be conducted using the most sensitive methods and detection levels commercially available, and economically feasible.

## Section D - Sewage Sludge Management Requirements

01. The permittee shall monitor and report monthly on the enclosed Sewage Sludge Management Report form the quality and quantity of sewage sludge produced. The required report shall be received by the agency no later than 20 days following the end of the reporting period and in accordance with the following requirements.

- a) The agency is now requiring the permittee to utilize our electronic DMR (eDMR) system which is now mandatory.
- b) The permittee is not required to submit hard copies of the DMRs to the addresses listed below when using eDMR. Special circumstances may result in the agency granting an exemption to eDMR and are considered on case by case basis. If the permittee was exempted by the agency from using the eDMR system, then the permittee is required to send hard copies to the addresses below. The permittee may contact the agency for more information about the eDMR system and potential exemptions from using it.

Director  
Division of Water and Waste Management  
601 57th Street SE  
Charleston, West Virginia 25304-2345  
Attention: Permitting Program

Department of Environmental Protection  
Environmental Enforcement  
254 Industrial Drive  
Oak Hill, West Virginia 25901

- c) Regardless, in accordance with Appendix A, Section III.6 of this permit, the permittee shall maintain copies of DMRs (either hard copies or electronic copies) at the plant site and the DMRs shall be made readily available upon request from DEP personnel.

02. The permittee shall provide copies of monthly reports to the county or regional solid waste authority in which the facility or land application site(s) is located.

03. The Sewage Sludge Monitoring Report form shall be submitted quarterly. The required report shall be received by the agency no later than 20 days following the end of the reporting period and in accordance with the following requirements.

- a) The agency is now requiring the permittee to utilize our electronic DMR (eDMR) system which is now mandatory.
- b) The permittee is not required to submit hard copies of the DMRs to the addresses listed below when using eDMR. Special circumstances may result in the agency granting an exemption to eDMR and are considered on case by case basis. If the permittee was exempted by the agency from using the eDMR system, then the permittee is required to send hard copies to the addresses below. The permittee may contact the agency for more information about the eDMR system and potential exemptions from using it.

Director  
Division of Water and Waste Management  
601 57th Street SE  
Charleston, West Virginia 25304-2345  
Attention: Permitting Program

Department of Environmental Protection  
Environmental Enforcement  
254 Industrial Drive  
Oak Hill, West Virginia 25901

- c) Regardless, in accordance with Appendix A, Section III.6 of this permit, the permittee shall maintain copies of DMRs (either hard copies or electronic copies) at the plant site and the DMRs shall be made readily available upon request from DEP personnel.

04. In conjunction with all other reporting requirements of this permit, copies of all future correspondence regarding this permit, including copies of Sewage Sludge Management Reports, and Sewage Sludge Monitoring Reports, will be forwarded to the Environmental Inspector and Environmental Inspector Supervisor at the following address:

Department of Environmental Protection  
Environmental Enforcement  
254 Industrial Drive  
Oak Hill, West Virginia 25901

05. The following method(s) of sludge disposal shall be used for sewage sludge generated and/or processed at the permitted facility:

- a. Land Application: Sewage sludge shall not be applied in a manner or in an amount that would cause the land application site(s) to exceed the annual, five (5) year cumulative, and lifetime loading rates as listed below. The following site(s) may be used for land application:

**Section D - Sewage Sludge Management Requirements**

05. a.	Land Application Site(s)	Maximum Annual Loading Rate(s) Tons/Acre	Five (5) Year Cumulative Loading Rate(s) Tons/Acre	Lifetime Loading Rate(s) Tons/Acre
	Farm Name: Fink Brammer Owner: Paul D. Fink, Jr. Field Name: Fink Brammer # 1	1.7	6.8	127
	Farm Name: Fink Massie Bottom Farm Owner: Paul D. Fink, Jr. Field Name: Fink Massie Bottom Field 1 Field Name: Fink Massie Bottom Field 2	1.7 1.7	6.8 6.8	127 127
	Farm Name: Fink Massie Top Farm Owner: Paul D. Fink Field Name: Fink Massie Top 1 Field Name: Fink Massie Top 2	1.7 1.7	6.8 6.8	127 127
	Farm Name: Fink McBride Owner: Paul D. Fink Field Name: Fink McBride 1 Field Name: Fink McBride 2	1.7 1.7	6.8 6.8	127 127
	Farm Name: Paul Fink Jr. Owner: Paul D. Fink Field Name: Paul Fink Jr. 1 Field Name: Paul Fink Jr. 2	1.7 1.7	6.8 6.8	127 127
	Farm Name: Kochinsky Farm Owner: Kenneth Kochinsky Field Name: Kochinsky 1	1.7	6.9	127
	Farm Name: Fink Amick Farm Owner: Paul D. Fink Field Name: Fink Amick 1 Field Name: Fink Amick 2	1.7 1.7	6.8 6.8	127 127
	Farm Name: Buzz McCormack Farm Owner: Kenneth R. (Buzz) McCormack Field Name: McCormack 1 Field Name: McCormack 2 Field Name: McCormack 3	1.7 1.7 1.7	6.8 6.8 6.8	127 127 127
	Farm Name: Michael Fink Farm Owner: Paul Fink Field Name: M. Fink Farm Field #1 Field Name: M. Fink Farm Field #2 Field Name: M. Fink Farm Field #3 Field Name: M. Fink Farm Field #4 Field Name: M. Fink Farm Field #5 Field Name: M. Fink Farm Field #6 Field Name: M. Fink Farm Field #7	1.7 1.7 1.7 1.7 1.7 1.7 1.7	6.8 6.8 6.8 6.8 6.8 6.8 6.8	139 139 139 139 139 139 139

b. Landfill Disposal: Sewage sludge may also be disposed at a landfill by placing the sewage sludge in the landfill cell, provided that the landfill obtains approval from the Division of Water and Waste Management to allow the acceptance of sewage sludge from the permittee, and provided that the landfill(s) is/are identified in the permit application. Prior approval by the Division of Water and Waste Management is required to change landfill disposal site(s).

06. Sewage sludge shall not be applied to land that has any of the following siting restrictions and/or location standards:

- a. Land that is frozen, snow-covered, or known to be flooded on a regular basis unless the applicant can demonstrate to the Secretary that the land application will not cause runoff into streams or wetlands.
- b. Land that is within 50 feet of surface water including any streams, springs, ponds, wetlands, or other collection points for surface water.
- c. Land that is within 200 feet of drinking water supply wells or other personal water supply.

#### Section D - Sewage Sludge Management Requirements

- d. Land that is within 200 feet of an occupied dwelling.
  - e. Land that is within 50 feet of a federal or state highway.
  - f. Land that is within 100 feet of an adjacent property owner's property line.
  - g. Land that drains into a sinkhole.
  - h. Land that has been tested and determined to have a pH of less than 6.2 S.U., unless the pH is adjusted to 6.2 S.U. or greater.
  - i. Land that has a slope greater than 15 percent.
  - j. Land that has a seasonal high groundwater table less than two (2) feet from the surface.
  - k. Land that has less than 6 inches of soil over bedrock or an impervious pan.
  - l. Land that contains soil with surface permeability of less than 0.6 inches/hour or greater than 6 inches/hour.
  - m. Land that, if sewage sludge was applied, is likely to adversely affect a threatened or endangered species listed under Section 4 of the Endangered Species Act or its designated critical habitat.
  - n. Other land determined by the Secretary to be unsuitable of sewage sludge.
07. The following requirements concerning crops grown on land used for application of sewage sludge, the time requirements between application of sewage sludge and the harvesting of crops, and the restrictions on animal grazing and public access shall be met:
- a. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.
  - b. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for four (4) months or longer prior to incorporation into the soil.
  - c. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than four (4) months prior to incorporation into the soil.
  - d. Food crops (human consumption), feed crops (animal consumption), and fiber crops shall not be harvested for 30 days after application of sewage sludge.
  - e. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.
  - f. Turf grown on land where sewage sludge is applied shall not be harvested for one (1) year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the permitting authority.
  - g. Public access to land with a high potential for public exposure shall be restricted for one year after application of sewage sludge.
  - h. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.
08. Sewage sludge shall not be stored at a land application site for a period longer than one week; except, storage can be allowed for a period not to exceed three months when provisions, approved by the Director of the Division of Water and Waste Management of the Department, are made to prevent leachate runoff to the surface water and/or groundwater.
09. Sewage sludge shall only be land applied during the hours of daylight.
10. Sewage sludge which is land applied shall not contain excessive amounts of other solid waste materials, as defined in Title 33, Series 2, Section 2.34 of the Legislative Rules.
11. Areas used for processing, curing, and/or storage of sewage sludge shall be designed, constructed and operated to prevent release of contaminants to the groundwater and/or surface water.

## Section D - Sewage Sludge Management Requirements

12. The land application site(s) shall maintain the soil pH at a minimum of 6.2 S.U. for at least five (5) years from the date of application. The soil pH and soil nutrients shall be monitored once per year by obtaining a composite sample of each field utilized for land application during the previous year. The composite samples shall be made up of a minimum of four (4) aliquots taken at locations equally spaced through the land application site(s). The samples may be analyzed through the WVU Extension Service or by other certified laboratories.
13. All analyses performed on soils and sewage sludges shall be analyzed in accordance with analytical methods listed in 40 CFR Part 503.8 except that Nutrients may be analyzed in accordance with the most recently approved edition of Standard Methods and pH may be analyzed using EPA Method 9045A. Additionally, Fecal Coliform samples shall be prepared for analysis by using the method described in EPA 625R-92/013, Appendix F.
14. Sewage sludge disposed in a landfill cell shall be a non-hazardous material as defined in 40 CFR Part 261.24 and a minimum of 20 percent solids. If the sewage sludge is not 20 percent solids, a bulking agent may be used to achieve 20 percent solids before the sewage sludge is weighed in at the landfill. Alternative sludge disposal methods at the landfill can be utilized upon obtaining prior written approval from the Director of the Division of Water and Waste Management.
15. If sewage sludge is used for revegetation, or spread in any other manner at the landfill, the sewage sludge shall meet all of the land application requirements. These requirements include vector attraction and pathogen reduction methods, heavy metals limits, and abiding by an approved loading rate based on soil analyses.
16. The following primary method for pathogen reduction shall apply to the sewage sludge or sewage sludge products:
  - a. Lime Stabilization - Lime is added to maintain the sewage sludge pH above 12.0 S.U. for at least two (2) hours after the lime addition. The permittee shall record the pH of the sewage sludge at least twice, once upon addition of lime and once two (2) hours after addition.
  - b. If compliance cannot be achieved using the primary method for pathogen reduction, then the permittee must provide a written notification to the Director prior to using a secondary method so long as the secondary method has been previously approved and contained in this permit. The permittee shall not dispose of sewage sludge until providing this written notification to the Director. The following secondary method for pathogen reduction shall apply to the sewage sludge or sewage sludge products:
    - (1) Fecal Coliform Analyses - Seven (7) samples are collected and analyzed separately using either MF or MPN Method. The geometric mean of these results must be less than 2,000,000 colonies/dry gram. The permittee shall maintain all laboratory bench sheets indicating all raw data used in the analyses and the calculation of the results (unless analysis was performed by a certified contract laboratory). The seven (7) individual samples shall be evenly spaced over the monitoring period with no more than one (1) sample taken in each calendar week.
17. The following primary method for vector attraction reduction shall apply to the sewage sludge or sewage sludge products:
  - a. Lime Stabilization - Lime is added to maintain the sewage sludge pH above 12.0 S.U. for two (2) hours and above 11.5 S.U. for 24 hours after the lime addition. The permittee shall record the pH of the sewage sludge at the 0, 2, and 24 hour intervals of treatment, and record the duration of time (hours) that the pH is maintained at or above the specified minimum levels.
  - b. If compliance cannot be achieved using the primary method for vector attraction reduction, then the permittee must provide a written notification to the Director prior to using a secondary method so long as the secondary method has been previously approved and contained in this permit. The permittee shall not dispose of sewage sludge until providing this written notification to the Director. The following secondary method for vector attraction reduction shall apply to the sewage sludge or sewage sludge products:
    - (1) Specific Oxygen Uptake Rate (SOUR) - Sewage sludge is considered stable enough for land application if the SOUR is equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius. The permittee shall take dissolved oxygen (DO) readings of the sewage sludge over a fifteen(15) minute period. Either the temperature (degrees Celsius) of the sample must be adjusted to 20 degrees Celsius or the SOUR of the sewage sludge is measured at the same temperature at which digestion is occurring in the treatment works and corrected to 20 degrees Celsius.

**Section D - Sewage Sludge Management Requirements**

- 18. The permittee shall maintain all records and reports of all monitoring required by Section D of this permit for five (5) years after the date of monitoring or reporting. Records should include all sample results, including pathogen and vector attraction reduction monitoring; any landfill receipts; land application records, including site maps, the landowner agreement, soil sample results, daily and cumulative sludge loading rate information; copies of all required reports; and records of all data used to complete these reports.
- 19. The appropriate composite sampling procedures shall be based upon the particular sludge processing methods used by the permittee. The composite sampling procedures for the various methods are described as follows:

**Belt Press or Vacuum Filter** - During the week that the composite sample is obtained, the permittee shall take a minimum of three (3) grab samples during each day of the week that the dewatering system is in operation. These grab samples are to be mixed together and the final sample obtained from the composite. Samples should be collected at a point immediately after the dewatering operation.

**Liquid Sludge** - During the week that the composite sample is obtained, the permittee shall take a representative grab sample from each truck load of sewage sludge hauled during that week. These grab samples are to be mixed together and the final sample obtained from the composite. Samples should be collected from the sewage sludge being pumped into the truck or as the sewage sludge is being discharged from the truck.

**Sewage Sludge Drying Beds** - During the week that the composite sample is obtained, the permittee shall take a minimum of four (4) grab samples from each bed finished during that week. These grab samples are to be mixed together and the final sample obtained from the composite.

**Composting or Stock Piles** - The permittee shall obtain a minimum of eight (8) grab samples from the pile of finished product. These grab samples are to be mixed together and the final sample obtained from the composite.

- 20. Written notification shall be given to the Director within five (5) days of the determination of any excursion(s) of the maximum allowable limitations for sewage sludge listed in Section A.S01 of this Permit. A written plan to identify and correct the excursion(s) must be submitted to the Director within sixty (60) days.
- 21. No single instantaneous grab sample of the final sewage sludge product shall exceed the values found below as listed in Table 2 of the West Virginia Sewage Sludge Management Regulations (Title 33, Series 2).

Metal	Concentration (mg/kg)
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

- 22. Sewage sludge shall not be land applied in a manner or in an amount that will cause the land application site(s) to exceed the maximum soil concentrations for the following heavy metals:

Parameter	Maximum Allowable Limitations For Soils (mg/kg)
Arsenic	13.0
Cadmium	2.4
Chromium	290.0
Copper	92.0
Lead	85.0
Mercury	2.4
Molybdenum	4.6
Nickel	83.0*
Selenium	10.0
Zinc	290.0**

#### **Section D - Sewage Sludge Management Requirements**

22. \* For sandy to silt loam soils with a permeability greater than 2.0 inches per hour, the maximum allowable soil concentration for nickel is 50.0 mg/kg.
- \*\* For those sites with greater than 30% legume species, the maximum allowable soil concentration for zinc is 130.0 mg/kg for sandy to silt loam soils with permeability greater than 2.0 inches per hour and 200.0 mg/kg for other soil types.
23. All land application site(s) shall have new soil analyses performed for the metals listed in Section D.22 of this Permit when the cumulative loading reaches 50% of the assigned lifetime loading rate.
24. Should any landowner of a sludge land application site fail to comply with the terms and conditions pertaining to the landowner under an applicable landowner agreement, the permittee shall immediately contact said landowner and identify the violation causing the noncompliance with the said agreement. The permittee shall take all reasonable, escalating enforcement steps, up to and including disallowing further land application of sludge on the owner's site, in order to keep the landowner compliant with the terms and conditions of said land owner agreement. Also, the permittee shall immediately inform the Agency of any current noncompliance by the owner of a land application site by attaching a written summary of these violations, the cause of each violation, and the steps taken to prevent their recurrence with the submitted Sludge Monitoring Reports. Should the permittee take all of the enforcement steps outlined above, these actions may be used as a mitigating factor to any enforcement actions taken upon the permittee for the noncompliance by the land application site owners to the terms and conditions of Section D herein. However, the burden of proof in relation to the use of this mitigating factor shall lie exclusively upon the permittee. This condition shall not be used as a mitigating factor to any noncompliance associated with any other sections of this permit, even if said noncompliance is, in whole or in part, caused by the land application site owner.

**Section E - Pretreatment (Industrial Users)**

01. The permittee may accept non-domestic wastewater from the following Industrial User(s) providing each respective Industrial User maintains continued compliance with all applicable requirements of this section and all applicable limitations and monitoring requirements prescribed in Section(s) A.IU01-A.IU05, A.IU09-A.IU10 and A.IU13-A.IU18:

Industrial User Facility Name	Outfall	Classification
Beckley West Maintenance Garage	IU01	IU
Raleigh County Landfill	IU02	SIU
Hercules/Ashland Inc.	IU03	CIU 40CFR442.16
Caterpillar	IU04	IU
Beckley Garbage Disposal	IU05	IU
Wal-Mart No. 1351	IU09	IU
Raleigh County Maintenance Headquarters	IU10	IU
Little General BP #2075	IU13	IU
Heritage Equipment	IU14	IU
Beckley Maintenance	IU15	IU
Lewis Nissan	IU16	IU
Oakhill Garbage Disposal	IU17	IU
Southern Soil	IU18	IU

IU - Industrial User  
 CIU - Categorical Industrial User  
 SIU - Significant Industrial User

02. The acceptance of of non-domestic wastewater from the Industrial Users listed in Section A.IU01-IU15 is subject to and contingent upon the following terms and conditions:

a. NON-DOMESTIC WASTEWATERS APPROVED FOR ACCEPTANCE:

- 1) The non-domestic wastewater approved for acceptance from Beckley West Maintenance Garage consists of intermittent discharges from general shop cleaning. The non-domestic wastewater shall be pretreated by a gravity oil & water separator. The maximum daily volume accepted shall not exceed 1,000 gallons. The actual volume accepted shall be estimated and recorded daily. Estimates shall be based upon metered water usage at Beckley West Maintenance Garage.
- 2) The non-domestic wastewater approved for acceptance from Raleigh County Landfill consists of leachate generated through the normal operations of a composite lined sanitary landfill. The non-domestic wastewater shall be transferred from landfill cells to a 350,000 gallon holding tank and is then sent to a separate 350,000 gallon aerated holding tank for treatment and then pumped to the wastewater treatment plant. The maximum daily volume accepted shall not exceed 100,000 gallons. The actual volume accepted shall be measured and recorded daily using a flow meter prior to discharge to the District.
- 3) The non-domestic wastewater approved for acceptance from Hercules Ashland consists of storm water collected in an outside containment dike, wastewater resulting from the rinsing of storage tanks, tanker trucks, and transfer hoses, and wastewater resulting from general facility cleaning rinses. The wastewater is subject to 40 CFR 442.16 (Transportation Equipment Cleaning). The maximum daily volume accepted shall not exceed 2,000 gallons. The actual volume accepted shall be estimated and recorded daily when discharged to the District.

### Section E - Pretreatment (Industrial Users)

02. a. 4) The non-domestic wastewater approved for acceptance from Caterpillar (formerly Terex) consists of pretreated wastewater associated with the washing of parts from mining machinery for repairs. The non-domestic wastewater shall be pretreated by a Hotsy brand Model 500 Heli-sep oil & water separator with treated water discharged in batches. The maximum daily volume accepted shall not exceed 1,000 gallons. The actual volume accepted shall be estimated and recorded daily. Estimates shall be based upon metered water usage at Terex.
- 5) The non-domestic wastewater approved for acceptance from Beckley Garbage Disposal consists of wastewater generated in the cleaning of garbage trucks exteriors and "toters". The non-domestic wastewater shall be pretreated by a containment pit where suspended solids are allowed to settle prior to entering the collection system. The maximum daily volume accepted shall not exceed 1,000 gallons. The actual volume accepted shall be estimated and recorded daily. The flow estimate shall be made by number of trucks washed multiplied by 500 gallons per truck.
- 6) The non-domestic wastewater approved for acceptance from Wal-Mart No. 1351 consists of pretreated floor wash wastewater, rain/snow/slush water dripping from vehicles brought into the shop, and wastewater from an employee handwashing sink and eyewash, all generated in the facilities Tire, Battery, and Lube Express Department. The wastewater is pretreated with a Zurn 500 gravity type oil separator prior to discharge to the District. The maximum daily volume accepted shall not exceed 100 gallons. The actual volume accepted shall be estimated and recorded daily. Estimates shall be based upon metered water usage at Wal-Mart No. 1351 less domestic wastewater.
- 7) The non-domestic wastewater approved for acceptance from Raleigh County Maintenance Headquarters, Division of Highways, consists of flows generated from a vehicle wash station and from floor drains. The non-domestic wastewater shall be pretreated by an oil/water separator prior to discharge to the District. The maximum daily volume accepted shall not exceed 1,500 gallons. The actual volume accepted shall be estimated and recorded daily. The estimate shall be made by number of trucks washed multiplied by 500 gallons per vehicle.
- 8) The non-domestic wastewater approved for acceptance from Little General Store BP #2075, consists of pretreated contaminated groundwater from Simon and Associates, at the Little General Store location at 3604 Robert C. Byrd Drive in Beckley, WV. The contaminated groundwater shall be processed in an activated sludge/ fixed film bioreactor and then sent through an air-sparging tray stripper before being fed through a series of five additional 250-gallon air-sparging, bioreactor treatment tanks. The effluent is finally passed through a carbon canister before being discharged to the sanitary sewer. The maximum daily volume accepted from the Little General Store location shall not exceed 5,000 gallons per day. The actual volume of wastewater accepted shall be measured and recorded daily.
- 9) The non-domestic wastewater approved for acceptance from Heritage Equipment Inc. consists of flows generated from a truck wash station. The non-domestic wastewater shall be pretreated by an oil/water separator Heli-Sep model 1000. The maximum daily volume accepted shall not exceed 4,000 gallons. The actual volume accepted shall be recorded daily. The flow measurement shall be based on metered water used for truck washing.
- 10) The non-domestic wastewater approved for acceptance from Beckley Maintenance of West Virginia Parkways Authority consists of discharge water generated from storm water run off from a salt loading pad. The wastewater is collected in a catch basin. The maximum daily volume accepted shall not exceed 5,000 gallons. The actual volume accepted shall be estimated and recorded daily. Estimates shall be based upon rainfall during the previous 24 hour period and exposed area of pad.
- 11) The non-domestic wastewater approved for acceptance from Lewis Nissan consists of flows generated from washes and detailing from new and used cars. The subject waste water drains into troughs where settling occurs for solids. Then it drains to a 1000 gallon Gravity Oil & Water separator and is subsequently discharged to the District. The maximum daily volume accepted shall not exceed 1,500 gallons. The actual volume accepted shall be estimated and recorded daily.
- 12) The non-domestic wastewater approved for acceptance from Oak Hill Garbage Disposal, Inc. consists of wash water from a truck wash station and shall be pretreated by settling in the trough drains and an oil/water separator. The maximum daily volume accepted shall not exceed 1,600 gallons. The actual volume accepted shall be estimated and recorded daily.

**Section E - Pretreatment (Industrial Users)**

02. a. 13) The non-domestic wastewater approved for acceptance from Southern Soil Conservation District consists of wastewater from a vehicle maintenance and washing shop and shall be pretreated by an oil/water separator. The maximum daily volume accepted shall not exceed 1,000 gallons. The actual volume accepted shall be estimated and recorded daily.

b. **SAMPLING PROCEDURES:**

- 1) **Beckley West Maintenance Garage**  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.  
  
In addition, the attached oil/water separator log must be completed monthly and submitted quarterly to North Beckley PSD. North Beckley PSD shall submit the log on a quarterly basis to DEP.
- 2) **Raleigh County Landfill**  
-----  
An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.  
  
Composite samples shall be obtained by collection and combination of a minimum of four (4) equal volume aliquots with aliquots accepted at approximately equal time intervals over the daily discharge period.
- 3) **Hercules Ashland**  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.  
  
Composite samples shall be obtained by collection and combination of a minimum of four (4) equal volume aliquots with aliquots accepted at approximately equal time intervals over the daily discharge period.
- 4) **Caterpillar**  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.  
  
In addition, the attached oil/water separator log must be completed monthly and submitted quarterly to North Beckley PSD. North Beckley PSD shall submit the log on a quarterly basis to DEP.
- 5) **Beckley Garbage Disposal**  
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An individual grab sample and pH measurement shall be obtained after settling that is representative of normal operations.
- 6) **Wal-Mart No. 1351**  
-----  
An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.  
  
In addition, the attached oil/water separator log must be completed monthly and submitted quarterly to North Beckley PSD. North Beckley PSD shall submit the log on a quarterly basis to DEP.
- 7) **Raleigh County Maintenance Headquarters**  
-----  
An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.  
  
In addition, the attached oil/water separator log must be completed monthly and submitted quarterly to North Beckley PSD. North Beckley PSD shall submit the log on a quarterly basis to DEP.
- 8) **Little General BP #2075**  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.

## Section E - Pretreatment (Industrial Users)

02. b. 9) Heritage Equipment  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.

In addition, the attached oil/water separator log must be completed monthly and submitted quarterly to North Beckley PSD. North Beckley PSD shall submit the log on a quarterly basis to DEP.

10) Beckley Maintenance  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.

11) Lewis Nissan  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.

In addition, the attached oil/water separator log must be completed monthly and submitted quarterly to North Beckley PSD. North Beckley PSD shall submit the log on a quarterly basis to DEP.

12) Oakhill Garbage Disposal Inc.  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.

In addition, the attached oil/water separator log must be completed monthly and submitted quarterly to North Beckley PSD. North Beckley PSD shall submit the log on a quarterly basis to DEP.

13) Southern Soil Conservation District  
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An individual grab sample and pH measurement shall be obtained at a time that is representative of normal operations.

In addition, the attached oil/water separator log must be completed monthly and submitted quarterly to North Beckley PSD. North Beckley PSD shall submit the log on a quarterly basis to DEP.

c. SAMPLING AND MONITORING REQUIREMENTS:

- 1) Samples on non-domestic wastestreams shall be collected at the discharge point prior to its mixing with any other wastestream unless otherwise specified.
- 2) Sampling and analyses required by Section A.IU01-A.IU05, A.IU09-A.IU10 and A.IU13-A.IU18 shall be conducted in accordance with sample collection, preservation, and analytical procedures specified in 40 CFR 136.
- 3) As specified in Section(s) A.IU01-A.IU05, A.IU09-A.IU10 and A.IU13-A.IU18, semi annual monitoring periods are Jan-Jun, Jul-Dec. Quarterly monitoring periods are Jan-Mar, Apr-Jun, Jul-Sep, Oct-Dec.
- 4) If the permittee or industrial user monitors any parameter more frequently than required by Section(s) A.IU01-A.IU05, A.IU09-A.IU10 and A.IU13-A.IU18, using procedures specified by Section E.02.c.2, then the results of additional monitoring must be reported.
- 5) All industrial users shall maintain information relative to self-monitoring for a minimum of three (3) years. The information maintained shall include: the date, exact location, method, and time of sampling; the sample preservation techniques used; the name of the person taking the samples; the date(s) the analyses were performed; the name of the person performing the analyses; and the analytical results.

### Section E - Pretreatment (Industrial Users)

02. c. 6) Reporting of monitoring required by Section A.IU01-A.IU05, A.IU09-A.IU10 and A.IU13-A.IU18 shall be submitted to the Division of Water and Waste Management along with the permittee's Discharge Monitoring Reports. Reports shall contain results of all analysis performed, and the estimated daily volume of the wastewater accepted. Reports shall be due on the 20th day of the month following the end of the monitoring period. The agency is now requiring the permittee to utilize our electronic discharge monitoring report (eDMR) system which is now mandatory. The permittee is not required to submit hard copies of the DMRs to the addresses listed below when using eDMR. Special circumstances may result in the agency granting an exemption to eDMR and are considered on case by case basis. If the permittee was exempted by the agency from using the eDMR system, then the permittee is required to send hard copies to the addresses below. The permittee may contact the agency for more information about the eDMR system and potential exemptions from using it. Regardless, in accordance with Appendix A, Section III.6 of this permit, the permittee shall maintain copies of DMRs (either hard copies or electronic copies) at the plant site and the DMRs shall be made readily available upon request for DEP personnel.

Director  
Division of Water and Waste Management  
601 57th Street, SE  
Charleston, West Virginia 25304  
Attn: Permitting Branch

d. NOTIFICATION REQUIREMENTS:

- 1) All industrial users shall notify the permittee immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined by 40 CFR 403.5(b) of the Code of Federal Regulations.
- 2) All industrial users shall notify the permittee and the Division of Water and Waste Management of any discharge into the POTW of any substance, which otherwise disposed of, would be considered a hazardous waste under 40 CFR 261 of the Code of Federal Regulations unless they discharge less than fifteen (15) kilograms of non-acute hazardous waste in a calendar month.
- 3) For any instances that sampling results have a result of "non-detect" (less than the minimum detection level), the results shall be reported as less than the minimum detection level used. For example, if the laboratory results indicate non-detect for a parameter and the MDL is listed as 0.005 mg/l, the Industrial User shall indicate on the Discharge Monitoring Report for that parameter "< 0.005 mg/l". For purposes of averaging values, the Industrial User shall use the MDL for any values listed as non-detect, when calculating averages.
- 4) Each Industrial User shall submit a Discharge Monitoring Report for every monitoring period. If the Industrial User does not discharge any non-domestic waste to the POTW during a given monitoring period, the Industrial User shall still submit the appropriately filled out and signed Discharge Monitoring Report indicating "NO DISCHARGE" during the monitoring period.
- 5) Alternative discharge monitoring report forms shall not be used without prior approval from this Agency.

e. PROHIBITED DISCHARGES:

- 1) Pollutants which create a fire or explosion hazard in the POTW (wastestreams with a closed cup flashpoint of less than 140 degrees F or 60 degrees C using test methods specified in 40 CFR 261.21 of the Code of Federal Regulations).
- 2) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.
- 3) Heat in such quantities that the temperature at the POTW exceeds 40 degrees C (104 degrees F).
- 4) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- 5) Any trucked or hauled pollutants, except at discharge points designated by the POTW.
- 6) Any pollutant(s) discharged in a quantity which has the potential to cause Pass Through or Interference.

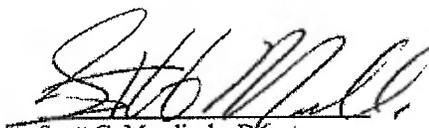
### **Section E - Pretreatment (Industrial Users)**

03. In addition to the conditions listed in Section E.02, the following conditions apply specifically to Categorical and Significant Industrial User facilities listed in Section E.01.
- a. All baseline reports, reports on compliance, and self monitoring reports must be signed and certified in accordance with 40 CFR 403.12 of the Code of Federal Regulations.
  - b. If a Categorical Industrial User listed in Section E.01 conducts sampling that reveals a violation of their respective limitations prescribed in Section A or any of the prohibited discharges listed in Section E.02.e, the Categorical Industrial User shall notify the Director of said violation within 24 hours of becoming aware of the violation. In addition, the Categorical Industrial User shall repeat the sampling and analysis for the pollutant in violation and submit the results to the Director within 30 days.
04. Should any of the permittee's industrial users fail to comply with the specific terms and conditions pertaining to that specific industrial user in this permit, the permittee shall immediately contact said industrial user and identify the violation causing the noncompliance with the permit. The permittee shall take all reasonable, escalating enforcement steps, up to and including disallowing the continued acceptance of the nondomestic wastewater from the industrial user, to keep the industrial user compliant with the terms and conditions of the permit. Also, the permittee shall immediately inform the Agency of any current noncompliance by industrial users by attaching a written summary of these violations, the cause of each violation, and the steps taken to prevent their recurrence with the submitted Discharge Monitoring Reports. Should the permittee take all of the enforcement steps outlined above, these actions may be used as a mitigating factor to any enforcement actions taken upon the permittee for the noncompliance by the industrial users to the terms and conditions of Section E or Sections A.IU01-A.IU05, A.IU09-A.IU10 and A.IU13-A.IU18 herein. However, the burden of proof in relation to the use of this mitigating factor shall lie exclusively upon the permittee. This condition shall not be used as a mitigating factor to any noncompliance associated with any other section of this permit, even if said noncompliance is, in whole or in part, caused by an industrial user.
05. The permittee shall ensure that the industrial users shall complete and submit a DMR in accordance with Section A of this permit. DMRs for industrial users shall be submitted in accordance with the agency's eDMR system as prescribed in Section C of this permit. Logs submitted by the industrial users shall be submitted by the permittee as required attachment to the eDMRs.
06. This Division reserves the right to disallow the continued acceptance of the nondomestic wastewater(s) from any of the facilities described in Section E.01, or to require installation of additional pretreatment facilities, should the wastewater violate specified limitations, cause interference or pass-through at the POTW and result in effluent limitation violations or receiving stream degradation, or adversely impact POTW sludge disposal. Approval of the permittee's acceptance of the indirect discharge(s) in no way relieves the permittee of its obligation to comply with all terms and conditions of its WV/NPDES Permit and shall not constitute an affirmative defense in any enforcement action brought against the permittee.

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. WV0027740; 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. WV0027740; 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 1.14 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 shall 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 Series 10, 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.

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (NORTH BECKLEY PSD) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY; Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: 001  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter	Reported	Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.							
50050 (ML-1) RF-A Flow, in Conduit or thru plant Year Round	Permit Limits	N/A	N/A			Rpt Only Minimum	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mgd		Continuous measured
00310 (ML-B) RF-A BOD, 5-Day 20 Deg.C Year Round	Permit Limits	626 Avg. Monthly	1251 Max. Daily	Lbs/Day		N/A	30 Avg. Monthly	60 Max. Daily	N/A	mg/l		1/week Batch
00530 (ML-A) RF-A Total Suspended Solids Year Round	Permit Limits	626 Avg. Monthly	1251 Max. Daily	Lbs/Day		N/A	30 Avg. Monthly	60 Max. Daily	N/A	mg/l		1/week Batch
81010 (ML-K) RF-A BOD, % Removal Year Round	Permit Limits	N/A	N/A			85 Month. Avg. Min.	N/A	N/A	N/A	Percent		4/Month Calculated
81011 (ML-K) RF-A Suspended Solids, % Removal Year Round	Permit Limits	N/A	N/A			85 Month. Avg. Min.	N/A	N/A	N/A	Percent		4/Month Calculated
74055 (ML-A) RF-A Coliform, Fecal Year Round	Permit Limits	N/A	N/A			N/A	200 Mon. Geo. Mean	400 Max. Daily	N/A	Crts/100ml		1/week Grab
00400 (ML-A) RF-A pH Year Round	Permit Limits	N/A	N/A			6 Inst. Min.	N/A	9 Inst. Max.	N/A	S.U.		1/week Grab
00300 (ML-A) RF-A Dissolved Oxygen Year Round	Permit Limits	N/A	N/A			6 Inst. Min.	N/A	N/A	N/A	mg/l		1/week Grab

\* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed	
Title of Officer		Signature of Principal Executive Officer or Authorized Agent	

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (NORTH BECKLEY PSD) NORTH BECKLEY PSD  
 LOCATION OF FACILITY: BECKLEY; Raleigh County  
 PERMIT NO.: WV0027740 OUTLET NO.: 001  
 WASTELOAD FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:  
 CERTIFIED LABORATORY ADDRESS:  
 INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.							
00610 (ML-A) RF-A Ammonia Nitrogen Summer May 1-Oct 31	Reported											
	Permit Limits	87.6 Avg. Monthly	175 Max. Daily	Lbs/Day	N/A	4.2 Avg. Monthly	8.4 Max. Daily	N/A	mg/l		1/week	Batch
00610 (ML-A) RF-A Ammonia Nitrogen Winter Nov 1-Apr 30	Reported											
	Permit Limits	142 Avg. Monthly	284 Max. Daily	Lbs/Day	N/A	6.8 Avg. Monthly	13.6 Max. Daily	N/A	mg/l		1/week	Batch
01119 (ML-A) RF-A Copper, Total Recoverable Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	0.0104 Avg. Monthly	0.0164 Max. Daily	N/A	mg/l		1/month	Batch
01114 (ML-A) RF-B Lead, Total Recoverable Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	Batch
01094 (ML-A) RF-B Zinc, Total Recoverable Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	Batch
01002 (ML-A) RF-B Arsenic, Total (as As) Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	Batch
01113 (ML-A) RF-B Cadmium, Total Recoverable Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	Batch
01032 (ML-A) RF-B Chromium, Hexavalent Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	Batch

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Title of Officer		Signature of Principal Executive Officer or Authorized Agent

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (NORTH BECKLEY PSD) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY; Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: 001  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.							
00718 (ML-A) RF-B Cyanide, Weak Acid Dissociable Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter Grab
71900 (ML-A) RF-B Mercury, Total (as Hg) Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	ug/l		1/quarter Grab
01074 (ML-A) RF-B Nickel, Total Recoverable Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter Batch
01079 (ML-A) RF-B Silver, Total Recoverable Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter Batch
00900 (ML-A) RF-C Hardness, Total (as CaCO3) Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/6 months Batch
00980 (ML-A) RF-B Iron, Total Recoverable Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter Batch
61426 (ML-A) RF-D Chronic Tox-Ceriodaphnia Dubia Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	TUc		1/year Batch
61428 (ML-A) RF-D Chronic Toxicity - Pimephales Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	TUc		1/year Batch

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Title of Officer		Signature of Principal Executive Officer or Authorized Agent	

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Beckley West Maintenance Garage) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY; Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: 1U01  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter	Reported	Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
		Rpt Only	1000	Units	N.E.							
00056 (ML-1) RF-B Flow Rate Year Round	Permit Limits	Avg. Monthly	Max. Daily	gpd		N/A	N/A	N/A			1/daily	Estimated
00530 (ML-1) RF-B Total Suspended Solids Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day		N/A	Rpt Only Avg. Monthly	250 Max. Daily	N/A	mg/l	1/quarter	Grab
00400 (ML-1) RF-B pH Year Round	Permit Limits	N/A	N/A			5 Inst. Min.	N/A	10 Inst. Max.	N/A	S.U.	1/quarter	Grab
00552 (ML-1) RF-B Oil and Grease, Hexane EXTR. Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day		N/A	Rpt Only Avg. Monthly	30 Max. Daily	N/A	mg/l	1/quarter	Grab
									N/A			
									N/A			
									N/A			
									N/A			

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Title of Officer		Signature of Principal Executive Officer or Authorized Agent	

STATE OF WEST VIRGINIA  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
DISCHARGE MONITORING REPORT

FACILITY NAME: (Raleigh County Landfill) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY, Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: IU02  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter	Reported	Quantity			Units	N.E.	Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
		Rpt Only	Avg. Monthly	Max. Daily										
00056 (ML-1) RF-A Flow Rate Year Round	Reported				gpd	N/A	N/A	N/A	N/A			1/daily	measured	
Permit Limits	Rpt Only	100000												
00310 (ML-1) RF-A BOD, 5-Day 20 Deg.C Year Round	Reported				Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		2/month	Comp	
Permit Limits	Rpt Only	162												
00530 (ML-1) RF-A Total Suspended Solids Year Round	Reported				Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		2/month	Comp	
Permit Limits	Rpt Only	162												
00400 (ML-1) RF-A pH Year Round	Reported					5	N/A	10	N/A	S.U.		2/month	Grab	
Permit Limits	N/A	N/A												
00625 (ML-1) RF-A Nitrogen, Kjeldahl Total Year Round	Reported				Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		2/month	Comp	
Permit Limits	Rpt Only	32												
01119 (ML-1) RF-A Copper, Total Recoverable Year Round	Reported				Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Comp	
Permit Limits	Rpt Only	0.011												
01114 (ML-1) RF-A Lead, Total Recoverable Year Round	Reported				Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Comp	
Permit Limits	Rpt Only	0.0025												
01094 (ML-1) RF-A Zinc, Total Recoverable Year Round	Reported				Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Comp	
Permit Limits	Rpt Only	0.014												

\* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed	
Title of Officer		Signature of Principal Executive Officer or Authorized Agent	

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Raleigh County Landfill) NORTH BECKLEY PSD  
 LOCATION OF FACILITY: BECKLEY; Raleigh County  
 PERMIT NO.: WV0027740 OUTLET NO.: IU02  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_

CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity				Other Units						Measurement Frequency	Sample Type	
				Units	N.E.				CEL*	Units	N.E.			
01113 (ML-1) RF-A	Reported													
Cadmium, Total Recoverable	Permit Limits	Rpt Only	0.00075	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Comp		
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily							
71900 (ML-1) RF-A	Reported													
Mercury, Total (as Hg)	Permit Limits	Rpt Only	0.00015	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	ug/l		1/month	Grab		
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily							
01074 (ML-1) RF-A	Reported													
Nickel, Total Recoverable	Permit Limits	Rpt Only	0.007	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Comp		
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily							
01079 (ML-1) RF-A	Reported													
Silver, Total Recoverable	Permit Limits	Rpt Only	0.000751	Lbs/Day	N/A	N/A	Rpt Only	N/A	mg/l		1/month	Comp		
Year Round		Avg. Monthly	Max. Daily				Max. Daily							
00978 (ML-1) RF-A	Reported													
Arsenic, Total Recoverable	Permit Limits	Rpt Only	0.003	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Comp		
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily							
00720 (ML-1) RF-A	Reported													
Cyanide, Total	Permit Limits	Rpt Only	0.012	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Comp		
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily							
01118 (ML-1) RF-A	Reported													
Chromium, Total Recoverable	Permit Limits	Rpt Only	0.014	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Comp		
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily							
								N/A						

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Title of Officer		Signature of Principal Executive Officer or Authorized Agent

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Hercules Ashland Inc) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY, Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: IU03  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter	Reported	Quantity			Other Units						Measurement Frequency	Sample Type
		Rpt Only	2000	Units	N.E.	CEL*	Units	N.E.	Units	N.E.		
00056 (ML-4) RF-A Flow Rate Year Round	Permit Limits	Avg. Monthly	Max. Daily	gpd	N/A	N/A	N/A	N/A			1/daily	Estimated
00310 (ML-4) RF-A BOD, 5-Day 20 Deg.C Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	200			1/month	Comp
00530 (ML-4) RF-A Total Suspended Solids Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	200			1/month	Comp
00400 (ML-4) RF-A pH Year Round	Permit Limits	N/A	N/A		6	N/A	9				1/month	Grab
71900 (ML-4) RF-A Mercury, Total (as Hg) Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	3.1			1/month	Grab
01042 (ML-4) RF-A Copper, Total (as Cu) Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	0.84			1/month	Comp
81017 (ML-4) RF-A Chem. Oxygen Demand Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	2000			1/month	Comp
00552 (ML-4) RF-A Oil and Grease, Hexane EXTR. Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	26			1/month	Comp

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Title of Officer:		Signature of Principal Executive Officer or Authorized Agent	

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Caterpillar) NORTH BECKLEY PSD  
 LOCATION OF FACILITY: BECKLEY; Raleigh County  
 PERMIT NO.: WV0027740      OUTLET NO.: IU04  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_

CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
		Rpt Only	1000	Units	N.E.	Rpt Only	300					
00056 (ML-1) RF-N/A	Reported											
Flow Rate	Permit Limits	Rpt Only	1000	gpd	N/A	N/A	N/A	N/A			1/daily	measured
Year Round		Avg. Monthly	Max. Daily									
00530 (ML-1) RF-A	Reported											
Total Suspended Solids	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	300	N/A	mg/l		1/month	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
00400 (ML-1) RF-A	Reported											
pH	Permit Limits	N/A	N/A		5	N/A	10	N/A	mg/l		1/month	Grab
Year Round					Inst. Min.		Inst. Max.					
00552 (ML-1) RF-A	Reported											
Oil and Grease, Hexane EXTR.	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	30	N/A	mg/l		1/month	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
								N/A				
								N/A				
								N/A				
								N/A				

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Title of Officer		Signature of Principal Executive Officer or Authorized Agent	

STATE OF WEST VIRGINIA  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
DISCHARGE MONITORING REPORT

Final Limitations

FACILITY NAME: (Beckley Garbage Disposal) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY; Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: IU05 \_\_\_\_\_  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter	Reported	Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
		Rpt Only	1000	Units	N.E.							
00056 (ML-1) RF-B Flow Rate Year Round	Permit Limits	Avg. Monthly	Max. Daily	gpd	N/A	N/A	N/A	N/A			1/daily	measured
00310 (ML-1) RF-B BOD, 5-Day 20 Deg.C Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	N/A	mg/l		1/quarter	Grab
00530 (ML-1) RF-B Total Suspended Solids Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	N/A	mg/l		1/quarter	Grab
00400 (ML-1) RF-B pH Year Round	Permit Limits	N/A	N/A		5 Inst. Min.	N/A	10 Inst. Max.	N/A	S.U.		1/quarter	Grab
00552 (ML-1) RF-B Oil and Grease, Hexane EXTR. Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Avg. Monthly	Max. Daily	N/A	mg/l		1/quarter	Grab
								N/A				
								N/A				
								N/A				

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STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Wal-Mart No. 1351) NORTH BECKLEY PSD  
 LOCATION OF FACILITY: BECKLEY; Raleigh County  
 PERMIT NO.: WV0027740 OUTLET NO.: IU09  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_

CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
		Rpt Only	100	Units	N.E.							
00056 (ML-1) RF-B	Reported											
Flow Rate	Permit Limits	Rpt Only	100	gpd	N/A	N/A	N/A	N/A			1/daily	Estimated
Year Round		Avg. Monthly	Max. Daily									
00530 (ML-1) RF-B	Reported											
Total Suspended Solids	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	250	N/A	mg/l		1/quarter	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
00400 (ML-1) RF-B	Reported											
pH	Permit Limits	N/A	N/A		5	N/A	10	N/A	S.U.		1/quarter	Grab
Year Round					Inst. Min.		Inst. Max.					
00552 (ML-1) RF-B	Reported											
Oil and Grease, Hexane EXTR.	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	30	N/A	mg/l		1/quarter	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
								N/A				
								N/A				
								N/A				
								N/A				

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STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Raleigh County Maintenance Headquarters) NORTH BECKLEY PSI CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY; Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: IU10  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity				Other Units						Measurement Frequency	Sample Type	
				Units	N.E.				CEL*	Units	N.E.			
00056 (ML-1) RF-B	Reported													
Flow Rate	Permit Limits	Rpt Only	1500	gpd		N/A	N/A	N/A	N/A			1/daily	Estimated	
Year Round		Avg. Monthly	Max. Daily											
00530 (ML-1) RF-B	Reported													
Total Suspended Solids	Permit Limits	Rpt Only	Rpt Only	Lbs/Day		N/A	Rpt Only	250	N/A	mg/l		1/quarter	Grab	
Year Round		Avg. Monthly	Max. Daily				Avg. Monthly	Max. Daily						
00400 (ML-1) RF-B	Reported													
pH	Permit Limits	N/A	N/A			5	N/A	10	N/A	S.U.		1/quarter	Grab	
Year Round						Inst. Min.		Inst. Max.						
00552 (ML-1) RF-B	Reported													
Oil and Grease, Hexane EXTR.	Permit Limits	Rpt Only	Rpt Only	Lbs/Day		N/A	Rpt Only	30	N/A	mg/l		1/quarter	Grab	
Year Round		Avg. Monthly	Max. Daily				Avg. Monthly	Max. Daily						
									N/A					
									N/A					
									N/A					
									N/A					

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STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Little General Store BP#2075 (Simon and Associates)) NORTH BEC  
 LOCATION OF FACILITY: BECKLEY; Raleigh County  
 PERMIT NO.: WV0027740 OUTLET NO.: IU13  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_

CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
		Rpt Only	5000	gpd	N/A	N/A	N/A					
00056 (ML-4) RF-A	Reported											
Flow Rate	Permit Limits	Rpt Only	5000	gpd	N/A	N/A	N/A	N/A			1/daily	measured
Year Round		Avg. Monthly	Max. Daily									
00400 (ML-4) RF-A	Reported											
pH	Permit Limits	N/A	N/A		5	N/A	10	N/A	S.U.		1/month	Grab
Year Round					Inst. Min.		Inst. Max.					
34030 (ML-4) RF-A	Reported											
Benzene	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	50	N/A	ug/l		1/month	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
34010 (ML-4) RF-A	Reported											
Toluene	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	50	N/A	ug/l		1/month	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
81551 (ML-4) RF-A	Reported											
Xylene	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	50	N/A	ug/l		1/month	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
01092 (ML-4) RF-A	Reported											
Zinc, Total (as Zn)	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l		1/month	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
45501 (ML-4) RF-A	Reported											
Petroleum Hydrocarbons, Total	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	ug/l		1/month	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					
34371 (ML-4) RF-A	Reported											
Ethylbenzene	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	50	N/A	ug/l		1/month	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily					

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STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

Final Limitations

FACILITY NAME: (Heritage Equipment) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY; Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: IU14 \_\_\_\_\_  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter	Reported	Quantity			Other Units					Measurement Frequency	Sample Type
		Rpt Only	4000	Units	N.E.	CEL*	Units	N.E.			
00056 (ML-1) RF-B Flow Rate Year Round	Permit Limits	Avg. Monthly	Max. Daily	gpd	N/A	N/A	N/A	N/A		1/daily	measured
00530 (ML-1) RF-B Total Suspended Solids Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	250 Max. Daily	N/A	mg/l	1/quarter	Grab
00400 (ML-1) RF-B pH Year Round	Permit Limits	N/A	N/A		5 Inst. Min.	N/A	10 Inst. Max.	N/A	S.U.	1/quarter	Grab
00552 (ML-1) RF-B Oil and Grease, Hexane EXTR. Year Round	Permit Limits	Avg. Monthly	Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	30 Max. Daily	N/A	mg/l	1/quarter	Grab
								N/A			
								N/A			
								N/A			
								N/A			

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STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Beckley Maintenance) NORTH BECKLEY PSD  
 LOCATION OF FACILITY: BECKLEY; Raleigh County  
 PERMIT NO.: WV0027740 OUTLET NO.: IU15  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_

CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity				Other Units				Measurement Frequency	Sample Type
		Rpt Only	5000	gpd	N.E.	CEL*	Units	N.E.			
00056 (ML-1) RF-B	Reported										
Flow Rate	Permit Limits	Rpt Only	5000	gpd	N/A	N/A	N/A	N/A		1/daily	Estimated
Year Round		Avg. Monthly	Max. Daily								
00530 (ML-1) RF-B	Reported										
Total Suspended Solids	Permit Limits	Rpt Only	Rpt Only	Lbs/Day	N/A	Rpt Only	250	N/A	mg/l	1/quarter	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily				
00940 (ML-4) RF-B	Reported										
Chloride (as Cl)	Permit Limits	Rpt Only	250	Lbs/Day	N/A	Rpt Only	Rpt Only	N/A	mg/l	1/quarter	Grab
Year Round		Avg. Monthly	Max. Daily			Avg. Monthly	Max. Daily				
								N/A			
								N/A			
								N/A			
								N/A			
								N/A			

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STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

Final Limitations

FACILITY NAME: (Lewis Nissan) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY; Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: IU16  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity				Other Units				Measurement Frequency	Sample Type	
		Rpt Only	Max. Daily	Units	N.E.	CEL*	Units	N.E.				
00056 (ML-1) RF-B	Reported											
Flow Rate	Permit Limits	Rpt Only	1500	gpd		N/A	N/A	N/A	N/A		1/daily	Estimated
Year Round		Avg. Monthly	Max. Daily									
00530 (ML-1) RF-B	Reported											
Total Suspended Solids	Permit Limits	Rpt Only	Rpt Only	Lbs/Day		N/A	Rpt Only	250	N/A	mg/l	1/quarter	Grab
Year Round		Avg. Monthly	Max. Daily				Avg. Monthly	Max. Daily				
00400 (ML-1) RF-B	Reported											
pH	Permit Limits	N/A	N/A			5	N/A	10	N/A	S.U.	1/quarter	Grab
Year Round						Inst. Min.		Inst. Max.				
00552 (ML-1) RF-B	Reported											
Oil and Grease, Hexane EXTR.	Permit Limits	Rpt Only	Rpt Only	Lbs/Day		N/A	Rpt Only	30	N/A	mg/l	1/quarter	Grab
Year Round		Avg. Monthly	Max. Daily				Avg. Monthly	Max. Daily				
									N/A			
									N/A			
									N/A			
									N/A			

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STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

FACILITY NAME: (Oak Hill Garbage Disposal Inc) NORTH BECKLEY PSD  
 LOCATION OF FACILITY: BECKLEY; Raleigh County  
 PERMIT NO.: WV0027740 OUTLET NO.: IU17  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_

CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity			Other Units					Measurement Frequency	Sample Type	
				Units	N.E.				CEL*			Units
00066 (ML-1) RF-B Flow Rate Year Round	Reported Permit Limits	Rpt Only Avg. Monthly	1600 Max. Daily	gpd		N/A	N/A	N/A	N/A		1/daily	Estimated
00530 (ML-1) RF-B Total Suspended Solids Year Round	Reported Permit Limits	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day		N/A	Rpt Only Avg. Monthly	250 Max. Daily	N/A	mg/l	1/quarter	Grab
00400 (ML-1) RF-B pH Year Round	Reported Permit Limits	N/A	N/A			5 Inst. Min.	N/A	10 Inst. Max.	N/A	S.U.	1/quarter	Grab
00552 (ML-1) RF-B Oil and Grease, Hexane EXTR. Year Round	Reported Permit Limits	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day		N/A	Rpt Only Avg. Monthly	30 Max. Daily	N/A	mg/l	1/quarter	Grab
									N/A			
									N/A			
									N/A			
									N/A			

\* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed	
Title of Officer		Signature of Principal Executive Officer or Authorized Agent	

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 DISCHARGE MONITORING REPORT

Final Limitations

FACILITY NAME: (Southern Soil Conservation District) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY; Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: IU18  
 WASTELOAD FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter	Quantity	Quantity		Units	N.E.	Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
		Rpt Only	Max. Daily			Rpt Only	Avg. Monthly	Max. Daily					
00056 (ML-1) RF-B Flow Rate Year Round	Reported Permit Limits	Rpt Only Avg. Monthly	1000 Max. Daily	gpd		N/A	N/A	N/A	N/A			1/daily	Estimated
00530 (ML-1) RF-B Total Suspended Solids Year Round	Reported Permit Limits	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day		N/A	Rpt Only Avg. Monthly	250 Max. Daily	N/A	mg/l		1/quarter	Grab
00400 (ML-1) RF-B pH Year Round	Reported Permit Limits	N/A	N/A			5 Inst. Min.	N/A	10 Inst. Max.	N/A	S.U.		1/quarter	Grab
00552 (ML-1) RF-B Oil and Grease, Hexane EXTR. Year Round	Reported Permit Limits	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day		N/A	Rpt Only Avg. Monthly	30 Max. Daily	N/A	mg/l		1/quarter	Grab
									N/A				
									N/A				
									N/A				
									N/A				

\* CEL = Compliance Evaluation Level

Name of Principal Executive Officer  	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed
		Signature of Principal Executive Officer or Authorized Agent  
Title of Officer  		

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 SEWAGE SLUDGE MONITORING REPORT

FACILITY NAME: (Sludge) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY, Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: S01  
 RESULTS FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.							
74055 (ML+) RF-B Coliform, Fecal Year Round	Reported											
	Permit Limits	N/A	N/A				N/A	col/gr			1/quarter	Grab
00400 (ML+) RF-B pH Year Round	Reported											
	Permit Limits	N/A	N/A				Rpt Only Minimum	S.U.			1/quarter	Grab
61521 (ML+) RF-B Arsenic, Sludge Tot. Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A				N/A	mg/kg			1/quarter	1 Week Comp
78476 (ML+) RF-B Cadmium, Sludge, Tot Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A				N/A	mg/kg			1/quarter	1 Week Comp
78473 (ML+) RF-B Chromium, Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A				N/A	mg/kg			1/quarter	1 Week Comp
78475 (ML+) RF-B Copper, Sludge, Tot, Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A				N/A	mg/kg			1/quarter	1 Week Comp
78468 (ML+) RF-B Lead, Dry, Wt. Year Round	Reported											
	Permit Limits	N/A	N/A				N/A	mg/kg			1/quarter	1 Week Comp
78471 (ML+) RF-B Mercury, Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A				N/A	mg/kg			1/quarter	1 Week Comp

\* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed	
Title of Officer		Signature of Principal Executive Officer or Authorized Agent	

STATE OF WEST VIRGINIA  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
SEWAGE SLUDGE MONITORING REPORT

FACILITY NAME: (Sludge) NORTH BECKLEY PSD CERTIFIED LABORATORY NAME: \_\_\_\_\_  
 LOCATION OF FACILITY: BECKLEY, Raleigh County CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_  
 PERMIT NO.: WV0027740 OUTLET NO.: S01  
 RESULTS FOR THE MONTH OF: \_\_\_\_\_ INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.							
78465 (ML+) RF-B Molybdenum, Dry Wgt Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	N/A	18 <small>Maximum</small>	N/A	mg/kg		1/quarter	1 Week Comp
78469 (ML+) RF-B Nickel, Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	N/A	200 <small>Maximum</small>	N/A	mg/kg		1/quarter	1 Week Comp
49031 (ML+) RF-B Selenium, Sludge, Tot. Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	N/A	36 <small>Maximum</small>	N/A	mg/kg		1/quarter	1 Week Comp
78467 (ML+) RF-B Zinc, Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	N/A	2800 <small>Maximum</small>	N/A	mg/kg		1/quarter	1 Week Comp
00916 (ML+) RF-B Calcium, Total (as Ca) Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	N/A	Rpt Only <small>Maximum</small>	N/A	mg/kg		1/quarter	1 Week Comp
61553 (ML+) RF-B Solids, Total Sludge Percent Year Round	Reported											
	Permit Limits	N/A	N/A		Rpt Only <small>Minimum</small>	Rpt Only <small>Avg.</small>	Rpt Only <small>Maximum</small>	N/A	Percent		1/quarter	1 Week Comp
78472 (ML+) RF-B Potassium, Sludge Tot. Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	N/A	Rpt Only <small>Maximum</small>	N/A	mg/kg		1/quarter	1 Week Comp
78478 (ML+) RF-B Phosphorus, Sludge, Tot. Dry Wt. Year Round	Reported											
	Permit Limits	N/A	N/A		N/A	N/A	Rpt Only <small>Maximum</small>	N/A	mg/kg		1/quarter	1 Week Comp

\* CEL = Compliance Evaluation Level

Name of Principal Executive Officer  	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed	
Title of Officer  		Signature of Principal Executive Officer or Authorized Agent  	

STATE OF WEST VIRGINIA  
 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 SEWAGE SLUDGE MONITORING REPORT

FACILITY NAME: (Sludge) NORTH BECKLEY PSD

CERTIFIED LABORATORY NAME: \_\_\_\_\_

LOCATION OF FACILITY: BECKLEY, Raleigh County

CERTIFIED LABORATORY ADDRESS: \_\_\_\_\_

PERMIT NO.: WV0027740 OUTLET NO.: S01

RESULTS FOR THE MONTH OF: \_\_\_\_\_

INDIVIDUAL PERFORMING ANALYSIS: \_\_\_\_\_

Parameter		Quantity			Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.							
82294 (ML+) RF-B Nitrogen, Ammonia Tot. DW Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Maximum	N/A	mg/kg		1/quarter 1 Week Comp
78470 (ML+) RF-B Nitrogen, Sludge Tot. Dry Wt Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Maximum	N/A	mg/kg		1/quarter 1 Week Comp
51020 (ML+) RF-B Organic Nitrogen Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Maximum	N/A	mg/kg		1/quarter 1 Week Comp
00927 (ML+) RF-B Magnesium, Tot (as Mg) Year Round	Reported											
	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Maximum	N/A	mg/kg		1/quarter 1 Week Comp
									N/A			
									N/A			
									N/A			
									N/A			

\* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed	
Title of Officer		Signature of Principal Executive Officer or Authorized Agent	

### SEWAGE SLUDGE MANAGEMENT REPORT

FACILITY NAME: (NORTH BECKLEY PSD)NORTH BECKLEY PSD

ADDRESS: 122 Clear Water Ln, Beckley, WV 25801

DESIGN FLOW: 2,500,000 gpd

PERMIT NUMBER: WV0027740

YEAR: \_\_\_\_\_

MONITORING FREQUENCY: \_\_\_\_\_

MONTH: \_\_\_\_\_

LAST SAMPLE DATE: \_\_\_\_\_

Total Sludge Generated this Report Period: (Dry Tons) \_\_\_\_\_

Disposal Method: \_\_\_\_\_

Sludge Generated this Year to Date: (Dry Tons) \_\_\_\_\_

Amount Disposed: (Dry tons) \_\_\_\_\_

Sewage Sludge/Domestic Septage Received: (Gallons) \_\_\_\_\_

Name of Landfill or Compost Facility : \_\_\_\_\_

Percent Solids: \_\_\_\_\_

Average: \_\_\_\_\_

Measurement Frequency: \_\_\_\_\_

Number of Loads Landfilled With Less Than 20% Solids: \_\_\_\_\_

#### Pathogen Reduction Method:

Not Applicable. No land application of sewage sludge.

Fecal Coliform Monitoring: Geometric mean of last seven samples is \_\_\_\_\_ col/dry gram

Sample results for this report period were: \_\_\_\_\_ col/dry gram \_\_\_\_\_ col/dry gram

Limit Addition: pH of sample two hours after lime addition: Range \_\_\_\_\_

Aerobic Digestion: Average detention time for this report period:(days) \_\_\_\_\_

Digester Temperature: Average \_\_\_\_\_

Range \_\_\_\_\_

NE: Number of loads land applied which did not fully meet pathogen reduction requirements: \_\_\_\_\_

Anaerobic Digestion: Average detention time for this report period:(days) \_\_\_\_\_

Digester Temperature: Average \_\_\_\_\_

Range \_\_\_\_\_

Other: (Provide Description) \_\_\_\_\_

#### Vector Attraction Reduction Method:

Not Applicable. No land application of sewage sludge.

38% Volatile Solids Reduction: Average volatile solids reduction for the month of \_\_\_\_\_ was \_\_\_\_\_ percent

SOUR: The average Specific Oxygen Uptake rate for the month of \_\_\_\_\_ was \_\_\_\_\_ mg Oxygen/hour/dry gram

Lime Addition: pH of sample two hours after lime addition: Range \_\_\_\_\_

pH of sample 24 hours after lime addition: Range \_\_\_\_\_

NE: Number of loads land applied which did not fully meet vector attraction reduction requirements: \_\_\_\_\_

Other: (Provide Description) \_\_\_\_\_

*I certify under penalty of law that the management practices, vector attraction reduction requirements, and the pathogen reduction requirements of Federal regulations 40 CFR Part 503 and State Regulation Title 33, Series 2 have been met for all sewage sludge land applied during this report period. This determination has been made under my supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate information used to determine these requirements have been met. I also certify that this document and all the attachments were prepared under my direction or supervision, and that the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are penalties for false certification including the possibility of fine and imprisonment.*

OFFICIAL \_\_\_\_\_

TITLE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

Additional Comments or Explanation:

### Oil Water Separator Log

Submit to wastewater treatment plant once per quarter for each oil/water separator

POTW North Beckley PSD WW0027740 IU No. and location IU01 Beckley West Maint Garage

Separator Vendor: \_\_\_\_\_ Model: \_\_\_\_\_

Separator Size (gallons): \_\_\_\_\_ Flow Capacity (gpm): \_\_\_\_\_

Design Sludge Depth (in): \_\_\_\_\_ Design Oil Depth (in): \_\_\_\_\_

Maximum daily flow sent during quarter \_\_\_\_\_

Enter data below a minimum of once per month and submit to POTW once per quarter.

Inspection Date	Inspected by: (Initials)	Floating Oil Depth (Inches)	Sludge Depth (Inches)	Date Separator Cleaned

Comments

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Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

### Oil Water Separator Log

Submit to wastewater treatment plant once per quarter for each oil/water separator

POTW North Beckley PSD WV0027740 IU No. and location IU04 Caterpillar

Separator Vendor: \_\_\_\_\_ Model: \_\_\_\_\_

Separator Size (gallons): \_\_\_\_\_ Flow Capacity (gpm): \_\_\_\_\_

Design Sludge Depth (in): \_\_\_\_\_ Design Oil Depth (in): \_\_\_\_\_

Maximum daily flow sent during quarter \_\_\_\_\_

Enter data below a minimum of once per month and submit to POTW once per quarter.

Inspection Date	Inspected by: (Initials)	Floating Oil Depth (inches)	Sludge Depth (Inches)	Date Separator Cleaned

**Comments**

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Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

### Oil Water Separator Log

Submit to wastewater treatment plant once per quarter for each oil/water separator

POTW North Beckley PSD WV0027740 IU No. and location IU09 walmart

Separator Vendor: \_\_\_\_\_ Model: \_\_\_\_\_

Separator Size (gallons): \_\_\_\_\_ Flow Capacity (gpm): \_\_\_\_\_

Design Sludge Depth (In): \_\_\_\_\_ Design Oil Depth (In): \_\_\_\_\_

Maximum daily flow sent during quarter \_\_\_\_\_

Enter data below a minimum of once per month and submit to POTW once per quarter.

Inspection Date	Inspected by: (Initials)	Floating Oil Depth (Inches)	Sludge Depth (Inches)	Date Separator Cleaned

Comments

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Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

### Oil Water Separator Log

Submit to wastewater treatment plant once per quarter for each oil/water separator

POTW North Beckley PSD WV0027740 IU No. and location IU 10 Raleigh County Maint Hdqtrs

Separator Vendor: \_\_\_\_\_ Model: \_\_\_\_\_

Separator Size (gallons): \_\_\_\_\_ Flow Capacity (gpm): \_\_\_\_\_

Design Sludge Depth (in): \_\_\_\_\_ Design Oil Depth (in): \_\_\_\_\_

Maximum daily flow sent during quarter \_\_\_\_\_

Enter data below a minimum of once per month and submit to POTW once per quarter.

Inspection Date	Inspected by: (Initials)	Floating Oil Depth (Inches)	Sludge Depth (Inches)	Date Separator Cleaned

Comments

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Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

### Oil Water Separator Log

Submit to wastewater treatment plant once per quarter for each oil/water separator

POTW North Beckley PSD WV0027740 IU No. and location IU 14 Heritage Equipment

Separator Vendor: \_\_\_\_\_ Model: \_\_\_\_\_

Separator Size (gallons): \_\_\_\_\_ Flow Capacity (gpm): \_\_\_\_\_

Design Sludge Depth (in): \_\_\_\_\_ Design Oil Depth (in): \_\_\_\_\_

Maximum daily flow sent during quarter \_\_\_\_\_

Enter data below a minimum of once per month and submit to POTW once per quarter.

Inspection Date	Inspected by: (Initials)	Floating Oil Depth (Inches)	Sludge Depth (Inches)	Date Separator Cleaned

Comments

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Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

### Oil Water Separator Log

Submit to wastewater treatment plant once per quarter for each oil/water separator

POTW North Beckley PSD WV0027740 IU No. and location IU 16 Lewis Nissan

Separator Vendor: \_\_\_\_\_ Model: \_\_\_\_\_

Separator Size (gallons): \_\_\_\_\_ Flow Capacity (gpm): \_\_\_\_\_

Design Sludge Depth (in): \_\_\_\_\_ Design Oil Depth (in): \_\_\_\_\_

Maximum daily flow sent during quarter \_\_\_\_\_

Enter data below a minimum of once per month and submit to POTW once per quarter.

Inspection Date	Inspected by: (Initials)	Floating Oil Depth (inches)	Sludge Depth (Inches)	Date Separator Cleaned

Comments \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

### Oil Water Separator Log

Submit to wastewater treatment plant once per quarter for each oil/water separator

POTW North Beckley PSD WV0027740 IU No. and location IJ 17 Oakhill garbage

Separator Vendor: \_\_\_\_\_ Model: \_\_\_\_\_

Separator Size (gallons): \_\_\_\_\_ Flow Capacity (gpm): \_\_\_\_\_

Design Sludge Depth (in): \_\_\_\_\_ Design Oil Depth (in): \_\_\_\_\_

Maximum daily flow sent during quarter \_\_\_\_\_

Enter data below a minimum of once per month and submit to POTW once per quarter.

Inspection Date	Inspected by: (Initials)	Floating Oil Depth (Inches)	Sludge Depth (Inches)	Date Separator Cleaned

Comments

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

### Oil Water Separator Log

Submit to wastewater treatment plant once per quarter for each oil/water separator

POTW North Beckley PSD WV0027740 IU No. and location IU 18 Southern soil

Separator Vendor: \_\_\_\_\_ Model: \_\_\_\_\_

Separator Size (gallons): \_\_\_\_\_ Flow Capacity (gpm): \_\_\_\_\_

Design Sludge Depth (in): \_\_\_\_\_ Design Oil Depth (in): \_\_\_\_\_

Maximum daily flow sent during quarter \_\_\_\_\_

Enter data below a minimum of once per month and submit to POTW once per quarter.

Inspection Date	Inspected by: (Initials)	Floating Oil Depth (Inches)	Sludge Depth (Inches)	Date Separator Cleaned

Comments

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Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

**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               | - Personnel at the scene              |
| - Location of incident                       | - Actions initiated                   |
| - Time of incident                           | - Shipper/Manufacturer identification |
| - Material spilled or discharged             | - Railcar/Truck identification number |
| - Amount spilled or discharged               | - Container type                      |
| - Toxicity of material spilled or discharged |                                       |

**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 **\$1750.00**. 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.

## **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.**

STATE OF WEST VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATER AND WASTE MANAGEMENT

**FACT SHEET ADDENDUM**

1. **NAME AND ADDRESS OF APPLICANT**  
NORTH BECKLEY PSD  
122 CLEAR WATER LN  
BECKLEY, WV 25801
  
2. **NAME AND ADDRESS OF FACILITY**  
NORTH BECKLEY PSD  
122 Clear Water Lane  
Beckley, WV 25801
  
3. **STATE NPDES APPLICATION NO.** WV0027740
  
4. **COUNTY** Raleigh  
**RECEIVING STREAM** Cranberry Creek
  
5. **PUBLIC NOTICE NO.** L-145-13  
**COMMENT PERIOD:** From 12/31/2013 To 01/30/2014
  
6. **SIC CODE(s)** 4952

**10. RATIONALE FOR PROPOSED EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

Pursuant to EPA comments, the following clarifications are being made in the fact sheet.

**WHOLE EFFLUENT TOXICITY (Outlet 001)**

---

The permittee monitored Outlet 001 for Chronic Whole Effluent Toxicity (Ceriodaphnia Dubia and Pimephales Promelas) during the term of the last permit. The test endpoint for chronic toxicity testing is the No Observed Effect Concentration (NOEC). Monitoring indicated  $\leq 1$  TUc (NOEC at 100% effluent) on four separate occasions for Ceriodaphnia Dubia. Monitoring also indicated values of  $\leq 1$  TUc (NOEC at 100% effluent) on four separate occasions for Pimephales Promelas. Using the procedures in EPA's Technical Support Document for Water Quality Based Toxics Control (TSD), a reasonable potential (RP) assessment was performed on the Chronic Whole Effluent Toxicity (WET) results. The agency uses 0.3 TUa as an acute water quality criterion and 1.0 TUc as a chronic water quality criterion to be protective of WV's narrative water quality standards. No mixing zone could be granted. There was no RP to exceed water quality criteria at the end of pipe for Ceriodaphnia Dubia or Pimephales Promelas. Continued monitoring is imposed.

**UPPER AND LOWER NEW RIVER FECAL COLIFORM TMDL**

---

The Upper and Lower New River TMDL was approved in 2008 and falls into WV Hydrologic Group D. Outlet 001 discharges to Cranberry Creek, approximately 1.6 miles from its mouth, of Piney Creek of the New River of the Kanawha River. An annual load allocation was determined from the monthly average limit of 200 counts/100 mL in conjunction with the daily design flow of the facility. The operable allocation is imposed in the permit as monthly average and maximum daily limits of 200 counts/100 mL and 400 counts/100 mL respectively. These technology based requirements are protective of water quality and the TMDL requirements.

**10. RATIONALE FOR PROPOSED EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (continued)**

UPPER AND LOWER NEW RIVER IRON TMDL

---

The Upper and Lower New River TMDL also was completed in 2008 for iron. No allocation was afforded to Outlet 001 in the TMDL because it was not expected to be a pollutant of concern with this discharge. Monitoring has been incorporated into the final permit to characterize pollutant loadings in the discharge.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/11/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CityInsurance Professionals One Park Ave P O Box 2316 Beckley WV 25801	CONTACT NAME: Teresa Hylton
	PHONE (A/C, No, Ext): (304) 255-1945 FAX (A/C, No): (304) 255-3623
	E-MAIL ADDRESS: teresa.hylton@hilbgroup.com
	INSURER(S) AFFORDING COVERAGE
	INSURER A: Scottsdale Ins. Co.
	INSURER B: National Casualty
	INSURER C: Brickstreet Mutual Insurance 12372
	INSURER D:
	INSURER E:
	INSURER F:

**COVERAGES** CERTIFICATE NUMBER: CL1561128367 REVISION NUMBER:

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		PEI0006319	10/1/2014	10/1/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	WAI0003243	10/1/2014	10/1/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical Expense \$ 5,000
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE	UMO0033795	10/1/2014	10/1/2015	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 DED <input checked="" type="checkbox"/> RETENTION \$ 10,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A WCB1020273	10/27/2014	10/27/2015	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

<b>CERTIFICATE HOLDER</b>  WV Water Development Authority 1009 Bullitt Street Charleston, WV 25301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  Dianna Powell/TERESA <i>Dianna Powell</i>

NORTH BECKLEY PUBLIC SERVICE DISTRICT

BOND RESOLUTION

Adopted  
January 27, 1999

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NORTH BECKLEY PUBLIC SERVICE DISTRICT

BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONAL EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWERAGE SYSTEM OF THE NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, TOGETHER WITH THE PAYMENT OF THE NORTH BECKLEY PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1997, THROUGH THE ISSUANCE BY THE NORTH BECKLEY PUBLIC SERVICE DISTRICT OF NOT MORE THAN NINE MILLION DOLLARS (\$9,000,000) IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF NORTH BECKLEY 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 22C, Article 2 of the West Virginia Code of 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. North Beckley Public Service District (the "Issuer") is a public service district and political subdivision of the State of West Virginia in Raleigh County of said State.

B. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain additional extensions, additions, betterments and improvements to the Issuer's existing sewerage system, including the extensions, additions, betterments and improvements described in Exhibit A hereto (collectively, the "Project") (the Issuer's existing sewerage system, the Project and any further additions thereto or extensions thereof are herein called the "System") in accordance with the plans and specifications prepared by Lawson Engineering & Technical Services, Inc., Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Issuer's Sewer Revenue Bonds, Series 1964 (the "Prior Bonds"), the Issuer's Sewerage System Revenue Bonds, Series 1999 (the "Series 1999 Bonds") authorized herein, the Series 1996 Notes, as hereinafter defined, and all sinking funds, reserve accounts and other payments provided for herein and with respect to the Prior Bonds and such Series 1996 Notes, and the proceeds of the Series 1999 Bonds, will be sufficient, together with other funds available therefor, to pay in full the Issuer's Sewerage System Bond Anticipation Notes, Series 1997 (the "Series 1997 Notes"), issued on October 27, 1997 to temporarily finance a portion of the costs of the Project pending the issuance of the Series 1999 Bonds, plus the interest accrued on such Series 1997 Notes, and to pay all costs of the Project.

D. It is further deemed necessary for the Issuer to issue its sewerage system revenue bonds in the total aggregate principal amount of not more than \$9,000,000, in one series, being the Series 1999 Bonds in part to pay the Series 1997 Notes and to permanently finance the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 1999 Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project, if any; amounts which may be deposited in the Series 1999 Bonds Reserve Account; engineering and legal expenses including without limitation amounts payable to Dunn Engineers, Inc. pursuant to that certain arbitration award

in favor of Dunn Engineers, Inc. and against the Issuer relating to prior engineering services for the Project; 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 of the Authority and DEP (each as hereinafter defined), discount, fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 1999 Bonds, 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 1999 Bonds, or the repayment of indebtedness incurred by the Issuer for such purposes, including without limitation the Series 1997 Notes, 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 21 years.

F. It is in the best interest of the Issuer that its Series 1999 Bonds be issued and sold to the West Virginia Water Development Authority (the "Authority") pursuant to the terms and provisions of a loan agreement by and among the Issuer, the Authority and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP"), the execution, delivery and form of which are ratified and approved herein. The Series 1999 Bonds shall be issued junior, subordinate and subject to the Issuer's Sewer Revenue Bonds, Series 1964, which were issued in the original principal amount of \$930,000 (the "Prior Bonds") pursuant to a Bond Resolution adopted by the Issuer on April 1, 1964 (the "Prior Bond Resolution"), \$245,000 in principal amount of which Prior Bonds remain outstanding on the date hereof. Upon the payment or defeasance of the Prior Bonds, the Series 1999 Bonds shall move to a first position with respect to liens, pledge and source of and security for payment.

G. The Issuer has complied with all requirements of West Virginia law relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 1999 Bonds, will have so complied prior to issuance thereof, including, among other things, 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 by final order, the time for rehearing and appeal of which has expired or has been waived by all necessary parties prior to the issuance of the Series 1999 Bonds.

H. The Issuer has previously issued its Sewerage System Bond Anticipation Notes, Series 1996 (the "Series 1996 Notes") in the maximum amount of \$400,000. The sole holder of the Series 1996 Notes is WesBanco Bank (formerly Commercial Banking and Trust Company), Parkersburg, West Virginia (the "Series 1996 Noteholder") and the Issuer has received the written consent and waiver of such Series 1996 Noteholder waiving the right of such Series 1996 Noteholder to have the Series 1996 Notes paid with the proceeds of the Series 1999 Bonds and such Series 1996 Noteholder has agreed that the Series 1996 Notes shall be paid in monthly installments as provided in such Series 1996 Notes and not with proceeds of the Series 1999 Bonds. Further, the Series 1996

Noteholder has agreed that the Series 1996 Notes shall be junior, subordinate and subject to the Prior Bonds and the Series 1999 Bonds.

I. There are outstanding obligations of the Issuer which will rank senior and prior to the Series 1999 Bonds and Series 1996 Notes as to liens and sources of and security for payment, which obligations are designated and have the lien positions, together with the Series 1999 Bonds, as follows:

<u>Designation</u>	<u>Lien Position</u>
Sewer Revenue Bonds, Series 1964 (issued on April 1, 1964 in the original principal amount of \$930,000)	First Lien
Sewerage System Revenue Bonds, Series 1999	Second Lien
Sewerage System Bond Anticipation Notes, Series 1996	Third Lien

J. The estimated maximum cost of the construction and acquisition of the Project, including without limitation the payment of the Series 1997 Notes, and issuance of the Series 1999 Bonds is \$8,090,898 which will be permanently financed with the proceeds of the Series 1999 Bonds.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 1999 Bonds by those who shall be the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the registered owners of any and all of such Bonds, all 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 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, or any other agency of the State of West Virginia that succeeds to the functions of the Authority, which is expected to be the original purchaser of the Series 1999 Bonds, provided that, if the Authority is the original purchaser of the Series 1999 Bonds, the Issuer must satisfy the legal and other requirements of the SRF Program.

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

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 hereof.

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

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

"Bonds" means the Series 1999 Bonds, and, where appropriate, any bonds on a parity therewith subsequently issued hereunder or pursuant to another resolution of the Issuer.

"Capital Expenditures Fund" means the Capital Expenditures Fund created by the Prior Bond Resolution.

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Series 1999 Bonds in substantially the form set forth in the bond form contained herein.

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

"Closing Date" means the date on which there is an exchange of the Series 1999 Bonds for an advance of more than a de minimis amount of the principal of the Series 1999 Bonds.

"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.

"Completion Date" means the completion date of the Project, as defined in the SRF Regulations.

"Consulting Engineers" means Lawson Engineering & Technical Services, Inc., Beckley, West Virginia or any professional engineer or firm of professional engineers, licensed by the State who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political subdivisions, that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

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

"Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"DEP" means the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment, or any agency, board or department of the State that succeeds to the functions of the State.

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

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

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

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

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

"I&I Fund" means the I&I Fund created by Section 5.01 hereof pursuant to the order of the PSC.

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

"Issuer" means North Beckley Public Service District, in Raleigh County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean the Loan Agreement to be entered into between the Authority, DEP and the Issuer if the Authority is the original purchaser of the Series 1999 Bonds, providing for the purchase of the Series 1999 Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed by Section 4.11 hereof or ratified by the Supplemental Resolution.

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

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority and DEP, fiscal agents, the Depository Bank, Registrar and Paying Agent (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds or Series 1996 Notes, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding," when used with reference to Bonds as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond cancelled 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 and (iv) for purposes of consents or other action by a specified percentage of Bondholders, Bonds registered to the Issuer.

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

"Paying Agent" means the West Virginia Municipal Bond Commission, or such entity or authority as may be designated by the Issuer by Supplemental Resolution.

"Prior Bond Resolution" means the Bond Resolution, and all supplements thereto, adopted by the Public Service Board of the Issuer on April 1, 1964 with respect to the Issuer's Sewer Revenue Bonds, Series 1964.

"Prior Bonds" means the Sewer Revenue Bonds, Series 1964, issued by the Issuer on April 1, 1964, in the aggregate principal amount of \$930,000, under the Prior Bond Resolution.

"Project" means the extensions, additions, betterments and improvements to the Issuer's existing sewerage system described in Exhibit A hereto.

"PSC" means the Public Service Commission of West Virginia.

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

- (a) Government Obligations;
- (b) 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;
- (c) 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;
- (d) 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, 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;

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

(f) 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;

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

(h) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

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

"Registrar" means the Bond Registrar.

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

"Revenue Fund" means the Revenue Fund established or continued by Section 5.01 hereof.

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

"Series 1964 Bonds Debt Service Fund" means the Debt Service Fund created by the Prior Bond Resolution for the payment of debt service on the Series 1964 Bonds.

"Series 1964 Bonds Mandatory Sinking Fund" means the Mandatory Sinking Fund created by the Prior Bond Resolution with respect to the Series 1964 Bonds.

"Series 1964 Bonds Reserve Fund" means the reserve account established by the Prior Bond Resolution for the Prior Bonds.

"Series 1996 Notes" means the Issuer's Sewerage System Bond Anticipation Notes, Series 1996, issued in the maximum aggregate principal amount of \$400,000.

"Series 1997 Notes" means the not more than \$800,000 in aggregate principal amount of Sewerage System Bond Anticipation Notes, Series 1997.

"Series 1999 Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the not more than \$9,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1999 of the Issuer, issued for the purpose of refunding the Series 1997 Notes, paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Series 1999 Bonds Reserve Account" means the Series 1999 Bonds Reserve Account established in the Series 1999 Bonds Sinking Fund pursuant to Section 5.02 hereof.

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

"Series 1999 Bonds Sinking Fund" means the Series 1999 Bonds Sinking Fund established by Section 5.02 hereof.

"SRF Administrative Fee" means any administrative fee required to be paid under the Loan Agreement.

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local government entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

"SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 1999 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 1999 Bonds and not so included may be included in another Supplemental Resolution.

"Surplus Fund" means the Surplus Fund created by the Prior Bond 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 Outstanding Bonds, the Prior Bonds or any other obligations of the Issuer.

"System" means the complete existing sewerage system now owned by the Issuer, consisting of a sewerage system in its entirety or any integral part thereof, for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, and shall include the Project and any further extensions, additions, betterments and improvements thereto hereafter acquired or constructed for said 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.

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.

Terms not otherwise defined herein shall have the meanings assigned to them in the Prior Bond Resolution unless the context expressly requires otherwise.

## ARTICLE II

### AUTHORIZATION OF THE ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of \$8,090,898 in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 1999 Bonds hereby authorized shall be applied as provided in Article VI hereof.

The Issuer has received bids or entered into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the SRF Program. The Issuer will enter into a contract for the acquisition and construction of the Project simultaneously or within ten (10) days of the issuance of the Series 1999 Bonds.

The Cost of the Project, including without limitation the payment of the Series 1997 Notes, payment of the arbitration award to Dunn Engineers, Inc. and the costs of issuing the Series 1999 Bonds, is estimated not to exceed \$8,090,898, which is to be paid with the proceeds of the Series 1999 Bonds.

ARTICLE III  
[RESERVED]

## ARTICLE IV

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 4.01. Authorization of Bonds. For the purposes of refunding the Series 1997 Notes, capitalizing interest on the Series 1999 Bonds, if any, funding a reserve account for the Series 1999 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 1999 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be issued negotiable Series 1999 Bonds of the Issuer, in an aggregate principal amount of not more than \$9,000,000. Said Series 1999 Bonds shall be issued in one series, to be designated "Sewerage System Revenue Bonds, Series 1999," and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 1999 Bonds required to refund the Series 1997 Notes shall not be invested, but shall be used immediately to refund the Series 1997 Notes so that, upon issuance of such Series 1999 Bonds, the Issuer's obligations to the Holders of the Series 1997 Notes shall be defeased, and the Series 1997 Notes and the Series 1999 Bonds shall not be deemed as being simultaneously Outstanding at any time. The proceeds of the Series 1999 Bonds remaining after the refunding of the Series 1997 Notes, funding of the Series 1999 Bonds Reserve Account (if funded from the Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 4.02. Terms of Bonds. The Series 1999 Bonds shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum, 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 Bonds 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 1999 Bonds, 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 1999 Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and debt service schedule attached, representing the aggregate principal amount of the Series 1999 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 1999 Bonds shall be exchangeable at the option and expense of the Holder for other fully registered 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.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 4.03. Execution of Bonds. The Series 1999 Bonds 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 any of the Series 1999 Bonds shall cease to be such officer of the Issuer before the Series 1999 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 1999 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 1999 Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 4.04. Authentication and Registration. No Series 1999 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 forms set forth in Section 4.09 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 Series 1999 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 all of the Bonds issued hereunder.

Section 4.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 1999 Bonds 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 Holder, in accepting any of said Series 1999 Bonds shall be conclusively deemed to have agreed that such Bonds 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 Holder shall further be conclusively deemed to have agreed that said Bond shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 1999 Bonds remain Outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain the books for the registration and transfer of the Series 1999 Bonds.

The registered Series 1999 Bonds 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 his duly authorized attorney.

In all cases in which the privilege of exchanging Series 1999 Bonds or transferring the registered Series 1999 Bonds are exercised, Series 1999 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 1999 Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 1999 Bonds, 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 Series 1999 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 1999 Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Series 1999 Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 4.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 1999 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 Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing 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. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 4.07. Bonds not to be Indebtedness of the Issuer. The Series 1999 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Series 1999 Bonds Reserve Account. No holder or holders of any of the Series 1999 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Series 1999 Bonds or the interest thereon, if any. The Issuer has no taxing power.

Section 4.08. Bonds Secured by Pledge of Net Revenues; Lien Positions With Respect to Prior Bonds and Series 1996 Notes. The payment of the debt service of all the Series 1999 Bonds shall be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, junior, subordinate and subject to the lien on the Net Revenues in favor of the Holders of the Prior Bonds and senior and prior to the lien on the Net Revenues in favor of the holders of the Series 1996 Notes and such Series 1996 Notes shall be junior and subordinate to the Prior Bonds and Series 1999 Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 1999 Bonds, Prior Bonds and such Series 1996 Notes and to make the payments into the sinking funds, the reserve accounts therein, the Capital

Expenditures Fund and the Renewal and Replacement Fund, either existing or hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 1999 Bonds, Prior Bonds and such Series 1996 Notes as the same become due. Upon the payment or defeasance of the Prior Bonds, the Series 1999 Bonds shall be secured by a first lien on the Net Revenues senior and prior to the lien thereon in favor of the holders of the Series 1996 Notes.

Section 4.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 1999 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 1999 Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 1999 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 1999 Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. A certified copy of the Loan Agreement; and

E. An approving opinion of bond counsel on the Series 1999 Bonds.

Section 4.10. Form of Series 1999 Bonds. The text of the Series 1999 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof;

[Form of Series 1999 Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REVENUE BOND,  
SERIES 1999

No. R- \_\_\_\_\_

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That NORTH BECKLEY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Raleigh 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 \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), 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 on \_\_\_\_\_, \_\_\_\_\_, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference, without interest.

The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_, 19\_\_\_\_, as set forth on Exhibit B attached hereto. 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 only be redeemed prior to its stated date of maturity in whole or in part upon the terms and conditions prescribed by, and otherwise in compliance with, the Water Pollution Control Revolving Fund Loan Agreement among the Issuer, the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP") and the Authority, dated \_\_\_\_\_, 19\_\_\_\_.

This Bond is issued (i) to permanently finance the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage facilities of the Issuer (the "Project"); (ii) to refund certain Notes of the Issuer; (iii) to fund a debt service reserve fund; and (iv) to pay certain costs of issuance hereof and related costs. The existing public sewerage facilities of the Issuer, the Project and any further additions, betterments or improvements 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 22C, Article 2 of the West Virginia Code of 1931, as amended

(collectively, the "Act"), and a Resolution duly adopted by the Issuer on \_\_\_\_\_, 19\_\_\_\_ and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 19\_\_\_\_ (collectively called 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 securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED JUNIOR, SUBJECT AND SUBORDINATE AS TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE ISSUER'S SEWER REVENUE BONDS, SERIES 1964, ISSUED ON APRIL 1, 1964, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$930,000 AND DESCRIBED IN THE BOND LEGISLATION (THE "PRIOR BONDS").

THIS BOND IS ISSUED SENIOR AND PRIOR TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE ISSUER'S SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1996, ISSUED ON APRIL 24, 1996, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$400,000 AND DESCRIBED IN THE BOND LEGISLATION (THE "SERIES 1996 NOTES").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation), junior, subject and subordinate to the pledge of the Net Revenues in favor of the holders of the Prior Bonds and senior and prior to the lien thereon in favor of the Holders of the Series 1996 Notes, to be derived from the operation of the System, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1999 Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate 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 1999 Bonds Reserve Account and unexpended proceeds of the Bonds. 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% (130% so long as any of the Prior Bonds remain Outstanding) of the maximum amount payable in any year for principal of and interest on the Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds, provided however, that so long as there exists in the Series 1999 Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations Outstanding prior to or on a parity with the Bonds, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110% (but shall remain at 130% so long as any of the Prior Bonds remain Outstanding). The Issuer has entered into certain further covenants

with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds 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 \_\_\_\_\_, as registrar (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, shall be applied solely to the payment of the Costs of the Project 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 in the issuance of this Bond have existed, 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 revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the 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, NORTH BECKLEY 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 \_\_\_\_\_, 19\_\_\_\_\_.

NORTH BECKLEY PUBLIC SERVICE DISTRICT

[SEAL]

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1999 Bonds 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: \_\_\_\_\_

\_\_\_\_\_

as Registrar

By: \_\_\_\_\_

Its: Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

	<u>Amount</u>	<u>Date</u>		<u>Amount</u>	<u>Date</u>
(1)	\$		(7)	\$	
(2)	\$		(8)	\$	
(3)	\$		(9)	\$	
(4)	\$		(10)	\$	
(5)	\$		(11)	\$	
(6)	\$		(12)	\$	

Total \$ \_\_\_\_\_

EXHIBIT B

DEBT SERVICE SCHEDULE



Section 4.11. Sale of Series 1999 Bonds; Approval and Ratification of Execution of Loan Agreement with Authority and DEP. The Series 1999 Bonds 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 in the form attached hereto as "Exhibit B" and made a part hereof, 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.

Section 4.12. "Amended Schedule A" Filing. Within sixty (60) days following the Completion Date, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor.

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

1. Revenue Fund;
2. Capital Expenditures Fund;
3. Renewal and Replacement Fund;
4. Surplus Fund;
5. I & I Fund; and
6. Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with the Commission (or continued if established by the Prior Bond Resolution):

1. Series 1964 Bonds Debt Service Fund;
2. Series 1964 Bonds Mandatory Sinking Fund;
3. Series 1964 Bonds Reserve Fund;
4. Series 1999 Bonds Sinking Fund;
5. Within the Series 1999 Bonds Sinking Fund, the Series 1999 Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this 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.

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

2. The Issuer shall next on the first day of each month transfer from the Revenue Fund and pay to the Commission for deposit into the Series 1964 Bonds Debt Service Fund or the Series 1964 Bonds Mandatory Sinking Fund, as appropriate, the amounts required for the payment of principal of and interest on the Prior Bonds in accordance with the Prior Bond Resolution.

3. The Issuer shall next on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 1964 Bonds Reserve Fund the amount required by the Prior Bond Resolution to be deposited therein.

4. The Issuer shall next on the first day of each month, commencing 3 months prior to the first date of payment of principal on the Series 1999 Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1999 Bonds Sinking Fund, a sum equal to 1/3rd of the amount of principal which will mature and become due on said Series 1999 Bonds 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 1999 Bonds Sinking Fund and the next annual principal payment date is less than 3 months then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date. The Issuer shall complete the "Monthly Payment Form," the form of which is attached to the Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its remittance check to the Authority by the 5th day of such calendar month.

5. Commencing 3 months prior to the first date of payment of principal of the Series 1999 Bonds, the Issuer shall next (if the Series 1999 Bonds Reserve Account is not fully funded upon issuance of the Series 1999 Bonds) on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 1999 Bonds Reserve Account, an amount equal to 1/120 of the Series 1999 Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1999 Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1999 Bonds Reserve Requirement.

6. The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, transfer to the Capital Expenditures Fund the amounts required by the Prior Bond Resolution, if any, and simultaneously transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any reserve account, provided that such deposit to the Renewal and Replacement Fund shall be reduced by the amount, if any, transferred to the Capital Expenditures Fund and provided further that the Capital Expenditures Fund shall be terminated upon the payment of the Prior Bonds and upon the payment of the Prior Bonds, all moneys in the Capital Expenditures Fund shall be transferred to the Renewal and Replacement Fund. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and

reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Capital Expenditures Fund in accordance with the Prior Bond Resolution and from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1964 Bonds Reserve Fund or the Series 1999 Bonds 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 Fund, with deficiencies in the Series 1964 Bonds Reserve Fund being eliminated prior to deficiencies in the Series 1999 Bonds Reserve Account.

7. The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and deposit into the I&I Fund, all amounts remaining in the Revenue Fund after making the transfers set forth in paragraphs 1 through 6 above, until the sum of \$18,000 has been deposited therein during the then current month. All funds in the I&I Fund shall be kept separate and apart from all other funds of the Issuer and the Depository Bank.

Withdrawals and disbursements from the I&I Fund shall be made by the Issuer only for correcting problems with inflow and infiltration with respect to the System and only in accordance with the applicable orders of the PSC, provided that the I&I Fund shall only be required to be maintained and funded as long as required by the PSC.

8. The Issuer shall next, on the first day of each month, so long as any of the Prior Bonds remain outstanding, transfer any balance of moneys in the Revenue Fund to the Surplus Fund to be disbursed in accordance with the Prior Bond Resolution.

Moneys in the Series 1964 Bonds Sinking Fund and the Series 1999 Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall become due. Moneys in the Series 1964 Bonds Reserve Fund and the Series 1999 Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant sinking fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the several sinking funds 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 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 payments, if any, due on the respective series of Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1964 Bonds Reserve Fund which result in the reduction of the balance of the Series 1964 Bonds Reserve Fund below the amounts required by the Prior Bond Resolution to be deposited therein, and any withdrawals from the Series 1999 Bonds Reserve Account which result in the reduction of the balance of the Series 1999 Bonds Reserve Account below the Series 1999 Bonds Reserve Account Requirement shall be subsequently restored,

first to the Series 1964 Bonds Reserve Fund and then to the Series 1999 Bonds Reserve Account, from the first Net Revenues available after all required payments have been made in full to the Series 1964 Bonds Sinking Fund for payment of debt service on the Prior Bonds and to the Series 1999 Bonds Sinking Fund for payment of debt service on the Series 1999 Bonds, provided that any deficiency in the Series 1964 Bonds Reserve Fund shall be restored prior to any payments into the Series 1999 Bonds Sinking Fund or the Series 1999 Bonds Reserve Account.

As and when additional Bonds ranking on a parity with the Series 1999 Bonds are issued, provision shall be made for additional payments into the respective sinking fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate reserve account in a amount equal to the maximum provided and required to be paid into the concomitant sinking fund in any year for account of the Bonds of such series, including such additional Bonds which by their terms are payable from such sinking fund.

The Issuer shall not be required to make any further payments into the Series 1999 Bonds Sinking Fund, or into the Series 1999 Reserve Account therein when the aggregate amount of funds in said Series 1999 Sinking Fund and Series 1999 Reserve Account are at least equal to the aggregate principal amount of the Series 1999 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account created hereunder, and all amounts required for said fund and account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Series 1999 Bonds Sinking Fund and the Series 1999 Bonds Reserve Account and the payment of the SRF Administrative Fee as set forth in Schedule Y attached to the Loan Agreement shall be made on the first day of each month, except that when the first day of any month shall be a Saturday, Sunday or legal holiday then such payments shall be made on the next succeeding business day, 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. If required by the Authority in writing at any time, the Issuer shall make the necessary arrangements whereby such payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 1999 Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 1999 Bonds Sinking Fund, including the Series 1999 Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 1999 Bonds under the conditions and restrictions hereinafter set forth.

Notwithstanding any provision herein to the contrary, in the event that there are not sufficient funds to make all the transfers described above, all transfers with respect to the Prior Bonds required by the Prior Bond Resolution shall be made prior to transfers required to be made with respect to the Series 1999 Bonds.

Notwithstanding any provision herein to the contrary but subject to the immediately preceding paragraph, so long as the Series 1996 Notes remain unpaid, all payments required by the Series 1996 Notes shall be made, provided, however, if there are not sufficient funds to make all transfers required above, all transfers required by the Prior Bond Resolution with respect to principal of and interest on the Prior Bonds and deposits to the Series 1964 Bonds Reserve Fund shall first be made, and then, to the extent sufficient funds exist, all transfers with respect to the Series 1999 Bonds required hereby shall be made, and then, to the extent sufficient funds exist, all payments required by the Series 1996 Notes shall be made.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the sinking funds, including the reserve accounts therein, the Capital Expenditures Fund and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Surplus Revenues, provided that, so long as any of the Prior Bonds remain outstanding, there shall be made the transfers to the Surplus Fund required by the Prior Bond Resolution. Surplus Revenues may be used for any lawful purpose of the System, including without limitation the payment of the principal of and/or interest on the Series 1996 Notes.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges and the Paying Agent fees then due. In 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 deducted from the Revenue Fund and transferred to the Commission on the dates required.

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

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as 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.

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Bond Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

## ARTICLE VI

### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Series 1999 Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

- A. From the proceeds of the Series 1999 Bonds, there shall first be deposited with the Commission in the Series 1999 Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1999 Bonds for the period commencing on the date of issuance of the Series 1999 Bonds and ending 6 months after the estimated date of completion of construction of the Project.
- B. Next, from the proceeds of the Series 1999 Bonds, there shall be deposited with the Commission in the Series 1999 Bonds Reserve Account the sum, if any, set forth in the Supplemental Resolution for funding of the Series 1999 Bonds Reserve Account.
- C. Next, from the proceeds of the Series 1999 Bonds, there shall be first credited to the Bond Construction Trust Fund and then paid the Series 1997 Notes, which payment shall be effectuated by depositing the appropriate amount into the Sewerage System Bond Anticipation Notes, Series 1997 Payment Fund for immediate application to the payment of the Series 1997 Notes.
- D. Next, from the proceeds of the Series 1999 Bonds, there shall first be credited to the Bond Construction Trust Fund and then paid any and all the borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, including interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.
- E. As the Issuer received advances of the remaining moneys derived from the sale of the Series 1999 Bonds, such moneys shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of costs of the Project in the manner set forth in Section 6.02.
- F. After completion of construction of the Project, as certified by the Consulting Engineers, and all Costs have been paid, any remaining proceeds of the Series 1999 Bonds shall be used to fund the Series 1999 Bonds Reserve Account, if not funded upon issuance of the Bonds, in an amount not to exceed the Series 1999 Bonds Reserve Requirement; provided that if any such proceeds remain after funding the Series 1999 Bonds Reserve Account, the same shall be expended as directed by the Authority and DEP.

G. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 1999 Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Series 1999 Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund (except for costs of issuance of the Series 1999 Bonds which shall be paid upon the request of the Issuer) shall be made only after submission to, and approval from, the Authority and DEP of the following:

A. A "Payment Requisition Form," the form of which is attached to the Loan Agreement as Exhibit C; and

B. A certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

1. That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

2. That 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;

3. That each of such costs has been otherwise properly incurred; and

4. That payment for each of the items proposed is then due and owing.

All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank, the Authority and DEP written statements advising them of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1999 Bonds Reserve Account, and when fully funded any such remaining moneys shall be expended as directed by the Authority and DEP.

## 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 Holder or Holders of the Series 1999 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 1999 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Series 1999 Bonds or the interest thereon is Outstanding and unpaid.

Until the payment in full of the principal of and interest on the Series 1996 Notes when due, the covenants, agreements and provisions contained in this Resolution shall, where applicable, inure to the benefit of the Holders of the Series 1996 Notes and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by any Holder or Holders of said Series 1996 Notes.

Section 7.02. Series 1999 Bonds not to be Indebtedness of the Issuer. The Series 1999 Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any of the Series 1999 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay said Bonds or Notes or the interest thereon, if any.

Section 7.03. Series 1999 Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Prior Bonds and Series 1996 Note. The payment of the debt service of the Series 1999 Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on the Net Revenues derived from the operation of the System, junior, subject and subordinate to the lien on such Net Revenue, in favor of the Holders of the Prior Bonds, and the Series 1996 Notes shall in all respects be junior and subordinate to the Prior Bonds and the Series 1999 Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 1999 Bonds, the Prior Bonds and the Series 1996 Notes and to make the payments into the sinking funds, including the reserve accounts therein, and all other payments provided for in the Bond Legislation and the Prior Bond Resolution are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Series 1999 Bonds, the Prior Bonds and the Series 1996 Notes as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Schedule of Rates and Charges. The schedule of rates and charges for the services and facilities of the System, a copy of which is attached hereto as Exhibit C and incorporated herein and which rates have been approved and are described in the Commission Order

of the PSC entered January 22, 1999 in Case No. 97-0129-PSD-CN, are hereby adopted, ratified, approved and affirmed.

Section 7.05. Sale of the System. So long as any of the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System or any part thereof, except as provided in the Prior Bond Resolution. Additionally, except as otherwise required by law or with the written consent of the Authority and the DEP, 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 pay fully all the Prior Bonds, the Bonds and Series 1996 Notes Outstanding, or to effectively defease this Bond Legislation in accordance with Section 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds and Prior Bonds, immediately be remitted to the Commission for deposit in the appropriate sinking funds, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds and Prior Bonds. Any balance remaining after the payment of all the Bonds, Prior Bonds and Series 1996 Notes and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, and subject to the Prior Bond Resolution so long as any of the Prior Bonds remain Outstanding, 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 \$50,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. 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 \$50,000 but not in excess of \$200,000, 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 upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$50,000 and not in excess of \$200,000, shall be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts 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 \$200,000 and insufficient to pay all Prior Bonds, Bonds and Series 1996 Notes then Outstanding without the prior approval and consent in writing of

the Holders, or their duly authorized representatives, of over 50% in amount of the Prior Bonds, Bonds and Series 1996 Notes then outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Prior Bonds, Bonds and Series 1996 Notes 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 in Section 7.07, so long as any of the Series 1999 Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 1999 Bonds. All obligations issued by the Issuer after the issuance of the Series 1999 Bonds 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 and source of and security for payment from such revenues and in all other respects, to the Series 1999 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the sinking funds, reserve accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current. 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 1999 Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 1999 Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and DEP 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.

So long as any of the Prior Bonds are outstanding, the limitations on the issuance of obligations on a parity with the Prior Bonds set forth in the Prior Bond Resolution shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 1999 Bonds pursuant to this Bond Legislation, except 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 1999 Bonds, and must have the prior written consent of the Authority and the DEP.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements or betterments to the System or refunding one or more series of the Prior Bonds, the Series 1996 Notes and/or Bonds issued pursuant hereto, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, 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, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Prior Bonds and the Series 1999 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, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the said 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 Holders of the Bonds and the Holders 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.

All Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1999 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1999 Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation and the Prior Bond Resolution with respect to the Bonds and Prior Bonds 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 and Records. 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 DEP, or its 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 DEP such documents and information as it may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or its agents and representatives, to inspect all records pertaining to the operation of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this 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 Authority and the DEP, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

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

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

(C) The amount of any Prior Bonds and Bonds 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 and the Single Audit Act or successor thereto, in effect at the time, to the extent required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds, and shall submit said report to the Authority and the DEP, or any other original purchaser of the Bonds, within ninety (90) days of the end of the Fiscal Year. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation, and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority and the DEP, or their agents and representatives, access to the System site and facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and the DEP with respect to the System pursuant to the Act.

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been 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 said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created or continued 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 reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% (130% so long as any of the Prior Bonds remain outstanding) of the maximum amount required in any year for payment of principal of and interest on the Series 1999 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Series 1999 Bonds Reserve Account and reserve accounts for obligations prior to or on a parity with the Series 1999 Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 1999 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Series 1999 Bonds, including the Prior Bonds; but shall remain at 130% so long as any of the Prior Bonds remain Outstanding. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate schedule described in Section 7.04.

Section 7.10. Operating Budget, Audit 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 DEP within 30 days of adoption thereof. The Issuer, by the unanimous consent and approval of the Governing Body, may amend the budget during the subject Fiscal Year provided that the budget remains balanced after such amendment. If the budget is so amended, a copy of the amended budget shall be submitted to the Authority and the DEP within 15 days of the adoption of such amendment. After the adoption of any such amendment, the budget, as amended, shall be the budget of the Issuer for the balance of the subject Fiscal Year. 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 the Consulting Engineers, 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 the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget, any amendments thereto and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the DEP and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets, any amendments thereto and resolutions be furnished him or her and shall make available such budgets, any amendments thereto and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

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 as Exhibit B, and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate from the Consulting Engineers in the form attached to the Loan Agreement, stating, 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 DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP 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 require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Loan Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the DEP 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 resident engineer shall certify to the Authority, the DEP 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 require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer agrees that qualified operating personnel properly certified by the State will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System so long as the Series 1999 Bonds are Outstanding. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

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 Public Service Commission of West Virginia 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 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, 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 Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, 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 of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. 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. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and the DEP, so long as the Authority is the Owner of the Series 1999 Bonds. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion

of the Project, to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

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.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Division of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer will 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 will obtain all permits required by state and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the Series 1999 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 1999 Bonds and shall be for the equal benefit of all Holders of the Series 1999 Bonds, junior, subject and subordinate to the statutory mortgage lien in favor of the Holders of the Prior Bonds; provided however, that the statutory mortgage lien shall in no event secure the repayment of the Series 1996 Notes.

Section 7.19. Compliance With Loan Agreement and Law. The Issuer agrees to comply with all terms and conditions of the Loan Agreement. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with all copies submitted to the Authority.

The Issuer also agrees to comply with the Act and all applicable laws, rules and regulations issued by the Authority, the DEP 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 7.20. 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).

## ARTICLE VIII

### INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation, other than the Revenue Fund and Notes Payment 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, except as otherwise provided with respect to the Rebate Fund. 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, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank 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 if reasonably requested by the Issuer), a summary of such funds, accounts, and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds or Notes are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Original Bonds and Notes from gross income for federal income tax purposes.

Section 8.02. Information With Respect to Gross Proceeds. The Issuer shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" (as that term is defined in the Code) of the Series 1999 Bonds from time to time as the Authority may request.

## 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 1999 Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 1999 Bonds; 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 1999 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 1999 Bonds and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder 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.

(4) If default occurs with respect to the Series 1996 Notes, the Prior Bonds or the Prior Bond Resolution.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his 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 Holders of the Bonds 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 Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Holders of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds or the rights of such Holders of the Bonds, provided however, that all rights and remedies of the Holders of the Bonds shall be subject to those of the Holders of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Holder of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Holder of a 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 Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other avenues 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 said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might exercise.

Whenever all that is due upon the Bonds 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 Holder of any Bonds 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 Holders of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Holder of such Bonds 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 said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X  
DEFEASANCE

Section 10.01. Defeasance of Series 1999 Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1999 Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1999 Bonds only, 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 Owners of the Series 1999 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1999 Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1999 Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1999 Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1999 Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1999 Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to the issuance of the Series 1999 Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following the issuance of the Series 1999 Bonds, no material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Holders of the Bonds shall be made without the consent in writing of the Holders of 66-2/3% or more in principal amount of the Series 1999 Bonds 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 out of the funds herein respectively pledged therefor without the consent of the respective Holder thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Holders of the Series 1999 Bonds 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 1999 Bonds.

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

Section 11.05. Conflicting Provisions Repealed. All orders or resolutions and or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Resolution and the Prior Bond Resolution (so long as the Prior Bonds are Outstanding) or the resolution authorizing the Series 1996 Notes (so long as the Series 1996 Notes are Outstanding) the more restrictive provision shall control.

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.

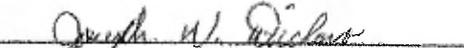
Section 11.07. Public Notice of Proposed Financing. Prior to making formal application to the PSC for a Certificate of Convenience and Necessity with respect to the Project, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation within the boundaries of the Issuer, a Class II legal advertisement stating:

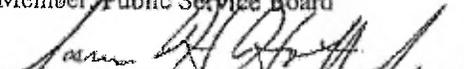
- (a) The respective maximum amounts of the Series 1999 Bonds to be issued;
- (b) The respective maximum interest rates and terms of the Series 1999 Bonds originally authorized hereby;
- (c) The public service properties to be acquired or constructed and the cost of the same;
- (d) The maximum anticipated rates which will be charged by the Issuer; and
- (e) The date that the formal application for a Certificate of 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 27th day of January, 1999.

  
Chairman, Public Service Board

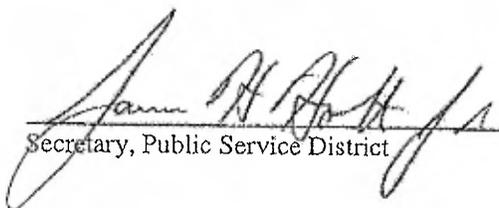
  
Member, Public Service Board

  
Member, Public Service Board

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of NORTH BECKLEY PUBLIC SERVICE DISTRICT on the 27th day of January, 1999.

Dated: January 28, 1999.

  
Secretary, Public Service District

[SEAL]

EXHIBIT A

DESCRIPTION OF PROJECT

Acquisition and construction of certain upgrades to the North Beckley Public Service District's existing sewerage system, including without limitation the rehabilitation and expansion of the District's sewer treatment plant from a .5 million gallons a day capacity (MGD) to 2.5 MGD, rehabilitation of three existing pump stations, installation of approximately 3,000 feet of gravity sewer main and approximately 2,000 feet of force sewer main and related improvements and appurtenances thereto.

EXHIBIT B

LOAN AGREEMENT

[See Transcript Document #3]

EXHIBIT C  
SCHEDULE OF RATES AND CHARGES

CASE NO. 97-0129-PSD-CN(Reopened)  
NORTH BECKLEY PUBLIC SERVICE DISTRICT

APPROVED RATES (Revised 01/22/99)

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service and for public authorities.

(C)(A)RATES (Based upon the metered amount of water supplied)

First 2,000 gallons used per month \$7.26 per 1,000 gallons  
Next 23,000 gallons used per month \$6.24 per 1,000 gallons  
Next 25,000 gallons used per month \$4.17 per 1,000 gallons

(A)MINIMUM CHARGE

No bill will be rendered for less than \$14.52

DELAYED PAYMENT PENALTY

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

WATER DISCONNECTION -RECONNECTION FEES

Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of \$7.50 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for non-payment of sewer bills is reconnected, a fee of \$7.50 shall be charged.

SEWER CONNECTION CHARGE

Sewer connection fee to tap to main is \$150.00.

(N) INCREMENTAL COST OF WASTEWATER TREATED

\$1.69 per M. Gal. To be used when bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is used to calculate consumption above customer's historical usage.

- (A) Indicates advance
- (C) Indicates change
- (N) Indicates new

BECKLEY PUBLIC SERVICE DISTRICT

BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWERAGE SYSTEM OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY NORTH BECKLEY PUBLIC SERVICE DISTRICT OF NOT MORE THAN FIVE MILLION THREE HUNDRED SEVEN THOUSAND SEVEN HUNDRED FORTY-ONE DOLLARS (\$5,307,741) IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003A (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF NORTH BECKLEY PUBLIC SERVICE DISTRICT:

RECEIVED  
MAY 03 2007  
MBC

## 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 22C, Article 2 of the West Virginia Code of 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. North Beckley Public Service District (the "Issuer") is a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain extensions, additions, betterments and improvements to the Issuer's existing sewerage system, including the extensions, additions, betterments and improvements described in Exhibit A hereto (collectively, the "Project") (the Issuer's existing sewerage system, the Project and any further additions thereto or extensions thereof are herein called the "System") in accordance with the plans and specifications prepared by Lawson Engineering & Technical Services, Inc., Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The acquisition and construction of the System were financed in part with the proceeds from \$8,090,898 in principal amount of the Issuer's Sewerage System Revenue Bonds, Series 1999 (the "Prior Bonds"), issued on January 28, 1999 authorized pursuant to a Bond Resolution adopted by the Issuer on January 27, 1999, as supplemented and amended by a Supplemental Resolution adopted on January 27, 1999 (collectively, the "Prior Resolution").

D. The Issuer derives revenues from the System, and, except for the pledge thereof to secure and pay the Prior Bonds, said revenues are not pledged or encumbered in any manner.

E. The estimated maximum cost of the acquisition and construction of the Project and issuance of the Series 2003A Bonds, as hereinafter defined, is \$7,707,741, of which \$1,500,000 will be paid with a Small Cities Block Grant, \$900,000 will be paid with an Economic Development Grant by the United States Economic Development Administration, and the balance of which will be permanently financed with the proceeds of the Issuer's Sewerage System Revenue Bonds, Series 2003A (West Virginia SRF Program) in the original principal amount of \$5,307,741 (the "Series 2003A Bonds") herein authorized.

F. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest, if any, on the Series 2003A Bonds

and the Prior Bonds and all sinking funds, reserve accounts and other payments provided for herein and in the Prior Resolution.

G. It is further deemed necessary for the Issuer to issue the Series 2003A Bonds in the total aggregate principal amount of not more than \$5,307,741 to permanently finance a portion of the costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Series 2003A Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion of construction of the Project, if any; amounts which may be deposited in the Series 2003A Bonds Reserve Account; 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 of the Authority and DEP (each as hereinafter defined), discount, fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2003A Bonds, 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 2003A Bonds, or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

H. The period of usefulness of the System after completion of the Project is not less than 35 years.

I. It is in the best interest of the Issuer that its Series 2003A Bonds be issued and sold to the West Virginia Water Development Authority (the "Authority") pursuant to the terms and provisions of a bond purchase agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), the execution, delivery and form of which are ratified and approved herein.

J. The Issuer has met the requirements of the Prior Resolution for the issuance of the Series 2003A Bonds on a parity with the Prior Bonds. Prior to the issuance of the Series 2003A Bonds, the Issuer will obtain (1) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds have been met and (2) the written consent from the Holder of the Prior Bonds to issue the Series 2003A Bonds on a parity with the lien on the Net Revenues of the Holders of the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or other obligations of the Issuer which are secured by revenues or assets of the System. The Series 2003 A Bonds shall be issued with a lien on the Net Revenues, as hereinafter defined, on parity with the lien thereon held by the Holders of the Prior Bonds.

K. The Issuer has complied with all requirements of West Virginia law and the Bond Purchase Agreement relating to authorization of the acquisition, construction and operation of the Project and the System, and issuance of the Series 2003A Bonds, or will have so complied prior to issuance thereof, including, among other things, the approval by the Council, as hereinafter defined, of the Project and the financing thereof, 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 by final order, the time for rehearing and appeal of which has expired or has been waived by all necessary parties prior to the issuance of the Series 2003A Bonds.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall be the registered owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the registered owners of any and all of such Bonds, all 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 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

“Authority” means the West Virginia Water Development Authority, or any other agency of the State of West Virginia that succeeds to the functions of the Authority, which is expected to be the original purchaser and Registered Owner of the Series 2003A Bonds.

“Authorized Officer” means the Chairman of the Governing Body of the Issuer or any temporary Chairman duly appointed by the Governing Body.

“Bondholder,” “Holder of the Bonds,” “Holder” or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

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

“Bond Purchase Agreement” shall mean the Bond Purchase Agreement heretofore entered into or to be entered into by and among the Authority, DEP and the Issuer providing for the purchase of the Series 2003A Bonds from the Issuer by the Authority, the form of which is attached hereto as Exhibit B and shall be approved, and the execution and delivery of which by the Issuer are authorized and directed by Section 4.11 hereof and by the Supplemental Resolution.

“Bond Registrar” means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

“Bonds” means the Prior Bonds, the Series 2003A Bonds and, where appropriate, any bonds on a parity therewith subsequently issued hereunder or pursuant to another resolution of the Issuer.

“Certificate of Authentication and Registration” means the certificate of authentication and registration on the Series 2003A Bonds in substantially the form set forth in the bond form contained herein.

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

“Closing Date” means the date on which there is an exchange of the Series 2003A Bonds for an advance of more than a de minimis amount of the principal of the Series 2003A Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and the Regulations promulgated thereunder.

“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.

“Completion Date” means the completion date of the Project, as defined in the SRF Regulations.

“Consulting Engineers” means Lawson Engineering & Technical Services, Inc., Beckley, West Virginia or any professional engineer or firm of professional engineers, licensed by the State who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political subdivisions, that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended.

“Costs” or “Costs of the Project” means those costs described in Section 1.02G hereof to be a part of the cost of acquisition and construction of the Project.

“Council” means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

“DEP” means the West Virginia Department of Environmental Protection, or any agency, board or department of the State that succeeds to the functions of the DEP.

“Depository Bank” means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of the FDIC.

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

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

"Grants" means, collectively, the \$1,500,000 Small Cities Block Grant and \$900,000 United States Economic Development Administration Economic Development Grant for the Project.

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

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

"I&I Fund" means the I&I Fund created by the Prior Resolution.

"Independent Certified Public Accountants" shall mean any public accountant or certified public accountant or firm of public accountants or 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.

"Interim Financing Bank" means United Bank, Inc., which is anticipated to be the bank providing the interim financing authorized and approved in Article III hereof, or such other bank as shall be designated as such in a resolution supplemental hereof.

"Investment Property" shall mean any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, or 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 excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

“Issuer” means North Beckley Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia, in Raleigh County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Net Proceeds” means the face amount of the Series 2003A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series 2003A Bonds Reserve Account, if any. 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 2003A Bonds, 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 which is acquired with the gross proceeds or any other proceeds of the Series 2003A Bonds and is not acquired in order to carry out the governmental purpose of the Series 2003A Bonds.

“Operating Expenses” means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, the SRF Administrative Fee, fees and expenses of the Authority and DEP, fiscal agents, the Depository Bank, Registrar and Paying Agent (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Outstanding,” when used with reference to Bonds as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond cancelled 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 and (iv) for purposes of consents or other action by a specified percentage of Bondholders, Bonds registered to the Issuer.

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

"Paying Agent" means the West Virginia Municipal Bond Commission, or such entity or authority as may be designated by the Issuer by Supplemental Resolution with the consent of the Authority and the DEP.

"Prior Bonds" means the Sewerage System Revenue Bonds, Series 1999, issued by the Issuer on January 28, 1999, in the aggregate principal amount of \$8,090,898, under the Prior Resolution.

"Prior Resolution" means the Bond Resolution, and all supplements thereto, adopted by the Public Service Board of the Issuer on January 27, 1999, authorizing the issuance of the Prior Bonds.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Project" means the extensions, additions, betterments and improvements to the Issuer's existing sewerage system described in Exhibit A hereto.

"PSC" means the Public Service Commission of West Virginia.

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

- (a) Government Obligations;
- (b) 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;
- (c) 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;
- (d) 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, 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;

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

(f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) 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;

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

(h) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registered Owner," "Bondholder," "Holder" or any similar term means whenever used herein with respect to an outstanding Bond 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 thereto.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolution.

"Reserve Accounts" means collectively, the Series 1999 Bonds Reserve Account and the Series 2003A Bonds Reserve Account.

"Reserve Requirements" means collectively, the respective amounts required to be on deposit in the Reserve Accounts.

"Revenue Fund" means the Revenue Fund established by the Prior Resolution.

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

“Series 2003A Bonds” means the Sewerage System Revenue Bonds, Series 2003A (West Virginia SRF Program) of the Issuer, authorized by this Resolution.

“Series 2003A Bonds Construction Trust Fund” means the Series 2003A Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2003A Bonds Reserve Account” means the Series 2003A Bonds Reserve Account established by Section 5.02 hereof.

“Series 2003A Bonds Reserve Requirement” means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2003A Bonds in the then current or any succeeding year.

“Series 2003A Bonds Sinking Fund” means the Series 2003A Bonds Sinking Fund established by Section 5.02 hereof.

“Sinking Funds” means, collectively, the Series 1999 Bonds Sinking Fund and the Series 2003A Bonds Sinking Fund.

“SRF Administrative Fee” means any administrative fee required to be paid under the Bond Purchase Agreement.

“SRF Program” means the State’s Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local government entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

“SRF Regulations” means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution, ordinance or order of the Issuer supplementing or amending this Resolution and, when preceded by the article “the,” refers specifically to the Supplemental Resolution authorizing the sale of the Series 2003A Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2003A Bonds 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 Series 2003A Bonds, the Prior Bonds or any other obligations of the Issuer, as further defined in Section 5.03(B) hereof.

“System” means the complete existing sewerage system now owned by the Issuer, consisting of a sewerage system in its entirety or any integral part thereof, for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, and shall

include the Project and any further extensions, additions, betterments and improvements thereto hereafter acquired or constructed for said 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.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

The terms “herein,” hereunder,” “hereby,” “hereto,” “hereof,” and any similar terms refer to this Resolution; and the term “hereafter” means after the date of enactment of this Resolution.

Articles, sections and subsections mentioned by number only are the respective articles, sections and subsections of this Resolution so numbered.

## ARTICLE II

### AUTHORIZATION OF THE ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of \$7,707,741 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 2003A Bonds hereby authorized 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 SRF Program.

The Cost of the Project, including without limitation the costs of issuing the Series 2003A Bonds, is estimated not to exceed \$7,707,741, which is to be paid with the proceeds of the Series 2003A Bonds in the amount of \$5,307,741, a Small Cities Block Grant in the amount of \$1,500,000 and a United States Economic Development Administration Economic Development Grant in the amount of \$900,000.

## ARTICLE III

### INTERIM CONSTRUCTION FINANCING

Section 3.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the gross proceeds of the Series 2003A Bonds and the proceeds of the Grants, the Issuer is hereby authorized to issue and sell its line of credit notes (the "Notes"), in an aggregate principal amount not to exceed \$200,000. The Notes shall be issued as evidence of a line of credit from the Interim Financing Bank. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such date or dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Credit Agreement, the form of which is attached hereto as Exhibit C.

Section 3.02. Terms of and Security Notes; Credit Agreement. The Notes shall be issued with such terms and secured in the manner set forth in the Credit Agreement, the form of which is hereby ratified and approved. The Chairman is hereby authorized and directed to execute and deliver the Credit Agreement on behalf of the Issuer.

Section 3.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from the surplus revenues, letter of credit proceeds, if any, proceeds of the Series 2003A Bonds and proceeds of the Grants. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in the Credit Agreement.

Section 3.04. Letters of Credit. As additional security for the Notes, the Issuer may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay the trustee to be appointed by a supplemental resolution, upon presentation by the trustee of certain certificates, the sum or sums set forth therein but not to exceed \$200,000 in the aggregate. In the event of a draw under any such letter of credit, the Issuer shall issue its refunding notes to the bank issuing such letter of credit. Any such letter of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

## ARTICLE IV

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF BOND PURCHASE AGREEMENT

Section 4.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2003A Bonds, if any, funding the Series 2003A Bonds Reserve Account, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2003A Bonds 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 negotiable Series 2003A Bonds of the Issuer, in an aggregate principal amount of not more than \$5,307,741. The Series 2003A Bonds shall be issued in one series, to be designated "Sewerage System Revenue Bonds, Series 2003A (West Virginia SRF Program)," and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2003A Bonds remaining after funding of the Series 2003A Bonds Reserve Account (if funded from the Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Series 2003A Bonds Construction Trust Fund established by Section 5.01 hereof.

Section 4.02. Terms of Bonds. The Series 2003A Bonds shall be issued in such principal amount; shall bear interest, if any, at such rate or rates, not exceeding the then 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 Bond Purchase Agreement. The Series 2003A Bonds 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 2003A Bonds, 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 2003A Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and debt service schedule attached, representing the aggregate principal amount of the Series 2003A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2003A Bonds shall be exchangeable at the option and expense of the Holder for other fully registered 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.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution or by another resolution of the Issuer. Such Bonds shall be dated as of the date specified in a Supplemental Resolution or by another resolution of the Issuer and shall bear interest, if any, from such date.

Section 4.03. Execution of Bonds. The Series 2003A Bonds 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 any of the Series 2003A Bonds shall cease to be such officer of the Issuer before the Series 2003A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2003A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 2003A Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 4.04. Authentication and Registration. No Series 2003A 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 forms set forth in Section 4.09 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 Series 2003A 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 all of the Bonds issued hereunder.

Section 4.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2003A Bonds 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 Holder, in accepting any of said Series 2003A Bonds shall be conclusively deemed to have agreed that such Bonds 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 Holder shall further be conclusively deemed to have agreed that said Bond shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Series 2003A Bonds remain Outstanding, the Issuer, through the Bond Registrar or its agent, shall keep and maintain the books for the registration and transfer of the Series 2003A Bonds.

The registered Series 2003A Bonds 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 his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2003A Bonds or transferring the registered Series 2003A Bonds are exercised, Series 2003A Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2003A Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Series 2003A Bonds, 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 Series 2003A Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2003A Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Series 2003A Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 4.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2003A 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 Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing 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. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 4.07. Bonds not to be Indebtedness of the Issuer. The Series 2003A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of any of the Series 2003A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2003A Bonds or the interest thereon, if any.

Section 4.08. Bonds Secured by Pledge of Net Revenues; Lien Position With Respect to Prior Bonds. The payment of the debt service of all the Series 2003A Bonds shall be secured by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2003A Bonds and the Prior Bonds and to make the payments into the Sinking Funds and the Reserve Accounts therein are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2003A Bonds and the Prior Bonds as the same become due.

Section 4.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2003A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2003A Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 2003A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2003A Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. A certified copy of the Bond Purchase Agreement; and

E. An approving opinion of bond counsel on the Series 2003A Bonds.

Section 4.10. Form of Series 2003A Bonds. The text of the Series 2003A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof;

[Form of Series 2003A Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REVENUE BOND,  
SERIES 2003A  
(WEST VIRGINIA SRF PROGRAM)

No. AR-\_\_\_\_\_

\$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That NORTH BECKLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh 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 \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), 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 on \_\_\_\_\_, \_\_\_\_\_, as set forth on the "Debt Service Schedule" attached as Exhibit B hereto and incorporated herein by reference, without interest.

The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing \_\_\_\_\_, 200\_\_\_\_, as set forth on Exhibit B attached hereto. 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"). The SRF Administrative Fee on this Bond are payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of the Registrar (as defined in the hereinafter described Bond Legislation) on the 15<sup>th</sup> day of the month next preceding a SRF Administrative Fee payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may only be redeemed prior to its stated date of maturity in whole or in part upon the terms and conditions prescribed by, and otherwise in compliance with, the Water Pollution Control Revolving Fund Bond Purchase Agreement among the Issuer, the West Virginia Department of Environmental Protection (the "DEP") and the Authority, dated August 20, 2003.

This Bond is issued (i) to permanently finance a portion of the costs of acquisition and construction of certain additions, betterments and improvements to the existing public sewerage facilities of the Issuer (the "Project"); (ii) to fund the Series 2003A Bonds Reserve Account; and (iii) to pay certain costs of issuance hereof and related costs. The existing public sewerage facilities of the Issuer, the Project and any further additions, betterments or improvements 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 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on September 24, 2003 and a Supplemental Resolution duly adopted by the Issuer on September 24, 2003 (collectively called 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 securities provided for the Bonds of this Series (the "Bonds") under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999, ISSUED ON JANUARY 28, 1999, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$8,090,898 (THE "PRIOR BONDS").

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, on parity with the pledge of the Net Revenues in favor of the holders of the Prior Bonds, and from moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 2003A Bonds Reserve Account"), and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all Bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the 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, if any, hereon except from said special fund provided from the Net Revenues, the moneys in the Series 2003A Bonds Reserve Account and unexpended proceeds of the Bonds. 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, if any, on the Bonds, and all other obligations secured by a lien on or payable from such revenues on a parity with the Bonds, including the Prior Bonds, provided however, that so long as there exists in the Series 2003A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with the Bonds, including the Prior Bonds, 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 owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds 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 \_\_\_\_\_, Charleston,

West Virginia as registrar (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 the payment of the Costs of the Project and the costs of issuance 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 in the issuance of this Bond have existed, 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 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, NORTH BECKLEY 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 \_\_\_\_\_, 2003.

NORTH BECKLEY PUBLIC  
SERVICE DISTRICT

[SEAL]

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2003A Bonds 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: \_\_\_\_\_, 2003.

\_\_\_\_\_  
as Registrar

By: \_\_\_\_\_  
Its: Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

	<u>Amount</u>	<u>Date</u>		<u>Amount</u>	<u>Date</u>
(1)	\$		(7)	\$	
(2)	\$		(8)	\$	
(3)	\$		(9)	\$	
(4)	\$		(10)	\$	
(5)	\$		(11)	\$	
(6)	\$		(12)	\$	

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:

\_\_\_\_\_

Section 4.11. Sale of Bonds; Approval and Ratification of Execution of Bond Purchase Agreement. The Series 2003A Bonds shall be sold to the Authority pursuant to the terms and conditions of the Bond Purchase Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Bond Purchase Agreement in the form attached hereto as "Exhibit B" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Bond Purchase Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The Bond Purchase Agreement, including all schedules and exhibits attached thereto, is hereby approved.

Section 4.12. Series 2003A Bonds are Issued as Parity Bonds With Respect to Prior Bonds. The Series 2003A Bonds are issued as and shall constitute parity bonds with respect to the Prior Bonds. The Issuer has met the requirements of the Prior Resolution for the issuance of the Series 2003A Bonds on a parity with the Prior Bonds and has received the written consent of the Holder of the Prior Bonds to the issuance of the Series 2003A Bonds on a parity with the Prior Bonds.

Section 4.13. "Filing of Amended Schedule. Within sixty (60) days following the Completion Date, the Issuer will file with the Authority and the DEP a schedule, the form of which will be provided by the DEP, setting forth the actual costs of the Project and sources of funds therefor.

## 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 created (or continued if established by the Prior Resolution) 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 (created or continued by the Prior Resolution);
2. Renewal and Replacement Fund (created or continued by the Prior Resolution);
3. I & I Fund (created or continued by the Prior Resolution); and
4. Series 2003A Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with the Commission (or continued if established by the Prior Resolution):

1. Series 1999 Bonds Sinking Fund (created by the Prior Resolution);
2. Within the Series 1999 Bonds Sinking Fund, the Series 1999 Bonds Reserve Account (created by the Prior Resolution);
3. Series 2003A Bonds Sinking Fund; and
4. Within the Series 2003A Bonds Sinking Fund, the Series 2003A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this 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.

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

2. The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit into the Series 1999 Bonds Sinking Fund the amounts required for the payment of principal of the Prior Bonds in accordance with the Prior Resolution, and (ii) commencing 3 months prior to the first date of payment of principal on the Series 2003A Bonds, for deposit in the Series 2003A Bonds Sinking

Fund, a sum equal to 1/3rd of the amount of principal which will mature and become due on said Series 2003A Bonds 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 2003A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date. The Issuer shall complete the "Monthly Payment Form," the form of which is attached to the Bond Purchase Agreement as Exhibit F, and submit a copy of said form along with a copy of its remittance check to the Authority by the 5th day of such calendar month.

3. The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit into the Series 1999 Bonds Reserve Account the amount required by the Prior Resolution to be deposited therein, and (ii) commencing 3 months prior to the first date of payment of principal of the Series 2003A Bonds, if the Series 2003A Bonds Reserve Account is not fully funded upon issuance of the Series 2003A Bonds for deposit in the Series 2003A Bonds Reserve Account, an amount equal to 1/120 of the Series 2003A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2003A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2003A Bonds Reserve Requirement.

4. The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Resolution and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

5. The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and deposit into the I&I Fund, all amounts remaining in the Revenue Fund after making the transfers set forth in paragraphs 1 through 4 above, until the sum of \$18,000 has been deposited therein during the then current month. All funds in the I&I Fund shall be kept separate and apart from all other funds of the Issuer and the Depository Bank.

Withdrawals and disbursements from the I&I Fund shall be made by the Issuer only for correcting problems with inflow and infiltration with respect to the System and only in accordance with the applicable orders of the PSC, provided that the I&I Fund shall only be required to be maintained and funded as long as required by the PSC.

Moneys in the Series 2003A Bonds Sinking Fund shall be used only for the purpose of paying principal of and interest, if any, on the Series 2003A Bonds as the same shall

become due. Moneys in the Series 2003A Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 2003A Bonds, as the same shall come due, when other moneys in the Series 2003A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2003A Bonds Sinking Fund and Series 2003A Bonds Reserve Account (if equal to the Series 2003A Bonds Reserve Requirement) 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 2003A Bonds 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 payments, if any, due on the Series 2003A Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 2003A Bonds Reserve Account which result in the reduction of the balance of the Series 2003A Bonds Reserve Account below the Series 2003A Bonds Reserve Account 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 2003A Bonds 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 2003A Bonds Sinking Fund, or into the Series 2003A Reserve Account therein when the aggregate amount of funds in said Series 2003A Sinking Fund and Series 2003A Reserve Account are at least equal to the aggregate principal amount of the Series 2003A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the maturity thereof.

Principal, interest and reserve payments, whether for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Prior Bonds and the Series 2003A Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2003A Bonds Sinking Fund and the Series 2003A Bonds Reserve Account created hereunder, and all amounts required for said fund and account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Series 2003A Bonds Sinking Fund and the Series 2003A Bonds Reserve Account and the payment of the SRF Administrative Fee as set forth in Schedule Y attached to the Bond Purchase Agreement shall be made on the first day of each month, except that when the first day of any month shall be a Saturday, Sunday or legal holiday then such payments shall be made on the next succeeding business day, 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. If required by the Authority in writing at any time, the Issuer shall make the necessary arrangements whereby such payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2003A Bonds Sinking Fund and the Series 2003A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2003A Bonds Sinking Fund, including the Series 2003A Bonds Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2003A Bonds under the conditions and restrictions hereinafter set forth.

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

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as any of such parties shall require, such additional sums as shall be necessary to pay their respective fees and charges then due. In 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.

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

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as 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.

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Series 2003A Bonds Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System.

## ARTICLE VI

### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

#### Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds.

From the moneys received from the sale of any or all of the Series 2003A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2003A Bonds, there shall first be deposited with the Commission in the Series 2003A Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2003A Bonds for the period commencing on the date of issuance of the Series 2003A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2003A Bonds, there shall be deposited with the Commission in the Series 2003A Bonds Reserve Account the sum, if any, set forth in the Supplemental Resolution for funding of the Series 2003A Bonds Reserve Account.

C. Next, from the proceeds of the Series 2003A Bonds, there shall first be credited to the Series 2003A Bonds Construction Trust Fund and then paid any and all the borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, including interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

D. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2003A Bonds, such moneys shall be deposited with the Depository Bank in the Series 2003A Bonds 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 2003A Bonds.

E. After completion of construction of the Project, as certified by the Consulting Engineers, and all Costs have been paid, any remaining proceeds of the Series 2003A Bonds shall be used to fund the Series 2003A Bonds Reserve Account, if not funded upon issuance of the Series 2003A Bonds, in an amount not to exceed the Series 2003A Bonds Reserve Requirement; provided that in no event shall more than 10% of the proceeds of the Series 2003A Bonds be deposited in the Series 2003A Bonds Reserve Account, and if any such proceeds remain after funding the Series 2003A Bonds Reserve Account, the same shall be expended as directed by the Authority and DEP.

#### Section 6.02. Disbursements From the Series 2003A Bonds Construction Trust Fund.

On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 2003A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments for costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2003A Bonds Construction Trust Fund shall be made only after submission to, and approval from, the Authority and DEP of the following:

A. A completed and signed "Payment Requisition Form," the form of which is attached to the Bond Purchase Agreement as Exhibit C in compliance with the construction schedule; and

B. A certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

1. None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

2. 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;

3. Each of such costs has been otherwise properly incurred; and

4. Payment for each of the items proposed is then due and owing.

Pending such application, moneys in the Series 2003A Bonds 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 Holder or Holders of the Series 2003A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2003A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Series 2003A Bonds or the interest thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2003A Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any of the Series 2003A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay said Bonds or the interest thereon, if any.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Series 2003A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System, on parity with the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest, if any, on the Series 2003A Bonds and the Prior Bonds and to make the payments into the sinking funds, including the reserve accounts therein, and all other payments provided for in the Bond Legislation and the Prior Resolution are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Series 2003A Bonds and the Prior Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. 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 Bond Purchase Agreement. The schedule of rates and charges for the services and facilities of the System, a copy of which is attached hereto as Exhibit D and incorporated herein and which rates have been approved and are described in the Commission Order of the PSC entered January 22, 1999 in Case No. 97-0129-PSD-CN, are hereby adopted, ratified, approved and affirmed.

So long as any of the Series 2003A Bonds are 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 the Bond Legislation and in compliance with the Bond Purchase Agreement. In the event the

schedule of rates and charges initially established for the System in connection with the Series 2003A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase Agreement, the Issuer hereby covenants and agrees that it will, to the extent and in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Bond Purchase Agreement.

Section 7.05. Sale of the System. So long as any of the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System or any part thereof, except as provided in the Prior Resolution. Additionally, except as otherwise required by law or with the written consent of the Authority and the DEP, 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 pay fully all the Prior Bonds and the Series 2003A Bonds, or to effectively defease this Bond Legislation in accordance with Section 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2003A Bonds and Prior Bonds, immediately be remitted to the Commission for deposit in Series 2003A Bonds Sinking Fund and the Prior Bonds Sinking Fund, respectively, pro rata with respect to the principal amounts of the Series 2003A Bonds and the Prior Bonds then outstanding, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Series 2003A Bonds and Prior Bonds. Any balance remaining after the payment of all the Series 2003A Bonds and Prior Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, and subject to the Prior Resolution so long as any of the Prior Bonds remain Outstanding, 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 \$50,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. 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 \$50,000 but not in excess of \$200,000, 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 upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$50,000 and not in excess of \$200,000, shall be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts 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 \$200,000 and insufficient to pay all Prior Bonds and the Series 2003A Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Prior Bonds and Series 2003A Bonds then outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Prior Bonds and Series 2003A Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and in Section 7.07, so long as any of the Series 2003A Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2003A Bonds. All obligations issued by the Issuer after the issuance of the Series 2003A Bonds 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 and source of and security for payment from such revenues and in all other respects, to the Series 2003A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the sinking funds, reserve accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current. 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 2003A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2003A Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and DEP 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. So long as any of the Prior Bonds are outstanding, the limitations on the issuance of obligations on a parity with the Prior Bonds set forth in the Prior Resolution shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2003A Bonds pursuant to this Bond Legislation, except 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 2003A Bonds, and must have the prior written consent of the Authority and the DEP.

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

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public

Accountants, reciting the conclusion that the Net Revenues 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, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (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, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the 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 said 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 Holders of the Bonds and the Holders 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 the revenues of the System is subject to the prior and superior liens of the Series 2003A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally,

as to lien on and source of and security for payment from such revenues, with the Series 2003A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation and the Prior Resolution with respect to the Series 2003A Bonds and Prior Bonds 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 DEP, or its 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 DEP such documents and information as it may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or its 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, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this 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 Authority and the DEP, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

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

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

(C) The amount of any Bonds 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 and the Single Audit Act or successor thereto, in effect at the time, to the extent required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds, and shall submit said report to the Authority and the DEP, or any other original purchaser of the Bonds, within ninety (90) days of the end of the Fiscal Year. Such audit report submitted to the Authority and the DEP shall include a statement that the Issuer is in compliance with the terms and provisions of the Bond Purchase Agreement and this Bond Legislation, and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Bond Purchase 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 provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the Bond Purchase Agreement or as promulgated from time to time.

The Issuer shall permit the Authority and the DEP, 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 DEP, 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 DEP with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2003A Bonds, equitable rates or charges for the use of and service rendered by the System have been 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 said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created or continued 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 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 on the Series 2003A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2003A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Series 2003A Bonds Reserve Account and reserve accounts for obligations on a parity with the Series 2003A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2003A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2003A Bonds, including the Prior Bonds.

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 DEP within 30 days of adoption thereof. The Issuer, by the unanimous consent and approval of the Governing Body, may amend the budget during the subject Fiscal Year provided that the budget remains balanced after such amendment. If the budget is so amended, a copy of the amended budget shall be submitted to the Authority and the DEP within 15 days of the adoption of such amendment. After the adoption of any such amendment, the budget, as amended, shall be the budget of the Issuer for the balance of the subject Fiscal Year. 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 the Consulting Engineers, 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 the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall, within 30 days of adoption thereof, mail copies of such annual budget, any amendments thereto and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the DEP and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets, any amendments thereto and resolutions be furnished him or her and shall make available such budgets, any amendments thereto and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

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 Bond Purchase Agreement as Exhibit B, and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate from the Consulting Engineers in the form attached to the Bond Purchase Agreement, stating, 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 DEP, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP 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 require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Bond Purchase Agreement as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Authority and the DEP 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 DEP 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 require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System so long as the Series 2003A Bonds are Outstanding. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

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 Public Service Commission of West Virginia 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 Public Service Commission of West Virginia, 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 Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, 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 of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. 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 any of the Series 2003A Bonds remain 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 Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. 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 Bond Purchase 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 \$1,000,000 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) WORKERS' 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 West Virginia Code Chapter 38, Article 2, Section 39.

(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 for 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 workers' 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 DEP. In the event the Bond Purchase 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 interest may appear. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house,

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

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

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer will 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 Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2003A Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the Series 2003A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2003A Bonds and shall be for the equal benefit of all Holders of the Series 2003A Bonds, on parity with the statutory mortgage lien in favor of the Holders of the Prior Bonds.

Section 7.19. Compliance With Bond Purchase Agreement and Law. The Issuer shall perform, satisfy and comply with all terms and conditions of the Bond Purchase Agreement. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with all copies submitted to the Authority.

The Issuer also agrees to comply with the Act and all applicable laws, rules and regulations issued by the Authority, the DEP 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 7.20. 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 7.21. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2003A Bonds or within ten days 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 DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2003A Bonds held in "contingency" as set forth in the schedule attached to the Certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2003A Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the DEP 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.

Section 7.22. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Series 2003A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Series 2003A Bonds during the term thereof is, under the terms of the Series 2003A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect to any property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2003A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Series 2003A Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2003A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Series 2003A Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the Series 2003A Bonds or \$5,000,000 are

used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Series 2003A Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure that tax-exempt status of the Series 2003A Bonds and the interest thereon, including, without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 2003A Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

## ARTICLE VIII

### INVESTMENT OF FUNDS

Section 8.01. Investments. 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, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank 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 if reasonably requested by the Issuer), a summary of such funds, accounts, and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2003A Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the Series 2003A Bonds from gross income for federal income tax purposes.

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 2003A Bonds as a condition of issuance of the Series 2003A Bonds. 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 2003A Bonds as may be necessary in order to maintain the status of the Series 2003A Bonds 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 2003A Bonds 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 DEP, as the case may be, from which the proceeds of the Series 2003A Bonds 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 DEP, to ensure compliance with the covenants and agreements set forth in this Section 8.02, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation. The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2003A Bonds 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 2003A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 2003A Bonds; 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 2003A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2003A Bonds and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder 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.

(4) If default occurs with respect to the Prior Bonds or the Prior Resolution.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any registered Owner of the Series 2003A Bonds 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 Holders of the Bonds 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 Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Holders of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds or the rights of such Holders of the Bonds, provided however, that all rights and remedies of the Holders of the Series 2003A Bonds shall be on a parity with those of the Holders of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Holder of the Series 2003A Bonds 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 and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Holder of a 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 Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other avenues 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 said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might exercise.

Whenever all that is due upon the Bonds 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 Holder of any Bonds 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 Holders of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Holder of such Bonds 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 said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

## ARTICLE X

### PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the Series 2003A Bonds, 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 Owners of the Series 2003A Bonds 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 the issuance of the Series 2003A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following the issuance of the Series 2003A Bonds, no material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Holders of the Bonds shall be made without the consent in writing of the Holders of the Series 2003A Bonds 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 out of the funds herein respectively pledged therefor without the consent of the respective Holder thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Holders of the Series 2003A Bonds 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 2003A Bonds.

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

Section 11.05. Conflicting Provisions Repealed. All orders or resolutions and or parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Resolution and the Prior Resolution (so long as the Prior Bonds are Outstanding) the more restrictive provision shall control.

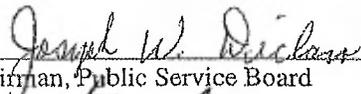
Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular 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.

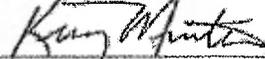
Section 11.07. Public Notice of Proposed Financing. Prior to making formal application to the PSC for a Certificate of Convenience and Necessity with respect to the Project, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation within the boundaries of the Issuer, a Class II legal advertisement stating:

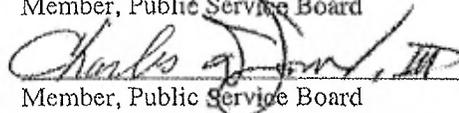
- (a) The maximum amount of the Series 2003A Bonds to be issued;
- (b) The maximum interest rates and terms of the Series 2003A Bonds originally authorized hereby;
- (c) The public service properties to be acquired or constructed and the cost of the same;
- (d) The maximum anticipated rates which will be charged by the Issuer; and
- (e) The date that the formal application for a Certificate of 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 24th day of September, 2003.

  
\_\_\_\_\_  
Chairman, Public Service Board

  
\_\_\_\_\_  
Member, Public Service Board

  
\_\_\_\_\_  
Member, Public Service Board

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of NORTH BECKLEY PUBLIC SERVICE DISTRICT on the 24th day of September, 2003.

Dated: September 29, 2003.



\_\_\_\_\_  
Secretary

[SEAL]

EXHIBIT A

DESCRIPTION OF PROJECT

Acquisition and construction of certain upgrades to the North Beckley Public Service District's existing sewerage system, including without limitation, approximately 17.82 miles of gravity sewer lines, 4 pump stations and approximately 1.9 miles of force sewer main to serve customers in Beckley and Stanaford in Raleigh County, West Virginia, and related improvements and appurtenances thereto.

EXHIBIT B  
BOND PURCHASE AGREEMENT

EXHIBIT C  
CREDIT AGREEMENT

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWERAGE SYSTEM REVENUE BONDS,  
SERIES 2003A  
(WEST VIRGINIA SRF PROGRAM)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, REDEMPTION PROVISIONS, SALE PRICE AND OTHER TERMS OF THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003A (WEST VIRGINIA SRF PROGRAM) OF NORTH BECKLEY PUBLIC SERVICE DISTRICT; AUTHORIZING, RATIFYING AND APPROVING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A BOND REGISTRAR, DEPOSITORY BANK AND PAYING AGENT; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of North Beckley Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on September 24, 2003 (the "Resolution") entitled:

BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWERAGE SYSTEM OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY NORTH BECKLEY PUBLIC SERVICE DISTRICT OF NOT MORE THAN FIVE MILLION THREE HUNDRED SEVEN THOUSAND SEVEN HUNDRED FORTY-ONE DOLLARS (\$5,307,741) IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003A (WEST VIRGINIA SRF PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, 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 Sewerage System Revenue Bonds, Series 2003A (West Virginia SRF Program) of the Issuer (the "Series 2003A Bonds"), in an aggregate principal amount not to exceed \$5,307,741, and has authorized the execution and delivery of a bond purchase agreement relating to the Series 2003A Bonds dated August 20, 2003 (the "Bond Purchase Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), all in accordance with Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the form of the Bond Purchase Agreement and exact principal amount, date, maturity date, interest rate, interest and principal payment dates, redemption provisions, sale price and other terms of the Series 2003A Bonds should be established by a supplemental resolution pertaining to the Series 2003A Bonds; and that other matters relating to the Series 2003A Bonds be herein provided for;

WHEREAS, the Bond Purchase Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Series 2003A Bonds are proposed to be purchased by the Authority pursuant to the Bond Purchase Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Bond Purchase Agreement be ratified, approved and entered into by the Issuer, that the exact principal amount, the date, the maturity date, the interest rate, the interest and principal payment dates, redemption provisions, sale price and other terms of the Series 2003A Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Series 2003A Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF NORTH BECKLEY 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 Sewerage System Revenue Bonds, Series 2003A (West Virginia SRF Program) of the Issuer, originally represented by a single bond, numbered AR-1, in the principal amount of \$5,307,741. The Series 2003A Bonds shall be dated the date of delivery thereof, shall finally mature on June 1, 2035, and shall bear no interest. The principal of the Series 2003A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2005 and maturing June 1, 2035, and in the amounts set forth in "Schedule Y" attached to the Bond Purchase Agreement and incorporated in and made part of the Series 2003A Bonds. The Series 2003A Bonds shall be subject to redemption upon the written consent of the Authority and DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Bond Purchase Agreement, as long as the Authority shall be registered owner of the Series 2003A Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal

to .5% of the principal amount of the Series 2003A Bonds set forth in "Schedule Y" attached to the Bond Purchase Agreement.

Section 2. All other provisions relating to the Series 2003A Bonds and the text of the Series 2003A Bonds shall be in substantially the form provided in the Resolution.

Section 3. The Issuer does hereby authorize, ratify, approve and accept the Bond Purchase Agreement, a copy of which is incorporated herein by reference, and the execution and delivery by the Chairman of the Bond Purchase Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, ratified, approved and directed. The price of the Series 2003A Bonds shall be 100% of par value, there being no interest accrued thereon, provided that, the proceeds of the Series 2003A Bonds shall be advanced from time to time as requisitioned by the Issuer, and at closing there shall be requisitioned and advanced a portion of the proceeds in the amount of \$265,387, being more than a de minimis amount. The Issuer hereby affirms all covenants and representations made in the Bond Purchase Agreement and in the application to the DEP and the Authority.

Section 4. The Issuer does hereby appoint and designate United Bank, Inc., Charleston, West Virginia, as Registrar for the Series 2003A Bonds under the Resolution.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Series 2003A Bonds under the Resolution.

Section 6. The Issuer does hereby appoint and designate United Bank, Inc., Beckley, West Virginia, as Depository Bank under the Resolution.

Section 7. The Series 2003A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2003A Bonds Sinking Fund as capitalized interest.

Section 8. The Series 2003A Bonds proceeds in the amount of \$176,928 shall be deposited in the Series 2003A Bonds Reserve Account.

Section 9. The remaining proceeds of the Series 2003A Bonds shall be deposited in the Series 2003A Bonds Construction Trust Fund as received from time to time for payment of costs of the Project, including costs of issuance of the Series 2003A Bonds.

Section 10. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Series 2003A Bonds hereby and by the Resolution approved and provided for, to the end that the Series 2003A Bonds may be delivered to the Authority pursuant to the Bond Purchase Agreement on or about September 29, 2003, or as soon thereafter as practicable.

Section 11. The acquisition and construction of the Project and the permanent financing of the Costs thereof with the proceeds of the Series 2003A Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of

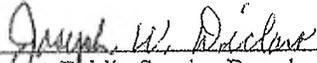
the residents of the Issuer. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

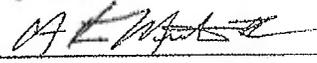
Section 12. The Issuer hereby determines that it is in the best interest of the Issuer to invest all monies in the funds and accounts established by the Resolution held by the Depository Bank in time deposits of the Depository Bank meeting the requirements set forth under the definition of "Qualified Investments" in the Bond Resolution and therefore the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such monies to be invested in such time deposits, until further directed by the Issuer. Monies in the Series 2003A Bonds Sinking Fund, including the Series 2003A Bonds Reserve Account therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

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

Adopted this 24th day of September, 2003.

NORTH BECKLEY PUBLIC SERVICE DISTRICT

  
\_\_\_\_\_  
Chairman, Public Service Board

  
\_\_\_\_\_  
Member, Public Service Board

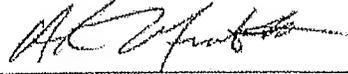
  
\_\_\_\_\_  
Member, Public Service Board

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of NORTH BECKLEY PUBLIC SERVICE DISTRICT on the 24th day of September, 2003.

Dated: September 29, 2003.

[SEAL]



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Secretary

NORTH BECKLEY PUBLIC SERVICE DISTRICT

SEWER REVENUE BONDS, SERIES 2009 A  
(WEST VIRGINIA SRF PROGRAM); AND  
SEWER REVENUE BONDS, SERIES 2009 B  
(WEST VIRGINIA SRF PROGRAM/ARRA)

BOND RESOLUTION

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**ARTICLE X  
PAYMENT OF BONDS**

Section 10.01	Payment of Bonds
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**ARTICLE XI  
MISCELLANEOUS**

Section 11.01	Amendment or Modification of Bond Legislation
Section 11.02	Bond Legislation Constitutes Contract
Section 11.03	Severability of Invalid Provisions
Section 11.04	Headings, Etc.
Section 11.05	Conflicting Provisions Repealed
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	SIGNATURES
	CERTIFICATION
	EXHIBIT A

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NORTH BECKLEY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE PAYMENT IN FULL OF THE DISTRICT'S UNITED BANK NOTE AND ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF \$4,544,324 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), SEWER REVENUE BONDS AND \$2,415,521 IN AGGREGATE PRINCIPAL AMOUNT OF SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF NORTH BECKLEY 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 22C, Article 2 of the West Virginia Code of 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. North Beckley Public Service District (the "Issuer") is a public service district and a public corporation and political subdivision of the State of West Virginia in Raleigh County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed improvements and extensions to the existing public sewerage system of the Issuer, consisting of extending its sewer system into the Lanark area of Raleigh County and adding 301 customers, and necessary appurtenances relating thereto, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the existing public sewer facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer has heretofore temporarily financed the design and other preliminary costs of the Project by the issuance of the United Bank Note, dated September 24, 2003 issued in the original aggregate principal amount of \$200,000 (the "Prior Note").

D. It is deemed necessary and desirable for the Issuer to pay the Prior Note.

E. The Issuer intends to pay the Prior Note and permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund pursuant to the Act.

F. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the total aggregate principal amount of \$6,959,845, in two series, being the (1) Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), in the aggregate principal amount of \$4,544,324 (the "Series 2009 A Bonds") and (2) Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), in the aggregate principal amount of \$2,415,521 (the "Series 2009 B Bonds") (collectively, the "Series 2009 Bonds"), to pay the Prior Note and 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. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2009 Bonds 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 Reserve Accounts (as hereinafter defined); the costs of paying the Prior Note in full; 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,

including the SRF Administrative Fee (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2009 Bonds 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 2009 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

G. The period of usefulness of the System after completion of the Project is not less than 30 years.

H. It is in the best interests of the Issuer that its Series 2009 A Bonds and Series 2009 B Bonds be sold to the Authority pursuant to the terms and provisions of an ARRA assistance agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), in form satisfactory to the respective parties (the "ARRA Assistance Agreement"), approved hereby if not previously approved by resolution of the Issuer.

I. Upon payment of the Prior Note, there are outstanding obligations of the Issuer which will rank on a parity with the Series 2009 Bonds as to liens, pledge and source of and security for payment, being the Issuer's (i) Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898 (the "Series 1999 Bonds"); and (ii) Sewerage System Revenue Bonds, Series 2003 A (West Virginia SRF Program), dated September 29, 2003, issued in the original aggregate principal amount of \$5,307,741 (the "Series 2003 A Bonds") (hereinafter collectively, the "Prior Bonds").

The Series 2009 Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 2009 Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Holders of the Prior Bonds to the issuance of the Series 2009 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolutions.

J. 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 costs of operation and maintenance of the System and the principal of and interest, if any, on the Series 2009 Bonds and the Prior Bonds, and to make payments into all funds and accounts and other payments provided for herein.

K. The Issuer has complied with all requirements of West Virginia law and the ARRA Assistance Agreement relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2009 Bonds, 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 West Virginia Infrastructure 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 by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2009 Bonds or such final order will not be subject to appeal or rehearing.

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

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2009 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2009 Bonds, 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 22C, Article 2 of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

“ARRA Assistance Agreement” means the ARRA Assistance Agreement heretofore entered into, or to be entered into, by and among the Issuer, the Authority and the DEP, providing for the purchase of the Series 2009 A Bonds and the Series 2009 B Bonds 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.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2009 Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority, acting in its administrative capacity and upon authorization from the DEP under the Act.

“Authorized Officer” means the Chairman of the Governing Body of the Issuer or any temporary Chairman duly selected by the Governing Body.

“Bondholder,” “Holder of the Bonds,” “Holder,” “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.

“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 bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

“Bonds” means, collectively, the Series 2009 Bonds, the Prior Bonds and any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

“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.

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

“Closing Date” means the date upon which there is an exchange of the Series 2009 Bonds for all or a portion of the proceeds of the Series 2009 Bonds from the Authority.

“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 Lawson Engineering & Technical Services, Inc., Beckley, 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 West Virginia Code of 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

“Costs” or “Costs of the Project” means those costs described in Section 1.02D hereof to be a part of the cost of acquisition and construction of the Project.

"DEP" means the West Virginia Department of Environmental Protection or any other agency, board or department of the State that succeeds to the functions of the DEP.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its 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 monies received by the Issuer on account of any Grant for the Project.

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

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

"I&I Fund" means the I&I Fund created by the Prior Resolution.

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

"Issuer" means North Beckley Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh

County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Net Proceeds" means the face amount of the Series 2009 Bonds, 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 2009 Bonds, 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.

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

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which monies, 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 Bondholders, any Bonds registered to the Issuer.

"Parity Bonds" means additional 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 2009 Bonds in the Supplemental Resolution.

"Prior Bonds" means, collectively, the Series 1999 Bonds and the Series 2003 A Bonds.

"Prior Note" or "United Bank Note" means the United Bank Note, dated September 24, 2003 issued in the original aggregate principal amount of \$200,000.

"Prior Resolutions" means, collectively, the Resolutions authorizing the Prior Bonds.

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

"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 West Virginia Code of 1931, as amended; and

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

"Registrar" means the Bond Registrar.

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

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

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2009 Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in the Reserve Accounts of the Series 2009 Bonds and the Prior Bonds.

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

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

"Series 1999 Bonds" means the Issuer's Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898.

“Series 2003 A Bonds” means the Issuer’s Sewer Revenue Bonds, Series 2003 A (West Virginia SRF Program), dated September 29, 2003, issued in the original aggregate principal amount of \$5,307,741.

“Series 2009 Bonds” means, collectively, the Series 2009 A Bonds and the Series 2009 B Bonds.

“Series 2009 A Bonds” means the Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, authorized by this Resolution.

“Series 2009 A Bonds Construction Trust Fund” means the Series 2009 A Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2009 A Bonds Reserve Account” means the Series 2009 A Bonds Reserve Account established by Section 5.02 hereof.

“Series 2009 A Bonds 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 2009 A Bonds in the then current year or any succeeding year.

“Series 2009 A Bonds Sinking Fund” means the Series 2009 A Bonds Sinking Fund established by Section 5.02 hereof.

“Series 2009 B Bonds” means the Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, authorized by this Resolution.

“Series 2009 B Bonds Construction Trust Fund” means the Series 2009 B Bonds Construction Trust Fund established by Section 5.01 hereof.

“Series 2009 B Bonds Reserve Account” means the Series 2009 B Bonds Reserve Account established by Section 5.02 hereof.

“Series 2009 B Bonds 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 2009 B Bonds in the then current or any succeeding year.

“Series 2009 B Bonds Sinking Fund” means the Series 2009 B Bonds Sinking Fund established by Section 5.02 hereof.

“Sinking Funds” means, collectively, the respective Sinking Funds established for the Series 2009 Bonds and the Prior Bonds.

“SRF Administrative Fee” means any administrative fee required to be paid under the ARRA Assistance Agreement for the Series 2009 A Bonds and Series 2009 B Bonds.

“SRF Program” means the State’s Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

“SRF Regulations” means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

“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 2009 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2009 Bonds, 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 Series 2009 Bonds, the Prior Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

“System” means the complete properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for said system from any sources whatsoever.

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

Additional terms and phrases are defined in this Resolution as they are used. 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.

## ARTICLE II

### **AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT AND PAYMENT OF THE PRIOR NOTE**

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, including the payment of the Prior Note, at an estimated cost of \$7,029,845, 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 2009 Bonds hereby authorized 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 DEP.

The cost of the Project is estimated to be \$7,029,845, of which approximately \$4,544,324 will be obtained from proceeds of the Series 2009 A Bonds, approximately \$2,415,521 will be obtained from proceeds of the Series 2009 B Bonds, \$40,000 will be obtained from a grant from the Raleigh County Solid Waste Authority and \$30,000 will be obtained from a grant from the Raleigh County Commission.

Section 2.02. Authorization of Payment of Prior Note. The Prior Note outstanding as of the date of issuance of the Series 2009 Bonds are hereby ordered to be paid in full, and the pledge of assets, if any, in favor of the Holders of the Prior Note, and the monies in the funds and accounts created by the Prior Note pledged to payment of the Prior Note, if any, and any other funds pledged to pay of the Prior Note, if any, are hereby ordered terminated, discharged and released upon the payment to the Holder of the Prior Note from the proceeds of the Series 2009 Bonds and from other monies available therefor, of the following: an amount equal to the fiscal and paying agent charges to become due and payable in connection with the Prior Note and an amount which will provide for the payment of the entire outstanding principal of and all accrued interest on the Prior Note, plus the premium, if any, on the Closing Date.

### ARTICLE III

#### **AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF ARRA ASSISTANCE AGREEMENT**

Section 3.01. Authorization of Bonds. For the purposes of paying the Prior Note, capitalizing interest, if any, on the Series 2009 Bonds, funding the respective Reserve Accounts for the Series 2009 Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Series 2009 Bonds 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 negotiable Series 2009 Bonds of the Issuer. The Series 2009 Bonds shall be issued in two series, each as a single bond, designated respectively as "Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program)," in the principal amount of \$4,544,324, and "Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA)," in the principal amount of \$2,415,521, and all shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2009 Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalizing interest, if any, on the Series 2009 Bonds, if any, shall be deposited in or credited to the respective Bond Construction Trust Funds established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2009 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then 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 ARRA Assistance Agreement. The Series 2009 Bonds 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 2009 Bonds, 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 2009 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of each series of the Series 2009 Bonds. The Series 2009 Bonds 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.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall bear interest, if any, and shall be dated as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2009 Bonds 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 2009 Bonds shall cease to be such officer of the Issuer before the Series 2009 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2009 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. The Bond Registrar for the Series 2009 Bonds shall be the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns. No Series 2009 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 forms 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 Series 2009 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 all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2009 Bonds 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 Holder, in accepting the Series 2009 Bonds shall be conclusively deemed to have agreed that such Bonds 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 Holder shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2009 Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Series 2009 Bonds 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 his duly authorized attorney.

In all cases in which the privilege of exchanging Series 2009 Bonds or transferring the registered Series 2009 Bonds are exercised, all Series 2009 Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Series 2009 Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Series 2009 Bonds, 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 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Series 2009 Bonds or, in the case of any proposed redemption of Series 2009 Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2009 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 Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing 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. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2009 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2009 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2009 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Prior Bonds. The payment of the debt service of the Series 2009 A Bonds and the Series 2009 B Bonds shall be secured forthwith equally and ratably with each other

by a first lien on the Net Revenues derived from the System on a parity with the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2009 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2009 Bonds to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 2009 Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Bond Registrar may reasonably require;

B. A request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the Series 2009 Bonds to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. An executed copy of the ARRA Assistance Agreement; and

E. The unqualified approving opinion of bond counsel on the Series 2009 Bonds.

Section 3.10. Form of Bonds. The text of each series of the Series 2009 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2009 A BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, SERIES 2009 A  
(WEST VIRGINIA SRF PROGRAM)

No. AR- \_\_\_\_\_

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: The \_\_\_\_ day of \_\_\_\_\_, 2009, that NORTH BECKLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh 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 \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), 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, \_\_\_\_\_ to and including \_\_\_\_\_ 1, 20\_\_\_\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2009 A Bonds shall not be subject to the SRF Administrative Fee (as defined in the hereinafter described Bond Legislation).

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 Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, dated \_\_\_\_\_, 2009.

This Bond is issued (i) to pay in full the Issuer's Prior Note; (ii) to pay a portion of the costs of acquisition and construction of improvements and extensions to the existing public sewerage system of the Issuer (the "Project"); (iii) to partially fund the Series 2009 A Bonds Reserve Account; and (iv) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system 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 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009 (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 the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S: (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), DATED JANUARY 28, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$8,090,898 (THE "SERIES 1999 BONDS"); (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (WEST VIRGINIA SRF PROGRAM), DATED SEPTEMBER 29, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,307,741 (THE "SERIES 2003 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS"); AND (3) SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA), DATED \_\_\_\_\_, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2009 B BONDS").

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, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2009 B Bonds and the Prior Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2009 A Bonds Reserve Account") and unexpended proceeds of the Bonds. 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 monies in the Series 2009 A Bonds Reserve Account and unexpended proceeds of the Bonds. 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, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Bonds, including the Series 2009 B Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2009 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and

interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, including the Series 2009 B Bonds and the Prior Bonds, 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 owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds 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 Huntington National Bank, Charleston, West Virginia, as registrar (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 Prior Note and payment of the costs of 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 monies, 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.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, NORTH BECKLEY 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 the day and year first written above.

[SEAL]

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 A Bonds 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: \_\_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

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

TOTAL \$ \_\_\_\_\_

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: \_\_\_\_\_

In the presence of:

\_\_\_\_\_

(FORM OF SERIES 2009 B BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, SERIES 2009 B  
(WEST VIRGINIA SRF PROGRAM/ARRA)

No. BR- \_\_\_\_\_

\$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: The \_\_\_\_ day of \_\_\_\_\_, 2009, that NORTH BECKLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh 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 \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), 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, \_\_\_\_\_ to and including \_\_\_\_\_ 1, 20\_\_\_\_, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The Series 2009 B Bonds shall not be subject to the SRF Administrative Fee (as defined in the hereinafter described Bond Legislation).

This Bond shall bear no interest. Principal installments of this Bond are 100% forgivable as set forth in the ARRA Assistance Agreement.

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 Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the ARRA Assistance Agreement by and among the Issuer, the Authority and the DEP, dated \_\_\_\_\_, 2009.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of improvements and extensions to the existing public sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of the Bonds of this Series (the "Bonds") and related costs. The existing public sewerage system 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 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Bond Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009, and

a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2009 (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 the Bonds under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S: (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), DATED JANUARY 28, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$8,090,898 (THE "SERIES 1999 BONDS"); (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (WEST VIRGINIA SRF PROGRAM), DATED SEPTEMBER 29, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,307,741 (THE "SERIES 2003 A BONDS") (COLLECTIVELY, THE "PRIOR BONDS") AND (3) SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), DATED \_\_\_\_\_, 2009, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$ \_\_\_\_\_ (THE "SERIES 2009 A BONDS").

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, on a parity with the pledge of Net Revenues in favor of the holders of the Series 2009 A Bonds and the Prior Bonds and from monies in the reserve account created under the Bond Legislation for the Bonds (the "Series 2009 B Bonds Reserve Account") and unexpended proceeds of the Bonds. 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 monies in the Series 2009 B Bonds Reserve Account and unexpended proceeds of the Bonds. 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, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Bonds, including the Series 2009 A Bonds and the Prior Bonds; provided however, that so long as there exists in the Series 2009 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with or junior to the Bonds, including the Series 2009 A Bonds and the Prior Bonds, 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 owners of the Bonds for the terms of which reference is made to the Bond Legislation.

Remedies provided the registered owners of the Bonds 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 Huntington National Bank, Charleston, West Virginia, as registrar (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 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 monies, 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.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, NORTH BECKLEY 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 the day and year first written above.

[SEAL]

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2009 B Bonds 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: \_\_\_\_\_, 2009.

THE HUNTINGTON NATIONAL BANK,  
as Registrar

\_\_\_\_\_  
Authorized Officer

EXHIBIT A  
RECORD OF ADVANCES

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

TOTAL \$ \_\_\_\_\_

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: \_\_\_\_\_

\_\_\_\_\_

In the presence of:

\_\_\_\_\_

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of ARRA Assistance Agreement. The Series 2009 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the respective ARRA Assistance Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the ARRA Assistance Agreement in the form attached hereto as "EXHIBIT A" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the ARRA Assistance Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed. The ARRA Assistance Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation.

Section 3.12. "Amended Schedule" Filing. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority and the DEP a schedule, the forms of which will be provided by the DEP, 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 (or continued) 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 (established by the Prior Resolutions);
- (2) Renewal and Replacement Fund (established by the Prior Resolutions);
- (3) I&I Fund (established by Prior Resolution and continued hereby);
- (4) Series 2009 A Bonds Construction Trust Fund; and
- (5) Series 2009 B Bonds 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 1999 Bonds Sinking Fund (established by Prior Resolution);
- (2) Series 1999 Bonds Reserve Account (established by Prior Resolution);
- (3) Series 2003 A Bonds Sinking Fund (established by Prior Resolution);
- (4) Series 2003 A Bonds Reserve Account (established by Prior Resolution);
- (5) Series 2009 A Bonds Sinking Fund;
- (6) Series 2009 A Bonds Reserve Account;
- (7) Series 2009 B Bonds Sinking Fund; and

(8) Series 2009 B Bonds Reserve Account.

Section 5.03. System Revenues: Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this 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 monies in 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 simultaneously (i) remit to the Commission, as appropriate, the amounts required to pay principal of the Prior Bonds, as required by the Prior Resolutions; (ii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 A Bonds 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 2009 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments 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; and (iii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2009 B Bonds 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 2009 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments 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 simultaneously (i)

remit to the Commission, as appropriate, the amounts required by the Prior Resolutions for deposit in the respective Reserve Accounts for the Prior Bonds; (ii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 A Bonds, if not fully funded upon issuance of the Series 2009 A Bonds, for deposit in the Series 2009 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 A Bonds Reserve Account when there shall have been deposited therein; and as long as there shall remain on deposit therein, an amount equal to the Series 2009 A Bonds Reserve Requirement; and (iii) remit to the Commission, commencing 4 months prior to the first date of payment of principal of the Series 2009 B Bonds, if not fully funded upon issuance of the Series 2009 B Bonds, for deposit in the Series 2009 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2009 B Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2009 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2009 B Bonds 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 Fund, a sum equal to 2 ½% of the Gross Revenues each month (as previously set forth in the Prior Resolutions and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of the month, transfer from the Revenue Fund and deposit into the I&I Fund,

all amounts remaining in the Revenue Fund after making the transfers set forth in paragraphs 1 through 5 above, until the sum of \$18,000 has been deposited therein during the then current month. All funds in the I&I Fund shall be kept separate and apart from all other funds of the Issuer and the Depository Bank.

Withdrawals and disbursements from the I&I Fund shall be made by the Issuer only for correcting problems with inflow and infiltration with respect to the System and only in accordance with the applicable orders of the PSC, provided that the I&I Fund shall only be required to be maintained and funded as long as required by the PSC.

Monies in the Series 2009 A Bonds Sinking Fund and Series 2009 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2009 A Bonds and Series 2009 B Bonds, respectively, as the same shall become due. Monies in the Series 2009 A Bonds Reserve Account and Series 2009 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the Series 2009 A Bonds and Series 2009 B Bonds, respectively, as the same shall come due, when other monies in the Series 2009 A Bonds Sinking Fund and Series 2009 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2009 A Bonds Sinking Fund; the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund, and the Series 2009 B Bonds Reserve Account, 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 respective Bond Construction Trust Funds, 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 2009 A Bonds and Series 2009 B Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2009 A Bonds Reserve Account or Series 2009 B Bonds Reserve Account which result in a reduction in the balance therein to below the respective Reserve Requirements 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 2009 Bonds 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 appropriate reserve account in an amount equal to the requirement thereof.

The Issuer shall not be required to make any further payments into the Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the

Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the Series 2009 A Bonds and the Series 2009 B Bonds 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 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account created hereunder, and all amounts required for said 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 anytime, the Issuer shall make the necessary arrangements whereby required payments into said accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2009 A Bonds Sinking Fund, the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Sinking Fund and the Series 2009 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2009 A Bonds and Series 2009 B Bonds, respectively, 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 principal, interest, if any, and reserve account payments with respect to the Series 2009 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited. The Issuer shall also 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 SRF Administrative Fee as set forth in the Schedule Y attached to the ARRA Assistance Agreement for the Series 2009 Bonds.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the ARRA Assistance Agreement, and submit a copy of said form along 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 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 monies 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

**BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS**

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. A. From the monies received from the sale of the Series 2009 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

(a) From the proceeds of the Series 2009 A Bonds, there shall first be deposited with the Commission in the Series 2009 A Bonds 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 2009 A Bonds for the period commencing on the date of issuance of the Series 2009 A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

(b) Next, from the proceeds of the Series 2009 A Bonds, there shall be deposited with the Commission in the Series 2009 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2009 A Bonds Reserve Account.

(c) Next, from the proceeds of the Series 2009 A Bonds, there shall be deposited with United Bank an amount sufficient to pay in full the outstanding principal of, interest on, for the Prior Note on the Closing Date.

(d) As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 A Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 A Bonds 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 2009 A Bonds.

(e) After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2009 A Bonds shall be used to fund the Series 2009 A Bonds Reserve Account, if not funded upon issuance of the Series 2009 A Bonds, in an amount not to exceed the Series 2009 A Bonds Reserve Requirement; provided that, in no event shall more than 10% of the proceeds of the Series 2009 A Bonds be deposited in the Series 2009 A Bonds Reserve Account. Any remaining proceeds thereafter shall be used as directed by the DEP.

B. From the monies received from the sale of the Series 2009 B Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

(a) From the proceeds of the Series 2009 B Bonds, there shall first be deposited with the Commission in the Series 2009 B Bonds 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 2009 B Bonds for

the period commencing on the date of issuance of the Series 2009 B Bonds and ending 6 months after the estimated date of completion of construction of the Project.

(b) Next, from the proceeds of the Series 2009 B Bonds, there shall be deposited with the Commission in the Series 2009 B Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2009 B Bonds Reserve Account.

(c) As the Issuer receives advances of the remaining monies derived from the sale of the Series 2009 B Bonds, such monies shall be deposited with the Depository Bank in the Series 2009 B Bonds 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 2009 B Bonds.

(d) After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2009 B Bonds shall be used as directed by the DEP.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

On or before the Closing Date, the Issuer shall have delivered to the DEP and the Authority a report listing the specific purposes for which the proceeds of the Series 2009 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments of all Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2009 A Bonds Construction Trust Fund shall be made only after submission to and approval from the DEP, of a completed and signed "Payment Requisition Form," a form of which is attached to the ARRA Assistance Agreement for the Series 2009 A Bonds and Series 2009 B Bonds, in compliance with the construction schedule, and

Pending such application, monies in the respective Bond Construction Trust Funds 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 Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Series 2009 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2009 Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The payment of the debt service of the Series 2009 A Bonds and the Series 2009 B Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on a parity with the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Positions with Respect to Bonds. The payment of the debt service of the Series 2009 A Bonds and the Series 2009 B Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on a parity with the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2009 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

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 and shall provide an opinion of counsel to the Issuer of such effect. Such rates and charges shall be sufficient to comply with the requirements of the ARRA Assistance Agreement and the Issuer shall supply a certificate of certified public accountant to such effect. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Recommended Decision of the Public Service Commission of West Virginia entered July 25, 2008, which became Final Order on August 14, 2008 in Case No. 08-0525-PSD-CN, and such rates are hereby adopted.

So long as the Series 2009 Bonds are 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 the Bond Legislation and in compliance with the ARRA Assistance Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2009 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the ARRA Assistance 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 ARRA Assistance Agreement.

Section 7.05. Sale of the System. So long as the Series 2009 Bonds and the Prior Bonds are outstanding and except as otherwise required by law or with the written consent of the DEP 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 2009 Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the DEP and the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2009 Bonds. Any balance remaining after the payment of the Series 2009 Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission 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 Fund. 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 Fund. The payment of such proceeds into the Renewal and Replacement Fund

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 Holders of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. 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 2009 Bonds and the Prior Bonds. All obligations issued by the Issuer after the issuance of the Series 2009 Bonds 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 2009 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein 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 2009 Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2009 Bonds and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the DEP and the Authority 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. So long as the Prior Bonds are outstanding, ~~the limitations on the issuance of parity obligations set forth in the Prior Resolution shall be applicable.~~ In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2009 Bonds pursuant to this Bond Legislation, ~~without the prior written consent of the Authority and the DEP and without complying with the conditions and requirements herein provided.~~

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2009 Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the acquisition or construction of additions extensions, improvements or betterments 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 expected 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 expected 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 the improvements to be financed by such Parity Bonds and any increase in rates adopted by the Issuer and approved by the Public Service Commission of West Virginia, the time for appeal of which shall have expired prior to the 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 herein above 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 time for appeal of which shall have 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 Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. All Bonds, 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 over any other. 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 the revenues of the System is subject to the prior and superior liens of the Series 2009 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 2009 Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds 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 the Parity Bonds, and the Issuer 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 DEP and the Authority, 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 DEP and the Authority 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 grants or other sources of financing for the Project.

The Issuer shall permit the DEP and the Authority, 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, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds issued pursuant to this 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 Public Service Commission of West Virginia. 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 DEP and the Authority, or any other original purchaser of the Series 2009 Bonds, and shall mail in each year to any Holder or Holders of the Series 2009 Bonds, requesting the same, an annual report containing the following:

- (A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.
- (B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this 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 (and to the extent legally required, in compliance with the applicable OMB Circular and the Single Audit Act, or any successor thereto), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of the Series 2009 Bonds, and shall submit said report to the DEP and the Authority, or any other original purchaser of the Series 2009 Bonds. Such audit report submitted to the DEP and the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the ARRA Assistance Agreement and this Bond Legislation and that the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the ARRA Assistance 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 DEP and the Authority, 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 of the Project, the Issuer shall also provide the DEP and the Authority, 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 DEP and the Authority with respect to the System pursuant to the Act.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in EXHIBIT E of the ARRA Assistance Agreement for the Series 2009 Bonds or as promulgated from time to time.

Section 7.09. Rates. Prior to the issuance of the Series 2009 Bonds, 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 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2009 Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2009 A Bonds Reserve Account, the Series 2009 B Bonds Reserve Account and the reserve accounts for obligations on a parity with or junior to the Series 2009 Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2009 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with or junior to the Series 2009 Bonds, including the Prior Bonds. 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 DEP and the Authority 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 DEP and the Authority and to any Holder of any Bonds, 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 DEP and the Authority and to any Holder of any Bonds, or anyone acting for and in behalf of such Holder of any Bonds.

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 respective ARRA Assistance Agreement, and forward a copy of such report to the DEP and the Authority 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 ARRA Assistance Agreement, stating, 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 DEP and the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the DEP and the Authority 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 DEP 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 DEP and the Authority 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 require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the ARRA Assistance Agreement for the Series 2009 Bonds as Exhibit A, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and federal standards.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the ARRA Assistance Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

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 Public Service Commission of West Virginia 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 Public Service Commission of West Virginia, 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 Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, 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 of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

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 Bonds remain 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 Fund 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 Fund. 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 ARRA Assistance 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 \$1,000,000 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 West Virginia Code, Chapter 38, Article 2, Section 39.

(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 DEP and the Issuer shall verify such insurance prior to commencement of construction. In the event the ARRA Assistance 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.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Division of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Division of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.17. Completion and Operation of Project; Permits and Orders.

The Issuer will 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 and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project, the operation of the System and all approvals for issuance of the Bonds required by State law, with all requisite appeal periods having expired without successful appeal and the Issuer shall provide an opinion of counsel to such effect.

Section 7.18. Reserved.

Section 7.19. Statutory Mortgage Lien.

For the further protection of the Holders of the Series 2009 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2009 Bonds and shall be on a parity with the Prior Bonds.

Section 7.20. Compliance with ARRA Assistance Agreement and Law.

The Issuer shall perform, satisfy and comply with all the terms and conditions of the ARRA Assistance Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the DEP and the Authority 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; Change Orders; Public Releases.

A. The Issuer shall, simultaneously with the delivery of the Series 2009 Bonds 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 DEP for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2009 Bonds held in "contingency" as set forth in the respective schedules attached to the certificate of the Consulting Engineer. The Issuer shall also obtain

the written approval of the DEP before expending any proceeds of the Series 2009 Bonds made available due to bid or construction or project underruns.

C. The Issuer shall list the funding provided by the DEP 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. Investments. Any monies 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 monies 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 monies 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 any of the Series 2009 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds; Covenants 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 2009 Bonds as a condition to issuance of the Series 2009 Bonds. 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 2009 Bonds as may be necessary in order to maintain the status of the Series 2009 Bonds as public purpose 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 2009 Bonds 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 DEP, as the case may be, from which the proceeds of the Series 2009 Bonds 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 DEP, 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 2009 Bonds 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 2009 Bonds:

- (1) . If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2009 Bonds; 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 2009 Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2009 Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond;
- (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; or
- (4) If default occurs with the Prior Bonds.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his 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 Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2009 Bonds shall be on a parity with the Holders of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a 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 Bonds 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 said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might exercise.

Whenever all that is due upon the Bonds 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 any Bonds 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 Owners of the Bonds. 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 Bonds 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 BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holders of the Series 2009 Bonds, 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 monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2009 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2009 Bonds from gross income for federal income tax purposes.

ARTICLE XI  
MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2009 Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2009 Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2009 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2009 Bonds 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 respectively 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 Bonds, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder 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 2009 Bonds from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2009 Bonds, 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 2009 Bonds.

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

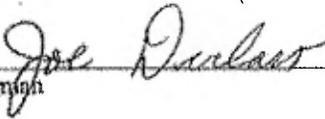
Section 11.05. Conflicting Provisions Repealed. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed, provided that, in the event of any conflict between this Resolution and the Prior Resolutions, the Prior Resolutions shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

Section 11.06. Covenant of Due Procedure, 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. Effective Date. This Resolution shall take effect immediately upon adoption.

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Adopted this 8th day of October, 2009.

  
Chairman

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board  
of NORTH BECKLEY PUBLIC SERVICE DISTRICT on the 8th day of October, 2009.

Dated: October 29, 2009.

[SEAL]



Secretary

10.07.09  
662490.00002

EXHIBIT A

ARRA Assistance Agreement included in bond transcript as Documents 3.

North Beckley Public Service District  
Sewer Revenue Bonds, Series 2009 A  
(West Virginia SRF Program) and  
Sewer Revenue Bonds, Series 2009 B  
(West Virginia SRF Program/ARRA)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITY DATES, REDEMPTION PROVISIONS, INTEREST RATES, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM) AND SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA), OF NORTH BECKLEY PUBLIC SERVICE DISTRICT; APPROVING AND RATIFYING THE ARRA AGREEMENT AGREEMENTS RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of North Beckley Public Service District (the "Issuer") has duly and officially adopted a bond resolution on October 8, 2009 (the "Bond Resolution" or the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE SYSTEM OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF \$4,544,324 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), SEWER REVENUE BONDS AND \$2,415,521 IN AGGREGATE PRINCIPAL AMOUNT OF SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY

FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ARRA ASSISTANCE AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Bond Resolution provides for the issuance of Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program) and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer (collectively, the "Bonds" and individually, the "Series 2009 A Bonds" and the "Series 2009 B Bonds"), in the respective aggregate principal amounts not to exceed \$4,544,324 and \$2,415,521, and has authorized the execution and delivery of the ARRA assistance agreement relating to the Series 2009 A Bonds and Series 2009 B Bonds, by and among the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP") (collectively, the "ARRA Assistance Agreement"), all in accordance with Chapter 16, Article 13A and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Bond Resolution it is provided that the form of the ARRA Assistance Agreement and the exact principal amounts, dates, maturity dates, redemption provisions, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the ARRA Assistance Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the ARRA Assistance Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the ARRA Assistance Agreement be approved and ratified by the Issuer, that the exact principal amounts, the dates, the maturity dates, the redemption provisions, the interest rates, the interest and principal payment dates, the sale prices and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF NORTH BECKLEY PUBLIC SERVICE DISTRICT:

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

A. Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$4,544,324. The Series 2009 A Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2041, and shall bear no interest. The principal of the Series 2009 A Bonds shall be payable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2041, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 A Bonds. The Series 2009 A Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 A Bonds. The Issuer does hereby approve and shall pay the SRF Administrative Fee equal to 1% of the principal amount of the Series 2009 A Bonds set forth in the "Schedule Y" attached to the ARRA Assistance Agreement.

B. Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$2,415,521. The Series 2009 B Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2021, and shall bear no interest. The principal of the Series 2009 B Bonds shall be forgivable quarterly, on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2011, to and including March 1, 2021, and in the amounts as set forth in the "Schedule Y" attached to the ARRA Assistance Agreement and incorporated in and made a part of the Series 2009 B Bonds. The Series 2009 B Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the ARRA Assistance Agreement, so long as the Authority shall be the registered owner of the Series 2009 B Bonds. The Series 2009 B Bonds shall not be subject to the SRF Administrative Fee.

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

Section 3. The Issuer does hereby authorize, approve, ratify and accept the ARRA Assistance Agreement, and the execution and delivery of the ARRA Assistance Agreement by the Chairman, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the ARRA Assistance Agreement and in the applications to the DEP and the Authority. The price of the Bonds shall be 100%

of par value, there being no interest accrued thereon, provided that the proceeds of the Bonds shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer does hereby appoint and designate The Huntington National Bank, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Bond Resolution and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, 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, approved and directed.

Section 5. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds under the Bond Resolution.

Section 6. The Issuer does hereby appoint and designate United Bank, Inc., Beckley, West Virginia, to serve as Depository Bank under the Bond Resolution.

Section 7. Series 2009 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 A Bonds Sinking Fund, as capitalized interest.

Section 8. Series 2009 A Bonds proceeds in the amount of \$17,870 shall be deposited in the Series 2009 A Bonds Reserve Account to fund the Series 2009 A Bonds Reserve Account.

Section 9. Series 2009 A Bonds proceeds in the amount of \$159,521 shall be wired to United Bank, Inc., Beckley, West Virginia to pay the outstanding principal balance of and all accrued interest on the Issuer's United Bank Note, dated September 24, 2003 issued in the original aggregate principal amount of \$200,000 (the "Prior Note").

Section 10. Series 2009 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 B Bonds Reserve Account.

Section 11. Series 2009 B Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2009 B Bonds Sinking Fund, as capitalized interest.

Section 12. The balance of the proceeds of the Series 2009 A Bonds and the Series 2009 B Bonds shall be deposited in or credited to the respective Bond Construction Trust Funds for payment of the costs of the Project, including, without limitation, costs of issuance of the Series 2009 Bonds and related costs.

Section 13. The Issuer does hereby direct the West Virginia Municipal Bond Commission to transfer excess funds of the Issuer in the amount of \$133,610 to the Series 2009 A Bonds Reserve Account. The \$133,610 transfer and \$17,870 deposit will fully fund the Series 2009 A Bonds Reserve Account.

Section 14. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds to be issued hereby and by the Bond Resolution approved and provided for, to the end that the Bonds may be delivered on or about October 29, 2009, to the Authority pursuant to the ARRA Assistance Agreement.

Section 15. The payment of the Prior Note and the acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 16. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Resolution held by the Depository Bank until expended, in repurchase agreements or time accounts, secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such repurchase agreements or time accounts, until further directed in writing by the Issuer. Moneys in the Sinking Funds and the Reserve Accounts shall be invested by the West Virginia Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 17. The ARRA requirements in the ARRA Assistance Agreement are attached hereto as Exhibit A and hereby incorporated by reference.

Section 18. This Supplemental Resolution shall be effective immediately following adoption hereof.

[Remainder of Page Intentionally Blank]

Adopted this 8th day of October, 2009.

NORTH BECKLEY PUBLIC SERVICE DISTRICT

By: Joe Wickens  
Its: Chairman

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of North Beckley Public Service District on the 8th day of October, 2009.

Dated: October 29, 2009.

[SEAL]

  
Secretary

10.01.09  
662490.00002

CH5219116.1

EXHIBIT A

SPECIAL CONDITIONS – ARRA FUNDED PROJECTS

A. PUBLIC RELEASE REQUIREMENT – The Local Government agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, groundbreaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) – Effective October 1, 2003, the Local Government that receives \$500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Government.

C. BUY AMERICAN CERTIFICATION – The Local Government shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions of the ARRA in accordance with final guidance from the EPA.

D. ASSET MANAGEMENT – The Local Government shall develop and implement an asset management plan in accordance with guidelines issued by DEP and is approved by DEP.

E. CONTRACTS – The Local Government shall enter into contracts or commence construction by February 17, 2010.

F. LOGO – The Local Government must display the ARRA logo in a manner that informs the public that the project is an ARRA investment.

G. LOBBYING - The Local Government shall comply with Title 40 CFR Part 34, New Restrictions on Lobbying and shall submit certification and disclosure forms as required by DEP.

H. PURCHASING REQUIREMENTS – The Local Government shall comply with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

I. SUSPENSION AND DEBARMENT – The Local Government shall comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). To the extent required by DEP, the Local Government shall provide certifications as to compliance.

J. REPORTING – The Local Government shall comply with all requests for data related to the use of the funds provided under this agreement, including the information required in section 1512 of ARRA when requested by DEP.

K. INSPECTOR GENERAL REVIEWS – The Local Government shall allow any appropriate representative of the Office of US Inspector General to (1) examine its records relating to the Project and this ARRA Assistance Agreement and (2) interview any officer or employee of the Local Government.

L. FALSE CLAIMS – The Local Government must promptly refer to EPA’s Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this ARRA Assistance Agreement.

M. LIMIT ON FUNDS – The Local Government shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

N. WAGE RATES – The Local Government shall require that all laborers and mechanics employed by its contractors and subcontractors be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor (DOL) in accordance with subchapter IV of chapter 32 of title 40, United States Code. The Local Government must require that contractors and subcontractors obtain wage determinations from DOL and comply with DOL guidance and regulations implementing wage rate requirements applicable to ARRA funds.

O. OFFICE OF MANAGEMENT AND BUDGET (OMB) GUIDANCE – The Local Government acknowledges and agrees that this ARRA Assistance is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on [www.recovery.gov](http://www.recovery.gov), and any subsequent guidance documents issued by OMB.

P. DISADVANTAGED BUSINESS ENTERPRISE – Pursuant to 40 CFR, Section 33.301, the Local Government agrees to make good faith efforts whenever procuring construction, equipment, services and supplies, and to require that prime

contractors also comply. The Local Government shall provide DEP with MBE/WBE participation reports semi-annually.

Q. CIVIL RIGHTS – The Local Government shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements. The Local Government shall also comply with Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

R. BOND DESIGNATION – Each Local Bond funded by ARRA funds shall be designated “Series [2009] B” and shall contain “(WVCWSRF Program/ARRA)” in the bond name.

S. USER RATES – The Local Government shall covenant that it will not reduce its approved or enacted customer rates for at least eighteen months after completion of the Project or until such time as a cost of service study has been completed establishing the actual operation and maintenance expenses.

T. RESERVE ACCOUNT –The Local Government shall contribute \$133,610 from excess funds at the West Virginia Municipal Bond Commission for deposit into the Series 2009 A Reserve Account. Not more than \$22,145 of the proceeds of the Series 2009 A Bonds may be deposited to the Series 2009 A Reserve Account.

SRF-ARRA/PSD  
(04/02/09)

ARRA ASSISTANCE AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND ARRA ASSISTANCE AGREEMENT (the "ARRA Assistance Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government designated below (the "Local Government").

NORTH BECKLEY PUBLIC SERVICE DISTRICT (C-544157-03/2007S-1003)  
(Local Government)

WITNESSETH:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, the United States Congress has provided additional capitalization grant funding under the Clean Water Act through the American Recovery and Reinvestment Act of 2009 (the "ARRA");

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to direct the distribution of loans to particular local governments pursuant to the Clean Water Act and the ARRA;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) and DEP has been awarded capitalization grants to partially fund the Program;



Griffith & Associates, PLLC

Accountants & Consultants

October 29, 2009

North Beckley Public Service District  
Sewer Revenue Bonds, Series 2009 A  
(West Virginia SRF Program); and  
Sewer Revenue Bonds, Series 2009 B  
(West Virginia SRF Program/ARRA)

North Beckley Public Service District  
Beckley, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

West Virginia Department of Environmental Protection  
Charleston, West Virginia

Based upon the sewer rates and charges set forth in the Recommended Decision of the Public Service Commission of West Virginia entered July 25, 2008 which became Final Order on August 14, 2008 in Case No. 08-525-PSD-CN, and projected operation and maintenance expenses and anticipated customer usage as furnished to me by North Beckley Public Service District (the "Issuer"), it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system (the "System") of the Issuer, will (i) provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any Fiscal Year for payment of principal of and interest on the (a) Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated October 29, 2009, issued in the aggregate principal amount of \$4,544,324, and (b) Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated October 29, 2009, issued in the aggregate principal amount of \$2,415,521 (collectively, the "Series 2009 Bonds") and all other obligations secured by or payable from such revenues, including the Issuer's (a) Sewer Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898 (the "Series 1999 Bonds"); and (b) Sewer Revenue Bonds, Series 2003 A (West Virginia SRF Program), dated September 29, 2003, issued in the original aggregate principal amount of \$5,307,741 (the "Series 2003 Bonds") (collectively, the "Prior Bonds").

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 2009 Bonds plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2009 Bonds are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest, if any, on the Prior Bonds, and the Series 2009 Bonds.

Very truly yours,

Michael D. Griffith, CPA, AFI  
Griffith & Associates, PLLC

MDG/dk

Michael D. Griffith, CPA, AFI  
michaelgriffithcpa@verizon.net

950 Little Coal River Road Alum Creek, WV 25003  
Phone: (304) 756.3600 Facsimile: (304) 756.2911

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**BOND RESOLUTION**

**Authorizing**

**NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES A  
(BRANCH BANKING AND TRUST COMPANY)**

Adopted: April 21, 2015

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- Exhibit A - Public Service Commission Orders approving Merger and Sale of  
2015 Series A Bonds
- Exhibit B - Commitment Letter
- Exhibit C - Commission Order approving Surcharge
- Exhibit D - Form of Project Fund Agreement
- Exhibit E - Debt Service Schedule
- Exhibit F - Form of Bond

NORTH BECKLEY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE SEWER TREATMENT AND DISTRIBUTION FACILITIES OF NORTH BECKLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$210,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, 2015 SERIES A (BRANCH BANKING AND TRUST COMPANY); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING ANY OTHER DOCUMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED AND ENACTED BY THE PUBLIC SERVICE BOARD OF NORTH BECKLEY 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, this "Resolution") is adopted pursuant to the provisions of Chapter 16, Article 13A of the Code of West Virginia Code, 1931, as amended (the "Act"), and other applicable provisions of law.

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

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

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be designed, acquired and constructed certain additions, betterments, improvements and

extensions to the existing public sewerage facilities of the Issuer, including the initial tie-in of the existing sewer system of the Stanaford Acres Sewerage System, Inc. (“Stanaford”) sewer system to the Issuer’s existing public sewerage facilities, and all necessary appurtenant facilities (the “Project”). The existing public sewerage facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the “System.”

C. The Public Service Commission of West Virginia (the “Commission”) approved (i) the merger of Stanaford into the Issuer by Commission Order dated April 25, 2012 in Case No. 11-0086-PSD-S-PC (“Stanaford Merger Case”) due to Stanaford’s failing sewerage system and (ii) the sale of the 2015 Series A Bonds to the Purchaser by Recommended Decision, dated December 16, 2013, as revised by Commission Orders dated January 28, 2014 and April 1, 2014 in Case No. 13-1267-PSD-PC-19A, copies of which are attached hereto and incorporated herein as **Exhibit A**.

D. In Case No. 14-1924-PSD-CN, the Commission issued its Commission Order dated April 17, 2015, attached hereto and incorporated herein as **Exhibit B**, under which the Commission approved certain surcharges for the customers of Stanaford and certain rate increases for all customers of the Issuer.

E. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds, 2015 Series A (Branch Banking and Trust Company) (the “2015 Series A Bonds”), in an aggregate principal amount of not more than \$210,000, to finance the costs of the Project and the costs of issuance of the 2015 Series A Bonds. The 2015 Series A Bonds are proposed to be purchased by Branch Banking and Trust Company, Charleston, West Virginia (the “Purchaser” or the “Bank”), pursuant to a commitment letter dated April 20, 2015, as amended (collectively, the “Commitment Letter”), attached hereto and incorporated herein as **Exhibit C**; and

F. The Issuer has outstanding its (i) Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), dated January 28, 1999, issued in the original aggregate principal amount of \$8,090,898 (the “Series 1999 Bonds”), (ii) Sewerage System Revenue Bonds, Series 2003 A (West Virginia SRF Program), dated September 29, 2003, issued in the original aggregate principal amount of \$5,307,741 (the “Series 2003 Bonds”), and (iii) Sewer Revenue Bonds, Series 2009 A (West Virginia SRF Program), dated October 29, 2009, issued in the original aggregate principal amount of \$4,544,324 and Sewer Revenue Bonds, Series 2009 B (West Virginia SRF Program/ARRA), dated October 29, 2009, issued in the original aggregate principal amount of \$2,415,521 (together, the “Series 2009 Bonds,” and collectively with the 1999 Bonds and the 2003 Bonds, the “Prior Bonds”).

G. The 2015 Series A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the 2015 Series A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Holders of the Prior Bonds to the issuance of the 2015 Series A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolutions.

H. It is in the best interests of the Issuer that the 2015 Series A Bonds be sold to the Purchaser pursuant to the terms and conditions of the Commitment Letter.

I. The Issuer has complied with all requirements of West Virginia law relating to operation of the System and issuance of the Bond, or will have so complied prior to issuance of the Bond.

J. The issuance of the 2015 Series A Bonds and the design, acquisition and construction of the Project with proceeds of the 2015 Series A Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 1.03. Definitions. All capitalized terms used in this Resolution and not otherwise defined herein shall have the following meanings in this Resolution unless the context expressly requires otherwise:

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

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

“Bonds” means, collectively, the 2015 Series A Bonds, the Prior Bonds and any additional Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution or another resolution of the Issuer.

“Chairman” or “Authorized Officer” means the Chairman of the Governing Body or any other officer or person of the Issuer specifically designated by resolution of the Governing Body of the Issuer.

“Closing Date” means the date upon which there is an exchange of the 2015 Series A Bonds for all or a portion of the proceeds thereof from the Purchaser.

“Code” means the Internal Revenue Code of 1986, as amended and supplemented from time to time, and Regulations promulgated thereunder.

“Consulting Engineers” means any professional engineer or firm of professional engineers, licensed by the State who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political subdivisions, that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended.

“Depository Bank” means United Bank, Inc., Charleston, West Virginia, and its successors and assigns.

“FDIC” means the Federal Deposit Insurance Corporation or 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 or and interest on which is guaranteed by, the United States of America.

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

“Holder of the Bonds,” “Holder,” “Registered Owner” or any similar term means any person who shall be the registered owner of any Outstanding Bond or Bonds.

“I&I Fund” means the I&I Fund created by the Prior Resolutions.

“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 such 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 North Beckley Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“Net Proceeds” means the face amount of the 2015 Series A Bonds, plus accrued interest and premium, if any, less original issue discount, if any. 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 2015 Series A Bonds, 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 reasonable, proper and necessary costs of repair, maintenance and operation of the System, and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses (other than those capitalized as part of the costs of any project relating to the acquisition or construction of additions, betterments or improvements for the System), supplies, labor, wages, the cost of materials and supplies used for current operations, fees and expenses of fiscal agents and of the Depository Bank, Registrar and Paying Agent or Paying Agents, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of or any decrease in the value of capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Outstanding,” when used with reference to the Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond cancelled by the Registrar at or prior to said date; (ii) any Bond for the payment of which monies, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption, shall be held in trust under this Resolution and set aside for such payment (whether upon or prior to maturity); and (iii) any Bond deemed to have been paid as provided in their respective authorizing resolutions.

“Parity Bonds” means additional Bonds issued under the provisions and within the limitations prescribed by Section 6.04 hereof.

“Paying Agent” means the Bond Commission and its successors and assigns.

“Prior Bonds” means, collectively, the Series 1999 Bonds, the Series 2003 Bonds, and the Series 2009 Bonds of the Issuer, as more fully described in Section 1.02(F).

“Prior Resolutions” means, collectively, the resolutions of the Issuer, as supplemented, authorizing the Prior Bonds.

“Private Business Use” means use directly or indirectly in a trade or business carried on by a natural person, including all persons “related” to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons “related” to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit by a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to “incidental use,” if any, of the proceeds of the issue and/or proceeds used for “qualified improvements” if any.

“Project Fund Agreement” means the Project Fund Agreement between the Issuer and the Purchaser dated as of the Closing Date and attached hereto as **Exhibit D**.

“Purchaser” means Branch Banking and Trust Company, Charleston, West Virginia and its successors and assigns.

“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 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, or any interest bearing account insured by the FDIC;

(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 agents 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 Code, 1931, as amended; and

(I) Obligations of states or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and which are rated at least “A” by Moody’s Investors Service, Inc. or Standard & Poor’s Corporation.

“Registrar” means Branch Banking and Trust Company, Charleston, West Virginia and its successors and assigns.

“Regulations” means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

“Renewal and Replacement Fund” means the Renewal and Replacement Fund established by the Prior Resolutions and continued by Section 4.01(2) hereof.

“Reserve Accounts” means, collectively, the respective reserve accounts established for the Prior Bonds.

“Resolution” means this Resolution and all orders, ordinances and resolutions supplemental hereto or amendatory hereof.

“Revenue Fund” means the Revenue Fund established by the Prior Resolutions and continued by Section 4.01(1) hereof.

“Secretary” means the Secretary of the Governing Body.

“Sinking Funds” means, collectively, the respective Sinking Funds established for the 2015 Series A Bonds and the Prior Bonds.

“State” means the State of West Virginia.

“Surplus Revenues” means the Net Revenues not required by the Prior Resolutions or this Resolution to be set aside and held for the payment of or security for the Bonds, including any Sinking Fund or Reserve Accounts.

“System” means, collectively, the complete existing public sewerage system of the Issuer, as presently existing in its entirety or any integral part thereof, and all sewerage facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the sewerage system, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for the System from any sources whatsoever.

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

“2015 Series A Bonds” means the not more than \$210,000 in aggregate principal amount of Sewer Revenue Bonds, 2015 Series A (Branch Banking and Trust Company), authorized to be issued pursuant to this Resolution.

“2015 Series A Bonds Construction Trust Fund” means the 2015 Series A Bonds Construction Trust Fund established by Section 4.01(1) hereof and being the 2015-00001 North Beckley Public Service District Project Fund under and pursuant to the Project Fund Agreement.

“2015 Series A Bonds Sinking Fund” means the 2015 Series A Bonds Sinking Fund established by Section 4.0(2) hereof.

Additional terms and phrases are defined in this Resolution as they are used. Accounting terms not specifically defined herein shall be given meaning in accordance with generally accepted accounting principles.

Words importing singular number include the plural number in each case and vice versa; words importing the masculine gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms refer to this Resolution; and the term “hereafter” means after the date of enactment of this Resolution.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the 2015 Series A Bonds by those who shall be the Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of the 2015 Series A Bonds.

## ARTICLE II

### AUTHORIZATION OF THE PROJECT AND SALE OF THE 2015 SERIES A BONDS

Section 2.01. Authorization of the Project. There is hereby authorized and ordered the Project, and other necessary accounting, legal and real estate work for the Project, at an estimated cost of not to exceed \$210,000, which will be obtained from the proceeds of the 2015 Series A Bonds.

Section 2.02 Authorization of Chairman and Secretary to Execute and Deliver Bonds. The Chairman and Secretary are hereby authorized and directed to execute and deliver the 2015 Series A Bonds and such other documents and certificates required or desirable in connection with the 2015 Series A Bonds hereby and by this Resolution approved and provided for, to the end that the 2015 Series A Bonds may be delivered to the Purchaser on the Closing Date.

## ARTICLE III

### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF THE 2015 SERIES A BONDS

Section 3.01. Authorization of the 2015 Series A Bonds. For the purposes of financing the costs of the Project and paying the costs of issuance of the 2015 Series A Bonds and related costs, there shall be and hereby are authorized to be issued the Sewer Revenue Bonds, 2015 Series A, of the Issuer, in an aggregate principal amount of not more than \$210,000.

Section 3.02. Terms of 2015 Series A Bonds. The 2015 Series A Bonds shall be issued in fully registered form and shall initially be represented by a single bond, numbered AR-1, in the principal amount of \$210,000. The 2015 Series A Bonds shall be dated the Closing Date, and shall finally mature thirty-six (36) months from the Closing Date. The price of the 2015 Series A Bonds shall be 100% of par value, there being no interest accrued thereon. Principal and interest on the 2015 Series A Bonds shall be payable in thirty-six (36) monthly payments commencing on June 1, 2015, and continuing on the first day of each month until maturity as set forth on the debt service schedule attached hereto and incorporated herein as **Exhibit E**. Interest shall accrue on the 2015 Series A Bonds at the rate of 1.64% per annum (the "Tax-Exempt Rate"). The 2015 Series A Bonds may be prepaid only in whole on any scheduled payment date with a 1% prepayment premium. The 2015 Series A Bonds shall be payable as to principal and interest at the principal office of the Paying Agent in any coin or currency which, on the date of

payment, is legal tender for the payment of public and private debts under the laws of the United States of America.

Section 3.03. Execution of 2015 Series A Bonds. The 2015 Series A Bonds shall be executed in the name of the Issuer by the Chairman, and the seal of the Issuer shall be affixed thereto, and attested by the Secretary of the Issuer. In case any one or more of the officers who shall have signed or sealed any of the 2015 Series A Bonds shall cease to be such officer of the Issuer before the 2015 Series A Bonds so signed and sealed shall have been actually sold or delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office of the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. The Issuer hereby appoints and designates the Purchaser, to serve as the Registrar for the 2015 Series A Bonds. No 2015 Series A Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.07 shall have been manually executed by the 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 Resolution. The Certificate of Authentication and Registration shall be deemed to have been executed by the Registrar if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the 2015 Series A Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the 2015 Series A Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder, in accepting the 2015 Series A Bonds, shall be conclusively deemed to have agreed that the 2015 Series A Bonds shall be conclusively deemed to have agreed that the 2015 Series A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as the 2015 Series A Bonds remain Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the 2015 Series A Bonds. The 2015 Series A Bonds shall be transferrable only upon the books of the Registrar which shall be kept for that purpose at the office of the Registrar by request of the registered owner thereof in person or by his attorney duly authorized in writing, and upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of the 2015 Series A Bonds, there shall be issued to the transferee fully registered 2015 Series A Bonds of the aggregate principal amount equal to the unpaid amount of the transferred 2015 Series A Bonds.

In all cases in which the privilege of exchanging the 2015 Series A Bonds or transferring the registered Bonds are exercised, all Bonds shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Registrar. For every such exchange or transfer of Bonds, the 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 transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the 15 days preceding an interest payment date on the 2015 Series A Bonds or after notice of any prepayment of the 2015 Series A Bonds has been given.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the 2015 Series A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Registrar shall, if so advised by the Issuer, authenticate and deliver a new Bond in exchange and substitution for such mutilated Bonds upon surrender and cancellation for such mutilated Bonds or in lieu of and substitution for the 2015 Series A Bonds destroyed, stolen or lost and upon the Holder's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. All Bonds so surrendered shall be submitted to and canceled by the Registrar and held for the account of the Issuer. If such Bonds 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 Bonds are lost, stolen or destroyed, without surrender thereof.

Section 3.07. Form of Bonds. The text of the 2015 Series A Bonds shall be in substantially the form attached hereto as **Exhibit F**, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Resolution or any resolution supplemental hereto adopted prior to the issuance thereof.

Section 3.08. Sale of Bonds. The 2015 Series A Bonds shall be sold to the Purchaser contemporaneously with, or as soon as practicable and authorized and permitted by applicable law; provided, that the Purchaser and the Issuer shall have agreed to the purchase thereof.

Section 3.09. Bonds Secured by Pledge of Net Revenues. The payment of the debt service on the 2015 Series A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of, and interest on and other payments for the 2015 Series A Bonds and the Prior Bonds are hereby irrevocably pledged to the payment of the principal of and interest on the 2015 Series A Bonds and the Prior Bonds as the same become due.

The Series 2015 A Bonds have no lien on the Reserve Funds of the Prior Bonds.

Section 3.10. Bonds not to be Indebtedness of Issuer. The 2015 Series A Bonds do not and shall not 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 provided herein. No Holder of the 2015 Series A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the 2015 Series A Bonds or the interest thereon.

Section 3.11. Delivery of 2015 Series A Bonds. The Issuer shall execute and deliver 2015 Series A Bonds to the Registrar, and the Registrar shall authenticate, register and deliver the 2015 Series A Bonds to the original purchasers upon receipt of the documents set forth below:

- A. If other than the Purchaser, a list of the names in which the 2015 Series A Bonds are to be registered upon original issuance, together with such taxpayer identification and other information as the Registrar may reasonably require;
- B. A request and authorization to the Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate and deliver the 2015 Series A Bonds to the Purchaser;
- C. An executed and certified copy of this Resolution; and
- D. The unqualified approving opinion of bond counsel on the 2015 Series A Bonds.

#### ARTICLE IV

#### FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

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

- (1) Revenue Fund (established by the Prior Resolutions);
- (2) Renewal and Replacement Fund (established by the Prior Resolutions); and
- (3) I&I Fund (established by the Prior Resolutions).

Section 4.02 Establishment of Account with Purchaser. The following special account is created with and shall be held by the Purchaser separate and apart from all other funds or accounts of the Purchaser:

- (1) 2015 Series A Bonds Construction Trust Fund.

Section 4.03. Establishment of Funds and Accounts with Bond Commission. The following funds or accounts are hereby created with and shall be held by the Bond Commission separate and apart from all other funds or accounts of the Bond Commission and the Issuer and from each other:

- (1) 2015 Series A Bonds Sinking Fund.

Section 4.04. 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 created pursuant to the Prior Resolutions. The Revenue Fund shall constitute a trust fund for the purposes provided in the Prior Resolutions and this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

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

- (2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Sinking Funds for the Prior Bonds the amounts required to pay interest on the Prior Bonds, as required by the Prior Resolution; and (ii) commencing on June 1, 2015, an amount equal to the interest payment on the 2015 Series A Bonds for the next ensuing calendar month and continuing on the same day of each month until maturity as set forth on the debt service schedule attached hereto and incorporated herein as Exhibit E.

- (3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission (i) for deposit in the Sinking Funds for the Prior Bonds, the amounts required to pay principal of the Prior Bonds, as required by the Prior Resolutions; and (ii) commencing on June 1, 2015, an amount equal to the principal payment on the 2015 Series A Bonds for the next ensuing calendar month and continuing on the same day of each month until maturity as set forth on the debt service schedule attached hereto and incorporated herein as Exhibit E.

- (4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Bond Commission, as appropriate, the amounts required by the Prior Resolutions for deposit in the respective Reserve Accounts for the Prior Bonds.

- (5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, a sum equal to 2½% of the Gross Revenues each month

(as previously set forth in the Prior Resolutions and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of the month, transfer from the Revenue Fund and deposit into the I&I Fund, all amounts remaining in the Revenue Fund after making the transfers set forth in paragraphs 1 through 4 above, until the sum of \$18,000 has been deposited therein during the then current month. All funds in the I&I Fund shall be kept separate and apart from all other funds of the Issuer and the Depository Bank.

Withdrawals and disbursements from the I&I Fund shall be made by the Issuer only for correcting problems with inflow and infiltration with respect to the System and only in accordance with the applicable orders of the Commission, provided that the I&I Fund shall only be required to be maintained and funded as long as required by the Commission.

Monies in the 2015 Series A Bonds Sinking Fund shall be used only for the purpose of paying principal of and interest on the 2015 Series A Bonds as the same shall become due. All investment earnings on monies in the 2015 Series A Bonds Sinking Fund shall be returned, not less than once each year, by the Bond Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied to the next ensuing payment of principal of and interest on the 2015 Series A Bonds.

As and when additional bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on and principal of such Parity Bonds and to accumulate a balance in the appropriate reserve accounts, if any, in an amount equal to the requirement therefor.

The Bond Commission is hereby designated as the fiscal agent for the administration of the 2015 Series A Bonds Sinking Fund created hereunder, and all amounts required for said accounts shall be remitted to the Bond Commission from the Revenue Fund by the Issuer at the times provided herein. The Issuer shall make the necessary arrangements whereby required payments into such accounts are automatically debited from the Revenue Fund and electronically transferred to the Bond Commission on the required date.

Monies in the 2015 Series A Bonds Sinking Fund shall be invested and reinvested by the Bond Commission in accordance with Section 7.01 hereof.

The 2015 Series A Bonds Sinking Fund shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bonds under the conditions and restrictions hereinafter set forth.

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

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

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

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as 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 4.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

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

H. All Tap Fees shall be deposited by the Issuer as received in the Revenue Fund and may be used for any lawful purpose of the System.

## ARTICLE V

### BOND PROCEEDS; DISBURSEMENTS

Section 5.01. Application of Bond Proceeds; Pledge of Unexpected Bond Proceeds. Monies received from the sale of the 2015 Series A Bonds shall be deposited with the Purchaser in the 2015 Series A Bonds Construction Trust Fund on the Closing Date and applied solely to payment of costs of the Project and until so expended are hereby pledged as additional security for the 2015 Series A Bonds.

Section 5.02. Disbursements from the Construction Trust Fund. The Issuer shall approve requisitions for the costs incurred for the Project in accordance with the Project Fund Agreement between the Issuer and the Purchaser. Monies in the 2015 Series A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

## ARTICLE VI

### ADDITIONAL COVENANTS OF THE ISSUER

Section 6.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the 2015 Series A Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holder or Holders of the 2015 Series A Bonds, as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the 2015 Series A Bonds are Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The 2015 Series A Bonds shall not, in any event, be or 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 Net Revenues derived from the operation of the System as herein provided. No Holder or Holders of the 2015 Series A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the 2015 Series A Bonds.

Section 6.03. Bonds Secured by Pledge of Net Revenues; Lien Position. The payment of the debt service of the 2015 Series A Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the lien on such Net Revenues in favor of the Holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Bonds and to make the payments into all funds and accounts, and all other payments provided for in this Resolution and the Prior Resolutions are hereby irrevocably pledged to such payments as the same become due, and for the other purposes provided in this Resolution.

Section 6.04. Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges with all requisite appeal periods having expired without successful appeal. The schedule of rates and charges for the services and facilities of the System, a copy of which is attached hereto as Exhibit C and incorporated herein and which rates have been approved and are described in the Commission Order of the PSC entered April 17, 2015 in Case No. 14-1924-PSD-CN, are hereby adopted, ratified, approved and affirmed.

So long as any of the 2015 Series A Bonds are Outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation. In the event the schedule of rates and charges initially established for the System in connection with the 2015 Series A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation, the Issuer hereby covenants and agrees that it will, to the extent and in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation.

Section 6.05. Sale of the System. So long as any of the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of the System or any part thereof, except as provided in the Prior Resolutions. Additionally, except as otherwise required by law or with the written consent of the Purchaser, 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 pay fully all the Prior Bonds and the 2015 Series A Bonds, or to effectively defease this Bond Legislation in accordance with Section 9.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the 2015 Series A Bonds and Prior Bonds, immediately be remitted to the Commission for deposit in 2015 Series A Bonds Sinking Fund and the Prior Bonds Sinking Funds, respectively, pro rata with respect to the principal amounts of the 2015 Series A Bonds and the Prior Bonds then outstanding, and, with the written permission of the Purchaser, or in the event the Purchaser is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the 2015 Series A Bonds and Prior Bonds. Any balance remaining after the payment of all the 2015 Series A Bonds and Prior Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, and subject to the Prior Resolutions so long as any of the Prior Bonds remain Outstanding, 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 \$50,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. 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 \$50,000 but not in excess of \$200,000, 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 upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$50,000 and not in excess of \$200,000, shall be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts 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 \$200,000 and insufficient to pay all Prior Bonds and the 2015 Series A Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Prior Bonds and 2015 Series A Bonds then outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Prior Bonds and 2015 Series A Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 6.06 and in Section 6.07, so long as any of the 2015 Series A Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the 2015 Series A Bonds. All obligations issued by the Issuer after the issuance of the 2015 Series A Bonds 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 and source of and security for payment from such revenues and in all other respects, to the 2015 Series A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the sinking funds, reserve accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current. 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 2015 Series A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the 2015 Series A Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Purchaser 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 6.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolutions shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the

issuance of the 2015 Series A Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the 2015 Series A Bonds.

No such Parity Bonds shall be issued except for the purposes of financing the costs of the acquisition or construction of extensions, additions, betterments or improvements to the System or refunding any outstanding Bonds, or all such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding years after the completion of the improvements to be financed by such Parity Bonds, 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 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 three succeeding years,” as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any improvements to be financed by the Parity Bonds and any increase in rates adopted by the Issuer and approved by the Commission, the time for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the 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 discussed 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, as stated in a certificate, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the Commission, the time for appeal of which has expired prior to the issuance of such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds issued from time to time within the limitations of and in compliance with this Section 6.07. Any Bonds issued on a parity, regardless of the

time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any bond of one series over any other bond of another series on a parity therewith. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for Bonds issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this Section 6.07, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Resolution with respect to the 2015 Series A Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 6.08. 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 Purchaser, or its 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 Purchaser such documents and information as it may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Purchaser, or its 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, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a 2015 Series A 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 Purchaser and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

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

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

(C) The amount of any Bonds 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 and the Single Audit Act or successor thereto, in effect at the time, to the extent required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds, and shall submit said report to the Purchaser, or any other original purchaser of the Bonds, within ninety (90) days of the end of the Fiscal Year. Such audit report submitted to the Purchaser shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation, and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the 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 Purchaser, or its agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Purchaser, or its agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Purchaser set forth herein.

Section 6.09. Rates. Prior to the issuance of the 2015 Series A Bonds, equitable rates or charges for the use of and service rendered by the System have been 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 said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created or continued 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 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 on the 2015 Series A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the 2015 Series A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements in the Reserve Accounts for obligations on a parity with the 2015 Series A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the 2015 Series A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the 2015 Series A Bonds, including the Prior Bonds.

Section 6.10. 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 Purchaser within 30 days of adoption thereof. The Issuer, by the unanimous consent and approval of the Governing Body, may amend the budget during the subject Fiscal Year provided that the budget remains balanced after such amendment. If the budget is so amended, a copy of the amended budget shall be submitted to the Purchaser within 15 days of the adoption of such amendment. After the adoption of any such amendment, the budget, as amended, shall be the budget of the Issuer for the balance of the subject Fiscal Year. 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 the Consulting Engineers, 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 the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall, within 30 days of adoption thereof, mail copies of such annual budget, any amendments thereto and all resolutions authorizing increased expenditures for operation and maintenance to the Purchaser and to any Holder of any Bonds who shall file his or her address with the Issuer and request in writing that copies of all such budgets, any amendments thereto and resolutions be furnished him or her and shall make available such budgets, any amendments thereto and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 6.11. 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 6.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia 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 Public Service Commission of West Virginia, 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 Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, 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 of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the Public Service Commission of West Virginia and all rules, regulations and orders of the Public Service Commission of West Virginia.

Section 6.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. 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 6.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the 2015 Series A Bonds remain 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 Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes

provided herein for said Renewal and Replacement Fund. 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 Purchaser, the prime contractor and all subcontractors as their respective interests may appear 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 Purchaser, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 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) WORKERS' 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, if any, 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 West Virginia Code Chapter 38, Article 2, Section 39.

(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 for 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 any contractor 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 any contractor engaged in the construction of the Project to carry such workers' 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 Purchaser. The Issuer shall verify such insurance prior to commencement of construction.

Section 6.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 6.16. Completion and Operation of Project; Permits and Orders. The Issuer will 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 Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the 2015 Series A Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 6.17. Statutory Mortgage Lien. For the further protection of the Holder of the 2015 Series A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the 2015 Series A Bonds, shall be for the benefit of all Registered Owners of the 2015 Series A Bonds and shall be on a parity with the statutory mortgage lien granted to the Prior Bonds.

## ARTICLE VII

### INVESTMENT OF FUNDS; TAX COVENANTS

Section 7.01. Investment of Funds. Any monies held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Bond 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 to the fullest extent possible under applicable laws, this Resolution, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 7.01.

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 Bond 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 7.01 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 if 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 2015 Series A Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the 2015 Series A Bonds from gross income for federal income tax purposes.

Section 7.02. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the 2015 Series A Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the 2015 Series A Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually calculate the rebate arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of such calculation the Issuer shall pay, or cause to be paid, to the United States the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. The Issuer may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 7.02. The Issuer shall keep and retain, or cause to be kept and retained, records of determinations made pursuant to this Section 7.02 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay the required rebate amount, any and all penalties and other amounts, from lawfully available

sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the 2015 Series A Bonds from gross income for federal income tax purposes.

Section 7.03. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the 2015 Series A Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the 2015 Series A Bonds during the term thereof is, under the terms of the 2015 Series A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) in the event that both (A) in excess of 5% of the Net Proceeds of the 2015 Series A Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the 2015 Series A Bonds during the term thereof is, under the terms of the 2015 Series A Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the 2015 Series A Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the System, or if the 2015 Series A Bonds are for the purpose of financing more than one project, a portion of the System, and shall not exceed the proceeds used for the governmental use of that portion of the System to which such Private Business Use is related, all of the foregoing to be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the 2015 Series A Bonds or \$5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the 2015 Series A Bonds to be directly or indirectly “federally guaranteed” within the meaning of Section 148(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the 2015 Series A Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take all actions that may be required of it so that the interest on the 2015 Series A Bonds will be and remain excludable from gross income

for federal income tax purposes, and 2015 Series A Bonds not take any actions which would adversely affect such exclusion.

Section 7.04 Bank-Qualified Designation. The Issuer hereby designates the 2015 Series A Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3)(B) of the Code and covenants that the 2015 Series A Bonds do not constitute private activity bonds as defined in Section 141 of the Code. The Issuer shall not issue tax-exempt obligations itself or approve the issuance of tax-exempt obligations of its “subordinated” entities, if any, that would, when aggregated with the 2015 Series A Bonds and all other tax-exempt obligations heretofore issued in calendar year 2015 by the Issuer and such “subordinated” entities, exceed \$10,000,000 of tax-exempt obligations during calendar year 2015.

## ARTICLE VIII

### DEFAULTS AND REMEDIES

Section 8.01. Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the 2015 Series A Bonds.

(A) If default occurs in the due and punctual payment of the principal of or interest on the 2015 Series A Bonds;

(B) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part relating to the 2015 Series A Bonds in this Resolution, any resolution supplemental hereto, or in the 2015 Series A Bonds, as the case may be, contained, 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 Depository Bank, any other bank or banking association holding any fund or account hereunder or Holder of the 2015 Series A Bonds;

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

(D) If default occurs with the Prior Bonds.

Section 8.02. Remedies. Upon the happening and continuance of any Event of Default, any Holder of the 2015 Series A Bonds 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 the Holder of the 2015 Series A Bonds including the right to require the Issuer to perform its duties under the Act and this Resolution, 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 2015 Series A Bonds; (iv) by action at law or bill in equity require the

Issuer to account as if it were the trustee of an express trust for the Holder of the 2015 Series A Bonds; and (v) by action or bill in equity enjoin any acts in violation of this Resolution with respect to the 2015 Series A Bonds, or the rights of the Holder of the 2015 Series A Bonds; provided, that all rights and remedies of the Holders of the 2015 Series A Bonds shall be on a parity with the Holders of the Prior Bonds.

No remedy by the terms of this Resolution conferred upon or reserved to the Holder of the 2015 Series A Bonds is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Holder of the 2015 Series A Bonds hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by the Holder of the 2015 Series A Bonds shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereto.

Section 8.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds, any Registered Owner of a 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 Bonds and interest thereon and deposits into the funds and accounts hereby established, and to apply such rates, rentals, charges or other revenues in conformity with the provisions of this Resolution and the Act.

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

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Resolution for sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of the

Bonds or any Prior Bonds 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 at the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. 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 Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Resolution, 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 IX

### PAYMENT OF BONDS

Section 9.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the 2015 Series A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the 2015 Series A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise necessary to assure the exclusion of interest on the 2015 Series A Bonds from gross income for federal income tax purposes.

## ARTICLE X

### MISCELLANEOUS

Section 10.01. Amendment or Modification of Resolution. Prior to issuance of the 2015 Series A Bonds, this Resolution may be amended or supplemented in any way by a resolution supplemental hereto. Following issuance of the Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the 2015 Series A Bonds shall be made without the consent in writing of the Registered Owners of the 2015 Series A Bonds so affected

and then Outstanding; provided, that no change shall be made in the maturity of the 2015 Series A Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. This Resolution may be amended without the consent of any Holder of the 2015 Series A Bonds 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 on the 2015 Series A Bonds from gross income of the holders thereof.

Section 10.02. Resolution Constitutes Contract. The provisions of this Resolution shall constitute a contract between the Issuer and the Registered Owners of the 2015 Series A Bonds, and no change, variation or alteration of any kind of the provisions of this Resolution shall be made in any manner, except as provided in this Resolution.

Section 10.03. 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 or the 2015 Series A Bonds.

Section 10.04. 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 10.05. Conflicting Provisions Repealed. All ordinances, resolutions, indentures or orders, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided, however, that all provisions of the Prior Resolutions shall remain in full force and effect, as applicable, until the Prior Bonds and all interest accrued thereon are paid in full.

Section 10.06. 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 and passage 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 applicable thereto; and that the Chairman, the 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 10.07. Effective Date. This Resolution shall take effect immediately upon adoption.

[Remainder of Page Intentionally Left Blank]

Adopted on this 21st day of April, 2015.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Chairman

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Resolution adopted by the Public Service Board of North Beckley Public Service District at a meeting held and duly noticed on the 21st day of April, 2015, and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 7th day of May, 2015.

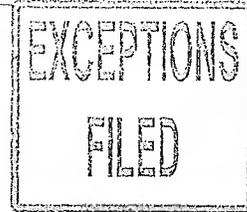
  
Secretary

[SEAL]

**Exhibit A**

Public Service Commission Orders approving  
Merger and Sale of 2015 Series A Bonds

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON



Entered: December 16, 2013

CASE NO. 13-1267-PSD-PC-19A

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
a public utilities, Raleigh County.

Rule 19A application to increase sewer rates and charges  
of Stanaford Acres Sewerage System, Inc., and  
request for approval of a bank loan.

RECOMMENDED DECISION

A \$210,000 loan is approved and the Staff-recommended rate increase for the Stanaford customers is approved.

CASE RECORD

On August 21, 2013, North Beckley Public Service District (District or NBPSD), by counsel Susan J. Riggs, filed with the Public Service Commission (Commission), pursuant to Rule 19A of the Commission's Rules for the Construction and Filing of Tariffs (Tariff Rules), an application for the implementation of a monthly surcharge for the customers of Stanaford Acres Sewerage System, Inc. (Stanaford), in order to fund the costs of the initial tie-in of the Stanaford sewer system to the District's system. The District related as follows: In North Beckley Pub. Serv. Dis. and Stanaford Acres Sewer Sys., Inc., Case No. 11-0086-PSD-S-PC (2012), the Commission approved the District's constructing a tie-in between its system and the Stanaford system preparatory to the District's taking over the Stanaford system. The Stanaford system has three uninterconnected discharge points; two can be connected to the District's system by gravity, but connecting the third will require a lift station. The estimated cost of the project is \$246,116.32. The District plans to use \$37,079.79 of its cash on hand for the project, but needs a loan of approximately \$210,000 to fully fund the project; the District contemplates a loan payable over three years at a 4% annual interest rate. The District requested that such a loan be approved and that a monthly surcharge of \$24.28, to be charged the Stanaford customers and to be in effect for three years, be approved; the surcharge would increase the District's revenue by \$56,232, a 65% increase for the Stanaford customers, and would be sufficient to pay the debt service on the loan.

On September 19, 2013, Staff Attorney Chris Howard filed an Initial Joint Staff Memorandum, advising the District of the notice requirements of Tariff Rule 8.2, and an attached memorandum from William A. Nelson, of the Utilities Division.

On October 1, 2013, the Commission issued an Order referring this matter to the Division of Administrative Law Judges for decision no later than April 18, 2014. Staff was ordered to file its final report no later than December 2, 2013, and the District was ordered to mail to each individual customer, no later than October 31, 2013, a notice of its requested increase, as required by Tariff Rule 8.2.f, and to file a certificate evidencing such mailing no later than November 15, 2013.

On October 23, 2013, the District, by counsel, filed a joint motion with Stanaford that Stanaford be joined as a party in this matter.

On November 7, 2013, Stanaford, by its manager Dianna Powell, filed a statement providing five reasons why it supported the District's requests, including the following:

Stanaford is an upper middle class community with very nice homes served by a troubled sewer system. Part of the reason the system is troubled was the very low rates charged by Stanaford to its customers for over 30 years.

The District requested the three year payback as it will coincide with the payoff of another District loan which will be substituted with the proposed loan to replace the entire Stanaford collection system and remove the Stanaford treatment systems. The result will be that the rates of Stanaford and the District can be blended immediately after a Stanaford project so that the Stanaford customers will see a significant rate decrease. Stanaford fully supports this approach.

On November 15, 2013, the undersigned issued a Procedural Order granting the motion for joinder; Stanaford was added as a party.

Also on November 15, 2013, the District, by counsel, filed a motion for leave to include substitute language in the notice of its requested rate increase and a completed Tariff Form 6-A, which stated that, on October 30, 2013, it had mailed to each of the Stanaford customers an attached notice, which was a detailed statement of what was being proposed in this matter, as well as background information. It also advised the customers of a meeting on the proposal on November 7, 2013. The motion requested approval of the District's having sent the letter instead of the limited information normally included in the notice of a requested rate increase.

By Procedural Order issued November 18, 2013, the motion was granted; it was therefore declared that the District had completed the requirements of Tariff Rules 8.2.f and 8.2.g.

On December 3, 2013, Mr. Howard filed the Final Joint Staff Memorandum and the Staff Report, consisting of a Rule 42 Exhibit and a document that included the Staff-recommended rates, prepared by Mr. Nelson, of the Utilities Division, which included the following: The purpose of

the agreement approved in Case No. 11-0086-PSD-S-PC was for the District to acquire Stanaford; one condition of the agreement for finalization of the acquisition was that the District establish rates to be charged the Stanaford customers. The District serves approximately 3,588 customers and Stanaford serves approximately 193 customers, all residential. The District has been offered a \$210,000 loan from BB&T, at an annual interest rate of 1.65% and payable over three years. Staff examined the District's records for the fiscal year ending June 30, 2012, and Stanaford's books and records for the year ending December 31, 2012. Staff's cash flow analysis for the District shows that the District is operating at a deficit.<sup>1</sup> However, because the District and Stanaford in this matter have requested increased charges only for the Stanaford customers and the District apparently is using unencumbered investment savings to offset its cash flow deficit when needed, Staff's recommendations related only to a new Schedule VI of the District's tariff, applicable to the Stanaford customers alone. Staff recommended a Step 1 increase for the Stanaford customers, to become effective when this decision becomes final and remain in effect for three years; at the end of the three years the Stanaford customers would pay the same rates as the District's customers, which, unless modified in another case, will be the District's current rates; Schedule VI would be discontinued; those rates Staff presented as Step 2 rates.<sup>2</sup> The Step 1 rates would provide \$58,570 in additional annual revenue, and would be sufficient to pay the debt service on the loan.

On December 13, 2013, the District, by counsel, filed a letter accepting the Staff-recommended rates, and stating, "Due to the immediate environmental concerns related to the Stanaford system's inadequate treatment of its customers' sewage, the District desires to proceed as quickly as possible with obtaining the requested loan and completing the initial tie-in of the Stanaford system to the District's system."

### DISCUSSION

The Staff-recommended Step 1 rates will be approved. Under the Stanaford current tariff, a customer using 4,000 gallons in a month pays \$34.50. Adding the proposed \$24.28 monthly surcharge would result in a monthly bill of \$58.78. Under the Step 1 Schedule VI rates, a Stanaford customer using 4,000 gallons in a month will be billed \$57.96. Under Tariff Rule 8.2.i, a utility that accepts the Staff-recommended rates is required to publish and post a notice of them. However, because the rate changes approved here affect only the Stanaford customers; the letter sent in October by the District to the Stanaford customers apprised them of the proposed surcharge and no Stanaford customer objected to the surcharge; and the Staff-recommended Step 1 rates will not cause higher monthly bills for the average customer than the surcharge would have, no further

<sup>1</sup> The cash flow chart shows, at going level, total annual revenue of \$2,302,171 and total annual cash requirements of \$1,515,651, including \$1,463,850 in operation and maintenance expenses, leaving \$786,520 for debt service. However, the District's debt service requirements total \$1,069,492, creating an annual deficit of \$282,972 and a debt service coverage factor of 75.17%.

<sup>2</sup> The cash flow chart shows that under Step 1 the District's total revenue would be \$2,360,741; its cash requirements total \$1,515,651, leaving \$845,090 for debt service. With debt service requirements totaling \$1,069,492, the District would have a deficit of \$224,402 and a debt service coverage factor of 80.76%. Under Step 2, the District's total annual revenue would be \$2,295,243 and its total annual cash requirements would be \$1,512,908, leaving \$782,334 for debt service. With debt service requirements totaling \$976,900, the District would have a deficit of \$194,566 and a debt service coverage factor of 80.28%.

notice needs to be issued and the District will be deemed to have substantially complied with Tariff Rule 8.2.i.

The October letter to the Stanaford customers advised them that, at the end of the three years needed to repay the \$210,000 loan, the District “will be filing for a general adjustment in the rate it charges to all of its customers.” W.Va. Code §24-2-3 requires the Commission to set reasonable rates whenever it finds any existing rates “unjust, unreasonable, insufficient or unjustly discriminatory” or otherwise in violation of the law. The District’s last rate increase was approved in 2006 (Case No. 06-0503-PSD-19A) and the record in this matter makes clear that the District’s rates for its customers as a whole are already grossly inadequate to pay for its expenses and to provide adequate debt service coverage. Because the information needed to fix reasonable rates for all of the District’s customers has not been provided and the undersigned does not wish to hold up the Stanaford tie-in and approval of the loan needed for that construction, she will not require in this matter the further information needed to approve rate increases for all of the District’s customers. However, the District will be ordered to file, within sixty days of the date on which this decision becomes final, an application for a general rate increase. Further, because those rates undoubtedly will become effective within three years, the Step 2 rates will not be approved.

#### FINDINGS OF FACT

1. On August 21, 2013, North Beckley Public Service District filed with the Public Service Commission, pursuant to Rule 19A of the Commission’s Rules for the Construction and Filing of Tariffs, an application for the implementation of a monthly surcharge for the customers of Stanaford Acres Sewerage System, Inc., in order to fund the costs of the initial tie-in of the Stanaford sewer system to the District’s system, which was approved in North Beckley Pub. Serv. Dis. and Stanaford Acres Sewer Sys., Inc., Case No. 11-0086-PSD-S-PC (2012). (See application).
2. The Stanaford system has three uninterconnected discharge points; two can be connected to the District’s system by gravity, but connecting the third will require a lift station. The estimated cost of the project is \$246,116.32. (See application).
3. The District plans to use \$37,079.79 of its cash on hand for the project, but needs a loan of approximately \$210,000 to fully fund the project. (See application).
4. The District has been offered a \$210,000 loan from BB&T, at an annual interest rate of 1.65% and payable over three years. (See Final Joint Staff Memorandum filed December 3, 2013).
5. Staff examined the District’s records for the fiscal year ending June 30, 2012, and Stanaford’s books and records for the year ending December 31, 2012. (See Final Joint Staff Memorandum).

6. Staff's cash flow analysis for the District shows that the District is operating at a deficit. At going level, the District has total annual revenue of \$2,302,171 and total annual cash requirements of \$1,515,651, including \$1,463,850 in operation and maintenance expenses, leaving \$786,520 for debt service. However, the District's debt service requirements total \$1,069,492, creating an annual deficit of \$282,972 and a debt service coverage factor of 75.17%. (See Final Joint Staff Memorandum).

7. Because the District and Stanaford in this matter have requested increased charges only for the Stanaford customers and the District apparently is using unencumbered investment savings to offset its cash flow deficit when needed, Staff's recommendations related only to a new Schedule VI of District tariff, applicable to the Stanaford customers alone. Staff recommended a Step 1 increase for the Stanaford customers, to become effective when this decision becomes final and remain in effect for three years; at the end of the three years the Stanaford customers would pay the same rates as the District's customers and Schedule VI would be discontinued; Staff presented those rates as Step 2 rates. (See Final Joint Staff Memorandum).

8. The Step 1 rates would provide \$58,570 in additional annual revenue, and would be sufficient to pay the debt service on the loan. (See Final Joint Staff Memorandum).

9. Under Step 1 the District's total revenue would be \$2,360,741; its cash requirements total \$1,515,651, leaving \$845,090 for debt service. With debt service requirements totaling \$1,069,492, the District would have a deficit of \$224,402 and a debt service coverage factor of 80.76%. Under Step 2, the District's total annual revenue would be \$2,295,243 and its total annual cash requirements would be \$1,512,908, leaving \$782,334 for debt service. With debt service requirements totaling \$976,900, the District would have a deficit of \$194,566 and a debt service coverage factor of 80.28%. (See Final Joint Staff Memorandum).

10. The District accepted the Staff-recommended rates. (See filing of December 13, 2013).

11. On October 30, 2013, the District mailed to each of the Stanaford customers an attached notice, which was a detailed statement of what was being proposed in this matter, including the proposed \$24.28 surcharge, as well as background information. No objection was filed. (See filing of November 15, 2013; Commission case file).

12. Under the Stanaford current tariff, a customer using 4,000 gallons in a month pays \$34.50. Adding the proposed \$24.28 monthly surcharge would result in a monthly bill of \$58.78. Under the Step 1 Schedule VI rates, a Stanaford customer using 4,000 gallons in a month would be billed \$57.96. Accordingly, the bills issued the Stanaford customers under the Staff-recommended Step 1 rates are generally lower than what the bills would have been had the proposed surcharge been approved. (See filing of November 15, 2013; Final Joint Staff Memorandum).

## CONCLUSIONS OF LAW

1. Because the Stanaford customers were fully informed of proposed monthly charges greater than the Step 1 rates recommended by Staff, it is not necessary for the District to provide further notice; it has substantially complied with Tariff Rule 8.2.i.

2. It is appropriate to approve the loan stated at Finding of Fact 4 because it is reasonable.

3. It is appropriate to approve the Staff-recommended Step 1 rates, as provided in Appendix A, because they will be sufficient to pay the debt service on the loan.

4. Because the District's current rates are insufficient to pay its expenses and to provide adequate debt service coverage, the District will be ordered to file, within sixty days of the date on which this decision becomes final, an application for a general rate increase and the Step 2 rates recommended by Staff will not be approved.

## ORDER

IT IS, THEREFORE, ORDERED that the \$210,000 loan, at an annual interest rate of 1.65% and payable over three years, IS APPROVED.

IT IS FURTHER ORDERED that the rates, as provided in Appendix A hereto, are approved, to become effective on the date on which this decision becomes final, because they are sufficient to pay the debt service on said loan.

IT IS FURTHER ORDERED that North Beckley Public Service District file an original and at least five (5) copies of a proper tariff reflecting the rates approved herein within thirty (30) days of the date on which this decision becomes final.

IT IS FURTHER ORDERED that North Beckley Public Service District file with the Commission, no later than sixty (60) days after the date on which this decision becomes final, an application to increase its rates.

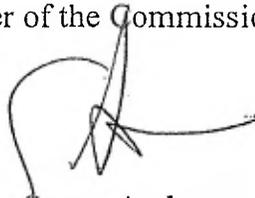
IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon the Commission by hand delivery, and by electronic service upon all parties of record who have filed an e-service agreement with the Commission and by United States Certified Mail, return receipt requested, and upon all parties of record who have not filed an e-service agreement with the Commission.

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

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

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Executive Secretary. No such waiver will be effective until approved by order of the Commission.



Sunya Anderson  
Administrative Law Judge

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NORTH BECKLEY PUBLIC SERVICE DISTRICT  
CASE NO. 13-0962-PSD-42T

APPROVED TARIFF

SCHEDULE I

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, industrial and sale for resale sewer service.

RATES (customers with metered water supply)

First	2,000 gals used per month	\$9.07 per 1,000 gallons
Next	23,000 gals used per month	\$7.80 per 1,000 gallons
All Over	25,000 gals used per month	\$5.21 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than \$18.14 per month, which is the equivalent of 2,000 gallons of usage.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Beckley Water, a disconnection fee of \$25.00 shall be charged, or in the event the delinquent sewer bill is collected by the water company, an administrative fee of \$25.00 shall be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Beckley Water, is reconnected, a reconnection fee of \$25.00 shall be charged.

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 an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$300.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

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.

LEAK ADJUSTMENT

\$0.47 per 1,000 gallons is to be used when the bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE II

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

APPLICABILITY

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

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

- |          |   |   |
|----------|---|---|
| S        | = | the surcharge in dollars  |
| A        | = | the area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet |
| R        | = | the measured monthly rainfall in inches   |
| 0.000623 | = | a conversion factor to change inches of rain x square feet of surface to thousands of gallons of water                    |

C = the District's approved rate per thousand gallons of metered water usage

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

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

Note: The surcharge is not cumulative so as not to reduce the incentive of the larger users to disconnect. The minimum charge does not apply to the surcharge.

### SCHEDULE III

#### SURCHARGE FORMULA TO BE APPLIED IN THE CASES OF USERS PRODUCING UNUSUAL WASTE

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

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

$C_i$  = charge to unusual users per year

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

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

$B_o$  = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound

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

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

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

When an unusual user is to be served, a preliminary study of its waste, and the cost of transport and treatment thereof, will be made. Waste containing materials which, in the judgment of the Public Service District, should not be introduced into the sewer system need not be handled

by it. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefor, based upon the formula set out above.

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

#### SCHEDULE IV

Where the amount of sanitary sewage discharge into the Utility's wastewater collection and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Utility a sewer charge calculated at fifty gallons of water per each employee at the plant each working day.

#### SCHEDULE V

##### APPLICABILITY

Applicable within the entire territory served.

##### AVAILABILITY

Available for wastewater and leachate haulers.

##### RATES

Commodity charge – Each customer shall pay a commodity charge of \$40.00 per 1,000 gallons per load. Load will be actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined, or verified solely, by the Utility.

##### DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

##### RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or 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.

SCHEDULE VI

APPLICABILITY

Applicable to those customers formerly served by the Stanaford Acres Sewerage System.

AVAILABILITY

Available for general domestic, commercial and industrial service.

RATES (customers with metered water supply)

First	3,000 gals used per month	\$15.54 per 1,000 gallons (Includes a surcharge of \$7.82 for debt repayment)
All Over	3,000 gals used per month	\$11.34 per 1,000 gallons (Includes a surcharge of \$7.82 for debt repayment)

MINIMUM CHARGE

No bill will be rendered for less than \$46.62 per month, which is the equivalent of 3,000 gallons with a 5/8-inch meter. (Includes a surcharge of \$23.45 for debt repayment)

FLAT RATE CHARGE (customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage or \$63.63 per month. (Includes a surcharge of \$32.01 for debt repayment)

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

TAP FEE

The following charge is to be made whenever the utility installs a new tap to serve an applicant:

A tap fee of \$300.00 will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the Stanaford 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.

LEAK ADJUSTMENT

\$1.91 per 1,000 gallons is to be used when the bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.



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 28th day of January, 2014.

CASE NO. 13-1267-PSD-PC-19A

NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
a public utility, Beckley, Raleigh County.

Rule 19A application to increase sewer rates and charges of Stanaford Acres Sewerage System, Inc. and request for approval of a bank loan.

COMMISSION ORDER

The Commission modifies a Recommended Decision to remove a requirement that a rate case be filed within sixty days and conditionally approves the use of Step 2 rates.

BACKGROUND

On August 21, 2013, North Beckley Public Service District filed to increase rates under Rule 19A of the Commission Rules for the Construction and Filing of Tariffs, 150 C.S.R. Series 2, to add a \$24.28 monthly surcharge for three years for the former customers of Stanaford Acres Sewerage System, Inc. The Commission approved North Beckley's takeover of the Stanaford system in 2012 in Case Number 11-0086-PSD-S-PC. Rule 19A Application at 1-2 & Exs. A-B (Aug. 21, 2013).

The Stanaford system has three discharge points. Two can be connected to North Beckley by gravity, and the third discharge point requires a lift station that is estimated to cost \$246,116. North Beckley proposed to use \$37,079 from cash on hand and requested approval of a \$210,000 loan at 1.65 percent interest for three years. North Beckley later plans to enter into a separate loan for a project to replace the entire Stanaford collection system and remove the Stanaford treatment systems. North Beckley and Stanaford rates then will be blended and rates for customers of the former Stanaford system will significantly decrease. *Id.*; Staff Rule 42 Financial Ex. Transmittal Ltr. at 2 (Dec. 3, 3012). Stanaford supported this approach. Stanaford Ltr. at 1-3 (Nov. 7, 2013).

North Beckley serves 3,588 customers and Stanaford serves 193, all residential. Staff Rule 42 Financial Ex. Transmittal Ltr. at 2 (Dec. 3, 3012); North Beckley's Tariff Form No. 2 (Aug. 21, 2013).

On October 1, 2013, the case was referred to the Division of Administrative Law Judges. Comm'n Referral Order at 1.

On December 3, 2013, Commission Staff filed recommended rates, accompanied by a cash flow analysis that showed North Beckley was operating at a deficit. Staff Rule 42 Financial Ex. Transmittal Ltr. at 4, Statement D Schedule 1 & Statement F Schedule 2 (Dec. 3, 2013).

Because increased charges were requested only for former Stanaford customers and North Beckley was apparently using unencumbered investment savings to offset the cash flow deficit when needed, Staff only proposed increased rates for former Stanaford customers. Staff Recommended Revenue Requirements & Rates Report at 1-2 (Dec. 3, 2013). Under Step 1 the Stanaford surcharge will apply, but under Step 2 (at the end of three years), Stanaford customers will pay the same rates as other North Beckley customers. Step 1 rates for Stanaford customers will generate \$58,570 annually in additional revenues, and operating expenses at both North Beckley and Stanaford will be reduced after the takeover. The combination of the additional revenue from the surcharge and reduced operating expenses is sufficient to pay the \$71,891 annual debt service on the proposed \$210,000 loan. Staff Rule 42 Financial Ex. Transmittal Ltr. at 3, Statement C (debt service amount) & Statements G & A2 (adjustments to operating expenses).

On December 13, 2013, North Beckley and Stanaford accepted the Staff rates. Joint Response to Final Joint Staff Memorandum at 1. Because of environmental concerns related to the Stanaford system's inadequate treatment of sewage, North Beckley proposed to proceed as quickly as possible. Id.

The ALJ approved North Beckley's entry into the \$210,000 loan and Staff's Step 1 rates for former Stanaford customers. She also noted that the Staff cash flow analysis showed an annual deficit. Rec. Dec. at 3, 5 (Dec. 16, 2013). Because W. Va. Code § 24-2-3 requires the Commission to set reasonable rates and the record was clear that current rates are inadequate to pay expenses and provide adequate debt service coverage, the ALJ required North Beckley to file a rate case. Because the information needed to establish reasonable rates for all customers was not provided and the ALJ did not wish to delay the Stanaford tie-in, she required a rate case to be filed within sixty days of a final Order in this proceeding. Id. at 4. The ALJ did not approve the Staff Step 2 rates because they were not proposed to be effective until three years later. Id.

On December 30, 2013, North Beckley filed Exceptions to the Recommended Decision, asserting that Staff's revenue requirement erroneously included \$241,552 for the 2009B State Revolving Fund issue, but this was a forgivable State Revolving Fund/American Recovery and Reinvestment Act of 2009 loan. The "debt service" is forgiven annually and is not a draw on cash flow. Exceptions at 3. Although removal of this item does not completely erase the Staff cash flow deficit, the operating deficit is reduced dramatically. Id. at 3-4.

North Beckley plans to file a combination certificate application and rate case in 2014. Id. at 3-4. North Beckley has submitted a preliminary application to the West Virginia Jobs and Infrastructure Development Council for the Stanaford replacement project with a draft Rule 42 financial exhibit that takes these matters into account:

- a) The combination rate and certificate case will address approval of loan funding and appropriate rates;
- b) The 1999A Water Development Authority/State Revolving Fund bond issue, with a \$404,544 annual principal payment and a \$40,960 annual administrative fee, will mature in 2020 and has a fully funded reserve account;
- c) The proposed loan scenario for the replacement project contemplates wrapping the \$210,000 loan so that part of the principal payments is deferred beyond the three-year term approved in the Recommended Decision; and
- d) Until the certificate and rate case are filed, unencumbered cash balances are more than sufficient to cover any operating cash deficit. Average annual capital expenditures of \$79,862 over the last five years indicate that North Beckley is not in a distressed cash flow position.

Id. Under these circumstances, North Beckley argued that requiring a rate case within sixty days of a final Order would be an unnecessary expenditure of funds by the utility and the inefficient use of Commission resources. Id. at 4.

Staff recommended that the Exceptions be granted. When the ARRA debt requirement is forgiven, the annual operating deficit is only \$41,420. Staff Response to Exceptions at 1-3 (Dec. 31, 2013).

On January 8, 2014, Stanaford also supported the Exceptions. Stanaford Response to Exceptions at 1.

### DISCUSSION

The ALJ correctly notes that reasonable rates are required by statute. Usually, a utility will not operate at a deficit under reasonable rates. Upon these particular facts, though, requiring a rate proceeding within sixty days of a final Order would be an unnecessary expenditure of funds by North Beckley and the inefficient use of Commission resources because North Beckley is preparing a combination certificate and rate proceeding for a project to complete its takeover of the Stanaford system and can

absorb the operating deficit for a short while. The Commission will grant the Exceptions and remove the requirement to file a rate case within sixty days.

The Commission also will approve the Staff Step 2 rates for use at the end of the three-year loan period. Because North Beckley will file a combination rate and certificate proceeding in 2014, the Step 2 rates may never take effect. Instead, revised rates will be set in the combination rate and certificate proceeding that will apply to all North Beckley customers. We approve the use of the Staff Step 2 rates for use, but only if revised rates for all North Beckley customers that will be established in the forthcoming rate and certificate proceeding are not in effect at the end of the three-year loan period.

As modified by this Order, the Commission will adopt the Recommended Decision.

### FINDINGS OF FACT

1. Under Step 1 rates, North Beckley will operate at a \$41,420 deficit. Staff Rule 42 Financial Ex. Transmittal Ltr. at 4, Statement D Schedule 1 & Statement F Schedule 2 (Dec. 3, 2013); Staff Response to Exceptions at 1-3 (Dec. 31, 2013).

2. During the last five years, North Beckley's average annual capital expenditures have been \$79,862. North Beckley Exceptions at 3-4.

3. North Beckley will file a combined certificate and rate proceeding in 2014 that will, among other matters, request approval of a loan for the Stanaford replacement project and blended rates that will apply to all customers. Id.

4. Until the certificate and rate case are filed, North Beckley's unencumbered cash balances should be sufficient to cover the \$41,420 operating cash deficit. Id.

### CONCLUSIONS OF LAW

1. Requiring a rate proceeding within sixty days of a final Order would be an unnecessary expenditure of funds by North Beckley and the inefficient use of Commission resources because North Beckley is preparing a combination certificate and rate proceeding to be filed in 2014 for a project to complete its takeover of the Stanaford system and North Beckley should be able to absorb a \$41,420 operating deficit for a short while.

2. The Staff Step 2 rates should be approved for use at the end of the three-year loan period, but only if revised rates for all North Beckley customers that will be established in the forthcoming rate and certificate proceeding are not in effect at the end of that three-year loan period.

ORDER

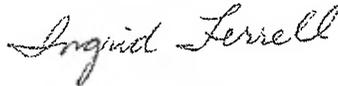
IT IS THEREFORE ORDERED that the North Beckley Exceptions are granted. North Beckley is not required to file a rate proceeding within sixty days of the date of this Order and the Staff Step 2 rates are approved for use at the end of the three-year loan period, but only if revised rates for all North Beckley customers that will be established in the forthcoming rate and certificate proceeding are not in effect at the end of the three-year loan period.

IT IS FURTHER ORDERED that the Recommended Decision, as modified by this Commission Order, is adopted.

IT IS FURTHER ORDERED that upon entry of this Order this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell  
Executive Secretary

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131267ca.doc

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 1<sup>st</sup> day of April 2014.

CASE NO. 13-1267-PSD-PC-19A

NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
a public utility, Beckley, Raleigh County.

Rule 19A application to increase sewer rates and charges of Stanaford Acres Sewerage System, Inc. and request for approval of a bank loan.

**COMMISSION ORDER**

The Commission corrects the rates under Schedule VI of the tariff attached as Appendix A to the December 16, 2013 Recommended Decision.

**BACKGROUND**

On August 21, 2013, North Beckley Public Service District (North Beckley) filed to increase rates under Rule 19A of the Commission Rules for the Construction and Filing of Tariffs, 150 C.S.R. Series 2, to add a \$24.28 monthly surcharge for three years for the former customers of Stanaford Acres Sewerage System, Inc. (Stanaford). The Commission approved North Beckley's takeover of the Stanaford system in 2012 in Case Number 11-0086-PSD-S-PC.

On October 1, 2013, the case was referred to the Division of Administrative Law Judges (ALJ).

On December 3, 2013, Commission Staff filed recommended rates, accompanied by a cash flow analysis that showed North Beckley was operating at a deficit. These rates were accepted by North Beckley and Stanaford.

On December 16, 2013, the ALJ issued a Recommended Decision approving North Beckley's entry into the \$210,000 loan and Staff's Step 1 rates for former Stanaford customers. Further, because the information needed to establish reasonable rates for all customers was not provided and the ALJ did not wish to delay the Stanaford tie-in, she required a rate case to be filed within sixty days of a final Order in this proceeding. The ALJ did not approve the Staff Step 2 rates because they were not proposed to be effective until three years later.

On December 30, 2013, North Beckley filed Exceptions to the Recommended Decision, asserting that Staff's revenue requirement erroneously included \$241,552 for the 2009B State Revolving Fund issue, but this was a forgivable State Revolving Fund/American Recovery and Reinvestment Act of 2009 (ARRA) loan. The "debt service" is forgiven annually and is not a draw on cash flow. Although removal of this item does not completely erase the Staff cash flow deficit, the operating deficit is reduced dramatically. Under these circumstances, North Beckley argued that requiring a rate case within sixty days of a final Order would be an unnecessary expenditure of funds by the utility and the inefficient use of Commission resources.

Staff and Stanaford supported the Exceptions, with Staff recommending the Exceptions be granted. When the ARRA debt requirement is forgiven, the annual operating deficit is only \$41,420.

On January 28, 2014, the Commission issued an Order modifying the December 16, 2013 Recommended Decision to remove the requirement that North Beckley file a rate case within sixty days and conditionally approved the use of Step 2 rates.

On March 18, 2014, North Beckley filed a Motion requesting the Commission correct the rates set forth in Schedule VI of the tariff attached as Appendix A to the December 16, 2013 Recommended Decision. North Beckley explained these rates were the approved Step 1 rates, and that the January 28, 2013 Commission Order did not address or modify the Step 1 rates. North Beckley further explained that the usage blocks under Schedule VI included different surcharge amounts for the first 3,000 gallons and each additional 1,000 gallons used per month. The tariff attached to the Recommended Decision used the same surcharge for both blocks. North Beckley closed by stating that Staff and Stanaford Acres support this Motion.

### DISCUSSION

Staff recommended an embedded surcharge amount of \$7.82 per 1,000 gallons for the first 3,000 gallons used per month, dropping to \$5.71 for each additional 1,000 gallons used per month. The December 16, 2013 Recommended Decision approved an embedded surcharge amount of \$7.82 per 1,000 gallons in each block.

It is appropriate for the Commission to amend the rates set forth in Schedule VI of the tariff approved by the Recommended Decision to indicate the correct surcharge for each block.

### FINDINGS OF FACT

1. North Beckley filed to increase rates to add a \$24.28 monthly surcharge for three years for the former customers of Stanaford. August 21, 2013 Application.

2. This case was referred to the Division of Administrative Law Judges. October 1, 2013 Commission Referral Order.

3. The ALJ approved the Staff-recommended Step 1 rates for former Stanaford customers, and required North Beckley file a rate case within sixty days of a final Order in this proceeding. The ALJ did not approve the Staff Step 2 rates because they were not proposed to be effective until three years later. December 16, 2013 Recommended Decision.

4. North Beckley filed Exceptions to the Recommended Decision, asserting that requiring a rate case within sixty days of a final Order would be an unnecessary expenditure of funds by the utility and the inefficient use of Commission resources. December 30, 2013 Exceptions.

5. The Commission modified the December 16, 2013 Recommended Decision by removing the requirement that North Beckley file a rate case within sixty days and conditionally approved the use of Step 2 rates. January 28, 2014 Commission Order.

6. North Beckley filed a Motion requesting the Commission correct the rates set forth in Schedule VI of the tariff attached as Appendix A to the December 16, 2013 Recommended Decision because the ALJ had approved the same embedded surcharge for both blocks. March 18, 2014 Motion.

#### CONCLUSION OF LAW

The Commission will correct the rates as set forth in Schedule VI of the tariff attached as Appendix A to the December 16, 2013 Recommended Decision.

#### ORDER

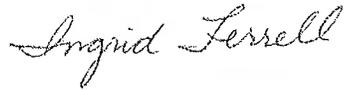
IT IS THEREFORE ORDERED that the rates attached to this Order as Appendix A will replace the rates for Schedule VI that were approved by the December 16, 2013 Recommended Decision.

IT IS FURTHER ORDERED that North Beckley Public Service District file an original and six copies of a proper tariff reflecting the rates approved within thirty days of the date of this Order.

IT IS FURTHER ORDERED that on entry of this Order this matter be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell  
Executive Secretary

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131267cb

SCHEDULE VI

APPLICABILITY

Applicable to those customers formerly served by the Stanaford Acres Sewerage System.

AVAILABILITY

Available for general domestic, commercial and industrial Service.

(I) RATES (customers with metered water supply)

First	3,000 gallons used per month	\$ 15.54 per 1,000 gallons (Includes a surcharge of \$7.82 for debt repayment)
All Over	3,000 gallons used per month	\$ 11.34 per 1,000 gallons (Includes a surcharge of \$5.71 for debt repayment)

(I) MINIMUM CHARGE

No minimum bill will be rendered for less than \$46.62 per month, which is the equivalent of 3,000 gallons with a 5/8 inch meter.  
(Includes a surcharge of \$23.45 for debt repayment)

(I) FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage or \$63.63 per month.  
(Includes a surcharge of \$32.01 for debt repayment)

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

TAP FEE

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

A tap fee of \$300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to Stanaford 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.

(D) LEAK ADJUSTMENT

\$1.91 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(I) Indicates Increase

(D) Indicates Decrease

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 25<sup>th</sup> day of April 2012.

CASE NO. 11-0086-PSD-S-PC

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
AND STANAFORD ACRES SEWERAGE SYSTEMS, INC.,

Joint petition for consent and approval of North Beckley Public Service District's acquisition of Stanaford Acres Sewerage Systems, Inc.'s sanitary sewer system.

COMMISSION ORDER

The Commission approves a Joint Stipulation and Agreement for Settlement (Joint Stipulation) and grants its prior consent and approval for the parties to enter into a proposed Asset Purchase Agreement (Agreement), as modified by the Joint Stipulation.

BACKGROUND

On September 5, 2007, Stanaford Acres Sewerage Systems, Inc. (Stanaford) filed a petition requesting that the Commission initiate proceedings in the Circuit Court of Raleigh County, West Virginia, to place Stanaford under the control and responsibility of a receiver. Stanaford Acres Sewerage Systems, Inc., Case No. 07-1699-S-PC. The petition stated that the individual responsible for the operation and maintenance of the Stanaford sewer system was no longer physically able to complete the required tasks.

On April 2, 2008, a Recommended Decision (Final April 22, 2008), directed Commission Staff to petition the Circuit Court of Raleigh County, West Virginia, to place Stanaford into receivership, with Dianna J. Powell serving as receiver. In its decision, the Commission concluded that the appointment of a receiver was necessary to continue operation of the Stanaford system until such time as it could become part of the North Beckley Public Service District (North Beckley) sewer system. The petition seeking receivership was never filed in the circuit court.

On April 23, 2010, Staff filed a Petition to Reopen Case No. 07-1699-S-PC. Staff indicated that (i) a petition for receivership had not been filed with the Circuit Court as directed in the final order, and (ii) Staff had been in discussions with North Beckley to acquire the Stanaford system. Staff requested that the Commission retain the case and assist with receivership or acquisition of the system. On July 19, 2010, the Commission reopened Case No. 07-1699-S-PC.

On December 13, 2010, the Commission issued an Order joining North Beckley as a party to Case No. 07-1699-S-PC and requiring North Beckley to file a status report regarding its negotiations to acquire the Stanaford sewer system.

On January 31, 2011, North Beckley and Stanaford filed a Joint Petition for Commission Consent and Approval of the acquisition of Stanaford by North Beckley (Joint Petition). The Petitioners filed the proposed Agreement, North Beckley Annual Reports for years ending 2009 and 2010, a Resolution adopted by Stanaford officers at a November 9, 2010 meeting approving the Agreement, and the minutes from the North Beckley November 10, 2010 board meeting approving the Agreement attached to the Joint Petition.

On April 1, 2011, the Commission issued an Order closing Case No. 07-1699-S-PC because of the pendency of this case.

On April 4, 2011, Staff filed its Final Joint Staff Memorandum. Staff supports the acquisition of Stanaford by North Beckley and separate rate schedules for Stanaford and North Beckley customers. Staff expressed concern with the condition in the Agreement that requires the Commission to issue a final, non-appealable order establishing separate rates to be charged to the Stanaford customers that will generate additional revenues to pay the increased repair, replacement and maintenance costs of the Stanaford system. Staff stated that any future rate filing must reflect the operations of the entire combined district. Staff recommended that North Beckley make future Rule 42 rate filings that reflect the separate rate structures and request increases for only one of the rate schedules. Staff recommended approving the Agreement without approving the terms and conditions therein.

On April 14, 2011, North Beckley filed a response to the Staff memorandum. North Beckley emphasized that the terms and conditions precedent to settlement found in Article IV of the Agreement must be approved or North Beckley will not pursue the acquisition of Stanaford. North Beckley further stated that it should not be required to file a Rule 42 rate case, including district revenues and expenses, but rather should only be required to meet the requirements of Rule 19A because any proposed rate increase would only affect Stanaford customers.

On December 29, 2011, the parties filed the Joint Stipulation for Commission consideration.

On February 17, 2012, the Commission issued an Order scheduling a hearing to discuss the Joint Stipulation.

On February 28, 2012, the Commission convened a hearing in this matter. Ms. Donna Sawyers, general manager for North Beckley, and Mr. Mike Lawson, a

professional engineer consulting with North Beckley, testified regarding the condition of the Stanaford System, the proposed acquisition of Stanaford by North Beckley, and the future of the joined systems. Mr. Lawson estimates that the cost to rehabilitate the Stanaford system will be \$2.7 million, given the current state of the Stanaford system. North Beckley has had some preliminary discussions with the West Virginia Department of Environmental Protection (DEP) and other grant sources, but does not yet have a proposal to pay for the necessary upgrades to the Stanaford system by any means other than a rate increase to the former Stanaford customers.

North Beckley plans to maintain two rate structures and sets of books: one for the former Stanaford customers and one for all current North Beckley customers. Ms. Sawyers testified that North Beckley is preparing a certificate case for an improvement project affecting the current North Beckley system that would increase the rates of current North Beckley customers. Ms. Sawyers also testified that North Beckley does not have a proposed schedule for when the rates for the two sets of customers will be combined. The Joint Stipulation and the Agreement contemplate that the rates will reflect "single tariff pricing" when the rates of North Beckley and Stanaford are within five percent of one another. See, Stipulation at paragraph 10, b. and Agreement at Article IV, paragraph D. In fact, as reflected below, these rates are currently within five percent of one another for the average residential customer.

### DISCUSSION

The Commission commends the parties for attempting to reach a resolution in this difficult and protracted case. The Commission recognizes that combining systems is often problematic and appreciates the cooperation between Staff and the parties to join these two systems. Sewer service is a public health and safety concern, and the customers of Stanaford Acres deserve sewer service meeting all the regulatory requirements of this Commission and DEP. Under the Joint Stipulation and Agreement, North Beckley will have the opportunity to expand its customer base through this acquisition, and, over time, have a larger customer base over which to spread its cost of service. The Commission is also aware of the reluctance of North Beckley to undertake the significant improvements required for the Stanaford collection system, if the cost of those improvements would require a significant rate increase on the current North Beckley customers. The Stanaford system sorely needs rehabilitation and solid management if it is to continue to function and provide this essential public health service. The Commission is pleased that North Beckley has stepped forward to provide the needed management of the Stanaford system and to pursue funding for the badly needed rehabilitation.

During the February 28, 2012 hearing, North Beckley indicated that it is currently pursuing funding from the West Virginia Infrastructure and Jobs Development Council (IJDC) for a project called North Beckley PSD, Phase III-B, Piney View Sewer Extension (Phase III-B Extension). Hearing Transcript, February 28, 2012, at 38-42 (hereinafter Tr. at \_\_\_\_). As indicated earlier, at the hearing the engineer for North Beckley indicated that the preliminary estimate for the Stanaford system rehabilitation is \$2.7 million. Tr. at 18. The Commission understands that the cost estimates and funding for both the Phase III-B Extension and the Stanaford collection system rehabilitation project are preliminary. It would be irresponsible for the Commission, however, to fail to consider the magnitude of the potential rate impact on the current Stanaford customers if those customers alone fund the needed improvements to the Stanaford collection system.

The current tariffs for North Beckley and Stanaford reflect that customer rates for the two utilities are less than 2.5 percent apart. A North Beckley customer using 4,000 gallons per month, the average customer usage, pays \$33.74, while the average Stanaford customer pays \$34.50 per month. The North Beckley minimum bill for 2,000 gallons per month is \$18.14 and the Stanaford minimum bill for 3,000 gallons per month is \$27.75. Reviewing the Rule 42 information filed by North Beckley with the IJDC, it appears that the North Beckley average customer would pay \$38.80 per month, an increase of \$5.06, or fifteen percent, if both the loan and grant funding proposed by North Beckley are approved for the proposed Phase III-B Extension. If the project were fully funded by loan, the average customer would pay \$40.28, an increase of \$6.54, or 19.4 percent. The Commission would be willing to entertain a proposal by North Beckley to move the Stanaford rates to the post-project rates of North Beckley, if the Phase III-B project progressed more rapidly than the Stanaford collection system rehabilitation project.

North Beckley estimates that the proposed Stanaford system rehabilitation will cost \$2.7 million. If North Beckley is able to fund the project equally through (i) a DEP Sewer and Water State Revolving Fund (SWSRF) loan with a one percent administration fee for a term of thirty years, and (ii) grant funds, the relatively small customer base of Stanaford, would require a rate of nearly \$59 for the average customer per month, an increase of over \$24, or 70 percent. If the entire \$2.7 million project is funded by a SWSRF loan, the rate for the average Stanaford customer would be \$83 or more per month, an increase of over \$48, or 140 percent. The Commission is very concerned about a monthly rate of over \$80 for the average Stanaford customer if a stand-alone rate approach, as referenced in paragraph 10.b of the Joint Stipulation, is used. This is a rate more than twice the level of the post Phase III-B Extension stand-alone rates for current North Beckley customers.

We also considered two options for combining the rates of North Beckley and Stanaford on completion of both the Phase III-B Extension and the Stanaford collection system rehabilitation project. The first option examined the impact of combined rates under the loan/grant and loan only options described above. Under the loan/grant option, the combined rates for the average North Beckley customer would be about \$41 per month, an increase of slightly more than \$2, or 5.6 percent above the post Phase III-B Extension stand-alone rates of North Beckley. Under the loan only option, the combined North Beckley rates would be about \$43 per month. Under this option, the current North Beckley average customer would pay between \$2 to \$3 more per month under the single tariff pricing approach than the post-project stand-alone North Beckley rate, but the average Stanaford customer would pay a rate about one-half of the stand-alone Stanaford rate. The second option reviewed by the Commission included a \$10 per month surcharge rate for the Stanaford customers at the completion of the Stanaford collection system rehabilitation project that would be phased out over a reasonable period. Under the loan/grant option, the combined rates with the surcharge would initially be less than \$2 per month for the current North Beckley average customer and less than \$3 if the projects were funded entirely by loans.

The single tariff pricing approach envisions that various customers within a utility system will support the extensions and improvements of other portions of the system, but over time all customers will benefit. These benefits flow from (i) the consolidation of efforts, (ii) savings from enlarged scale and scope of operations, and (iii) the spreading of fixed costs over a greater customer base. The Commission is grateful for the effort of North Beckley and Stanaford to resolve this public health and safety concern and will do all it reasonably can to support North Beckley in its efforts to seek certificates from the Commission and funding from the IJDC to improve and upgrade both systems.

The Commission will accept the Joint Stipulation attached to this Order as Appendix A and authorize the existing rates of North Beckley and Stanaford to remain in effect. The Joint Stipulation contemplates that North Beckley can pursue an exception to file a Tariff Rule 19A for a future rate change, however, as noted by Staff Counsel at the hearing, Staff expected any such request to include a full review of both the North Beckley and Stanaford financial information post acquisition of the Stanaford system. The Commission's understands that Staff will not oppose a North Beckley filing for a Tariff Rule 19A exception in a future rate proceeding, and that all parties to the future filing(s) will be permitted to recommend positions different than those on which the Joint Stipulation is based. The Commission hopes that a resolution to future North Beckley case filings can be developed that includes a reasonable phase-in of Stanaford rates to a single tariff for the combined North Beckley system.

The Joint Stipulation seeks Commission prior consent and approval to enter into the Agreement whereby North Beckley will acquire Stanaford. Pursuant to W.Va. Code §24-2-12, a public utility must obtain permission from the Commission before entering into certain transactions including acquisitions or mergers. Under the statute, the Commission is authorized to consent to a proposed transaction without approving its terms and conditions, if the transaction is reasonable, does not adversely affect the public, and no party is given an undue advantage. As requested by the parties in the Joint Stipulation, the Commission will grant its prior consent and approval for the parties to enter into the Agreement as filed on January 31, 2011, and as may be modified by the Joint Stipulation, without approving the terms and conditions of the Agreement.

### FINDINGS OF FACT

1. North Beckley and Stanaford requested prior Commission consent and approval to enter into an Agreement whereby North Beckley would acquire the Stanaford system. Joint Petition at Exhibit A.
2. North Beckley, Stanaford and Staff resolved their differences concerning the Agreement and entered into a Joint Stipulation. See, Attachment A.

### CONCLUSIONS OF LAW

1. The Agreement as modified by the Joint Stipulation is reasonable, does not adversely affect the public, and no party to the Agreement is given an undue advantage over the others. W.Va. Code §24-2-12.
2. Consent in advance should be given to North Beckley and Stanaford to enter into the Agreement, as revised by the Joint Stipulation, without approving the terms and conditions of the Agreement.

### ORDER

IT IS THEREFORE ORDERED that pursuant to W.Va. Code §24-2-12 the Commission grants its prior consent for the Petitioners to enter into the Agreement, as modified by the Joint Stipulation, without specifically approving the terms and conditions of the Agreement.

IT IS FURTHER ORDERED that North Beckley shall file, as a closed entry in this case, a fully executed copy of the Agreement as modified by the Joint Stipulation.

IT IS FURTHER ORDERED that that North Beckley shall file, as a closed entry in this case, notification that it has connected the Stanaford system to its own system.

IT IS FURTHER ORDERED that on entry of this Order this case shall be removed from the Commission docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Staff by hand delivery.

A True Copy, Teste

*Sandra Squire*  
Sandra Squire  
Executive Secretary

SMS/slc  
110086cd.doc

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

CASE NO. 11-0086-PSD-S-PC

NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
a public utility, and  
STANAFORD ACRES SEWERAGE SYSTEMS, INC.,  
a public utility.

**Joint petition for Commission Consent and Approval  
of North Beckley Public Service District's acquisition  
of the Stanaford Acres Sewerage Systems, Inc.'s sanitary  
sewer treatment and collection system.**

**JOINT STIPULATION AND AGREEMENT FOR SETTLEMENT**

Pursuant to W. Va. Code § 24-1-9 and Rules 11 and 13 of the Public Service Commission of West Virginia's (the "Commission") *Rules of Practice and Procedure*, the North Beckley Public Service District (the "District"), Stanaford Acres Sewerage Systems, Inc. ("Stanaford") (the District and Stanaford sometimes collectively referred to herein as the "Petitioners"), and the Staff of the Public Service Commission of West Virginia ("Staff," and together with the District and Stanaford, the "Parties") join in this Joint Stipulation and Agreement for Settlement ("Joint Stipulation") and propose and recommend to the Commission that it approve this settlement among the Parties of all issues raised in Case No. 11-0086-PSD-S-PC, on the terms and conditions set forth below ("Settlement").

**I. BACKGROUND**

1. On September 5, 2007, Stanaford filed a petition requesting that the Commission initiate proceedings in the Circuit Court of Raleigh County, West Virginia, to place Stanaford under the control and responsibility of a receiver. Stanaford's petition was designated as

Stanaford Acres Sewerage Systems, Inc., Case No. 07-1699-S-PC. Stanaford's petition stated that the individual responsible for the operation and maintenance of Stanaford's sewer system was no longer physically able to complete such tasks.

2. Following a public hearing convened on February 25, 2008, the Commission, by Recommended Decision entered April 2, 2008 (Final April 22, 2008), directed that Staff petition the Circuit Court of Raleigh County, West Virginia, to place Stanaford into receivership, with Dianna J. Powell serving as receiver. In its decision, the Commission concluded that the appointment of a receiver was necessary to continued operation of Stanaford's system until such time as it could become part of the District's sewer system.

3. On April 22, 2010, Staff filed a Petition to Reopen Case No. 07-1699-S-PC. In the two years subsequent to April 22, 2008, Staff worked informally with Stanaford to arrange for a receiver; however, Dianna J. Powell became disinterested in serving as receiver, and Stanaford's system continued to deteriorate as the owners were not able to maintain the system. On July 19, 2010, the Commission issued an Order reopening Case No. 07-1699-S-PC.

4. On December 13, 2010, the Commission issued an Order making the District a party to Case No. 07-1699-S-PC and requiring the District to file a status report regarding its negotiations to acquire Stanaford's sewer system.

5. On January 31, 2011, the District and Stanaford filed their "Joint Petition for Commission Consent and Approval of North Beckley Public Service District's Acquisition of Stanaford Acres Sewerage Systems, Inc.'s Sanitary Sewer System" ("Joint Petition"), seeking the Commission's consent to and approval of the District's acquisition of Stanaford's sewer treatment and collection system. The filing was designated as Case No. 11-0086-PSD-S-PC.

6. Attached to the Joint Petition, Petitioners filed a proposed Asset Purchase Agreement (the "Agreement"), the District's Annual Reports for years ending 2009 and 2010, a Resolution adopted by Stanaford officers at a November 9, 2010 meeting approving the Agreement, and the minutes from the Board of the District's November 10, 2010 meeting approving the Agreement.

7. On March 7, 2011, Staff filed its Initial Joint Staff Memorandum.

8. On April 4, 2011, Staff filed its Final Joint Staff Memorandum.

9. The Parties have discussed settlement to resolve the issues raised in this case. Based on those discussions, the Parties reached the Settlement embodied in this Joint Stipulation.

## II. THE SETTLEMENT

10. The terms of the Settlement, which the Parties believe to be a fair and just resolution of this case and in the best interests of the customers of the District and Stanaford, are as follows:

a. The Parties recommend that the Commission approve the Asset Purchase Agreement by and between the District and Stanaford filed in this matter pursuant to which the District will acquire Stanaford, without any additional conditions, modifications, or restrictions.

b. The Parties agree that upon acquisition of Stanaford, the District will be permitted to maintain separate rates and charges to be charged to the customers connected to the Stanaford system (the "Stanaford Customers"). At such time that the District files a rate case to modify the rates and charges for the Stanaford Customers, the District will request a waiver of the revenue ceiling limitation of Tariff Rule 19A, thus permitting the District to file such rate case pursuant to Tariff Rule 19A (rather than Tariff Rule 42), and the

Staff agrees to support the District's requested waiver and the processing of the rate case pursuant to Tariff Rule 19A. The Parties agree that the rates to be charged the Stanaford Customers will not impact the District's customers, and will be established to provide adequate revenues to cover (1) the increased costs of repair, remediation, replacement, operation and maintenance, (2) any other expenses that may be incurred by the District to operate the Stanaford system, and (3) increased debt service and required reserve accounts. The Parties agree that rates charged the District's customers and the Stanaford Customers may be blended at the request of the District when the rate schedules are within five percent (5%) of each other, subject to gradualism and rate shock considerations.

c. The Parties agree that the escrow account established by the District and Stanaford must be paid to the District and used to pay costs associated with the design, repair, replacement, remediation, and/or replacement of the Stanaford system (the "Project").

d. The Parties agree that only those portions of the Project that are outside the District's usual course of business will require Commission approval. The Parties agree that the initial connection of Stanaford's system to the District's system does not require a certificate of convenience and necessity from the Commission.

e. The Parties agree that the District has to acquire adequate funding from any source or sources sufficient to provide for the payment in full of all costs associated with the Project.

f. Stanaford and the District agree that any condition, modification, or restriction placed upon the proposed acquisition by the Commission as a condition of its approval of

the acquisition, must be agreed to in writing by the District and Stanaford, and failure by either party to agree to any such condition, modification, or restriction will not be considered a default or breach of the Asset Purchase Agreement.

g. The Parties recognize that the following conditions must be met before the District acquires Stanaford:

1. The real estate to be transferred by Stanaford to the District must be free and clear from any covenants or deed restrictions which would prohibit the District from using the property for the collection, treatment, and discharge of sanitary sewage;
2. All real estate to be transferred by Stanaford to the District must be free from the presence of any toxic or hazardous substance or any pollutant of any nature, as defined and regulated by applicable federal, state or local environmental laws;
3. The District and Stanaford must be able to obtain all necessary governmental permits, licenses and approvals for the Asset Purchase Agreement, the transfer of Stanaford's assets, and the operation of Stanaford's assets;
4. The West Virginia Department of Environmental Protection must agree to waive Stanaford's current violations and enter an Order concerning its position with reference to the Project;
5. The District must be able to obtain any and all permits required for the Project;
6. The Asset Purchase Agreement must be approved by the District's Board, and by Stanaford's Board of Directors; and

7. The representations and warranties of Stanaford contained in the Asset Purchase Agreement shall have been true and correct at and as of the date of the Asset Purchase Agreement, and shall be true and correct at and as of the closing date, and Stanaford shall have performed and complied with all its obligations required by the Asset Purchase Agreement.

11. The Parties support and recommend this Joint Stipulation and the Settlement as being in the public interest and as a fair, reasonable, and complete resolution of all the issues raised in this proceeding. The Parties shall support the Settlement and make reasonable, good faith efforts to obtain approval of the Settlement by the Commission and any appeal therefrom.

12. The Parties further recommend that the Commission issue findings of fact and conclusions of law to the effect that the Asset Purchase Agreement satisfies the statutory test in W. Va. Code § 24-2-12 in that (i) the terms and conditions of the Asset Purchase Agreement are reasonable; (ii) no party to the Asset Purchase Agreement has an undue advantage over another; (iii) the Asset Purchase Agreement does not and will not adversely affect the public in the State of West Virginia, and, accordingly, that the Asset Purchase Agreement be approved, without approving the specific terms and conditions thereof.

13. The Parties propose this Joint Stipulation and the Settlement without adopting any of the compromise positions that may be set forth herein as regulatory principles applicable to future proceedings. The Parties note that at pages 2-3 of the December 21, 2007 Commission Order, entered in *West Virginia-American Water Company*, Case No. 07-0998-W-42T, the Commission indicated its appreciation of the reluctance of parties to stipulated settlements to be bound in future cases by virtue of their agreements on substantive issues in a settled case, and that a disclaimer of the type appearing in the preceding sentence, which is part of virtually every

settlement agreement filed with the Commission, should be respected as it fosters the development of settlements in contested cases without prejudice to the settling parties. Thus, the Parties' willingness to execute this Joint Stipulation is expressly predicated upon the effectiveness of the disclaimer in the first sentence of this paragraph and the Commission's endorsement thereof in Case No. 07-0998-W-42T. Moreover, the Parties affirm that, in recommending to the Commission that it can and should approve the Settlement on the basis of a finding that a particular component is reasonable in the context of the overall Settlement, no inference can or should be made as to the willingness of any Party to recommend or support the same or a similar resolution of the same issue in future cases.

14. This Joint Stipulation is entered into subject to the acceptance and approval of the Commission, and will have no effect whatsoever until and unless approved by the Commission in all of its material terms. The Parties acknowledge that it is the Commission's prerogative to accept, reject, or modify any stipulation, but they respectfully reiterate that each component of the Settlement, and in particular the resolution of each disputed issue and the provisions of this paragraph, is integral to and inseparable from the others. None of the Parties advocates the Commission's resolution of any issue as proposed in this Joint Stipulation other than in the context of their support for the Settlement as a whole. Accordingly, in the event that the Settlement is modified or rejected by the Commission, it is expressly understood that the Parties are not bound to accept the Settlement as modified or rejected, and that they may avail themselves of whatever rights are available to them under law and the Commission's *Rules of Practice and Procedure*.

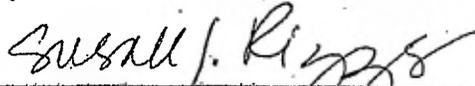
15. The Parties may execute this Settlement in separate counterparts, each of which, when so executed and delivered, shall constitute an original, but all of which together shall constitute one and the same instrument.

WHEREFORE, the Parties, on the basis of the foregoing, respectfully request that the Commission make appropriate findings of fact and conclusions of law adopting and approving the Joint Stipulation in its entirety.

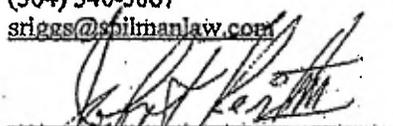
Respectfully submitted this 29<sup>th</sup> day of December, 2011.

**NORTH BECKLEY PUBLIC SERVICE  
DISTRICT**

*By Counsel*



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STANAFORD ACRES SEWERAGE  
SYSTEMS, INC.

*By Counsel*



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THE STAFF OF THE PUBLIC SERVICE  
COMMISSION OF WEST VIRGINIA

*By Counsel*

Christopher Howard (WV Bar No. 8688)  
Public Service Commission of West Virginia  
201 Brooks Street  
Charleston, WV 25301  
(304) 340-0464

**STANAFORD ACRES SEWERAGE  
SYSTEMS, INC.**

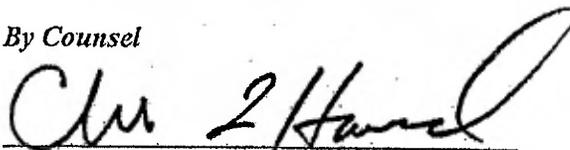
*By Counsel*

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**THE STAFF OF THE PUBLIC SERVICE  
COMMISSION OF WEST VIRGINIA**

*By Counsel*

A handwritten signature in cursive script, appearing to read "Chris Howard", written over a horizontal line.

---

Christopher Howard (WV Bar No. 8688)  
Public Service Commission of West Virginia  
201 Brooks Street  
Charleston, WV 25301  
(304) 340-0464

CERTIFICATE OF SERVICE

I, Susan J. Riggs, counsel for North Beckley Public Service District, do hereby certify that on this 29<sup>th</sup> day of December, 2011, a copy of the foregoing "*Joint Stipulation and Agreement for Settlement*" was served upon the following counsel of record as follows:

VIA U.S. MAIL

James R. Sheatsley, Esquire  
Gorman, Sheatsley & Company, L.C.  
P.O. Box 5518  
Beckley, West Virginia 25801-7507  
*Counsel for Stanaford Acres Sewerage Systems, Inc.*

VIA HAND DELIVERY

Christopher Howard, Esquire  
Staff Attorney  
Public Service Commission of West Virginia  
201 Brooks Street  
Charleston, West Virginia 25301  
*Counsel for Commission Staff*

Susan J. Riggs by KOF  
Susan J. Riggs (WV State Bar #5246)

**Exhibit B**

Commitment Letter

501 Tennessee Avenue  
Charleston, WV 25302  
(304) 353-1635  
Fax (304) 340-4702

April 20, 2015

Donna Sawyer  
Manager  
North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801

Dear Ms. Sawyer:

Branch Banking and Trust Company ("BB&T") is pleased to offer this proposal for the financing requested by the North Beckley Public Service District in Beckley, West Virginia ("District").

- (1) **Project:** Sewer revenue bond to install lines to bring in the Stanaford Acres Subdivision sewerage system
- (2) **Amount To Be Financed:** up to \$210,000.00
- (3) **Interest Rates, Financing Terms and Corresponding Payments:**

Term	Rate
3 years	1.64%

Payments shall be monthly in arrears, as requested. See the attached draft amortization schedule(s) for information on payments.

The financing proceeds shall be deposited on behalf of the District in a project fund account with Branch Banking & Trust. Earnings on the project fund shall accrue to the benefit of the District for use on Project costs or interest payments.

The interest rates stated above are valid for a closing not later than 45 days after today. Closing of the financing is contingent upon completing documentation acceptable to BB&T.

Lender counsel fees shall be paid by the District on behalf of BB&T. All applicable taxes, permits, costs of lawyers for the District and any other costs shall be the District's responsibility and separately payable by the District. The financing documents shall allow prepayment of the principal balance in whole on a scheduled payment date with a 1% prepayment premium.

The stated interest rates assume that the District expects to borrow less than \$10,000,000 in calendar year 2015 and that the District shall comply with IRS Code Sections 141, 148 and 149. BB&T reserves the right to terminate its interest in this bid or to negotiate a mutually acceptable rate if the financing is not qualified tax-exempt financing for the purpose of IRS Code Section 265(b)(3).

(4) **Financing Documents:**

It shall be the responsibility of the District to retain and compensate counsel to appropriately structure the revenue bond according to Federal and West Virginia State Statutes. BB&T shall also require the District's Bond Counsel to provide an unqualified legal opinion. BB&T reserves the right to review the bond which must be mutually accepted by BB&T and the District.

(5) **Security:**

The sewer revenue bond shall be secured by a parity lien on the revenues of the District which shall include the additional revenues from the addition of the Stanaford Acres Project.

\* \* \* \* \*

BB&T appreciates the opportunity to make this financing proposal and requests to be notified within five days of this proposal should BB&T be the successful proposer.

BB&T shall have the right to cancel this offer by notifying the District of its election to do so (whether or not this offer has previously been accepted by the District) if at any time prior to the closing there is a material adverse change in the District's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the District or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to BB&T. We reserve the right to negotiate and/or terminate our interest in this transaction should we be the successful proposer.

Please call me at (304) 353-1635 with your questions and comments. We look forward to hearing from you.

Sincerely,

BRANCH BANKING AND TRUST COMPANY



Russell R. Akers, II  
Vice President

Enclosure

**Exhibit C**

Commission Order approving Surcharge

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 17<sup>th</sup> day of April, 2015.

CASE NO. 14-1924-PSD-CN

NORTH BECKLEY PUBLIC SERVICE DISTRICT,  
a public utility, Beckley, Raleigh County.

Application for a certificate of  
convenience and necessity to construct  
the Stanaford Replacement Project.

**COMMISSION ORDER**

The Commission corrects language in the tariff.

**BACKGROUND**

The sewer system at Stanaford Acres needs replaced. North Beckley Public Service District's facilities can treat the flows from Stanaford Acres and North Beckley agreed to take over the Stanaford Acres system. The Commission approved the acquisition in an earlier case.<sup>1</sup>

In the pending case, North Beckley applied for a certificate of convenience and necessity to install new lines and manholes at Stanaford Acres and to decommission the wastewater treatment plants there. North Beckley also asked the Commission to approve a rate increase and funding for the certificate project.

On December 2, 2014, the case was referred to the Division of Administrative Law Judges for further proceedings. Comm'n Referral Order at 1-2.

On February 18, 2015, Commission Staff recommended a five percent rate increase (CN Step 1 rates) to be "effective upon substantial completion of the project and during the remaining three-year period after the acquisition of Stanaford Acres." Staff also recommended a 3.3 percent rate decrease (CN Step 2 rates) that would become "effective upon substantial completion of the project and after the remaining three-year

---

<sup>1</sup> On April 25, 2012, in North Beckley Public Service District & Stanaford Acres Sewerage Systems, Inc., Case Number 11-0086-PSD-S-PC, the Commission granted its prior consent for North Beckley and Stanaford Acres to enter into an Asset Purchase Agreement. Comm'n Order at 1-7 & Att. A (Joint Stipulation and Agreement for Settlement).

period after the acquisition of Stanaford Acres.” Final Joint Staff Memorandum at 1-3 & attached Utilities & Engineering Divisions Final Recommendation at 1-9.

On March 18, 2015, the ALJ approved the certificate, Staff-recommended rates and proposed financing, with this clarification:

Referring [to] the three-year loan period as the “3 year period after the acquisition of Stanaford Acres,” as provided in the Staff-recommended tariffs, is unclear. The phrase will be changed to the “three-year period after January 28, 2014.”

Rec. Dec. at 3, 4 (Mar. 18, 2015) (Concl. of Law 6).

On March 27, 2015, North Beckley filed Exceptions, explaining that the CN Step 1 rates in this case are designed to generate sufficient revenues to pay back the project funding from the West Virginia Infrastructure and Jobs Development Council (Infrastructure) as well as a loan with BB&T that was previously approved by the Commission. By changing the Staff tariff language for the CN Step 1 rates from “3 year period after *the acquisition of Stanaford Acres*” to “three-year period *after January 28, 2014*,” the Recommended Decision shortens the period of CN Step 1 rates that are necessary to pay back both the BB&T and Infrastructure loans. Exceptions at 1-6.

In an earlier proceeding, North Beckley obtained consent to enter into a \$210,000 loan with BB&T at 1.65 percent interest for three years to fund the initial tie-in, as well as approval of increased rates for Stanaford Acres customers for three years that would generate sufficient revenue to pay the debt service on the BB&T loan (19A Step 1 rates). After the BB&T loan was repaid, Staff recommended that all North Beckley customers pay the same rates (19A Step 2 rates). North Beckley PSD, Case No. 13-1267-PSD-PC-19A, Rec. Dec. at 6 & App. A, (Dec. 16, 2013); Comm’n Order at 2-3 (Apr. 1, 2014) (correcting Schedule VI rates in Rec. Dec.)

In the Exceptions, North Beckley advised that it has not been able to meet the required debt service on its existing financing, so its bondholders would not agree to the BB&T loan on a parity basis. As a result, North Beckley has not yet closed on the BB&T loan. To proceed with the takeover of Stanaford Acres, North Beckley filed this case to obtain a certificate as well as rates sufficient to meet its debt service requirements, thus allowing the BB&T loan to be issued on parity with existing debt and proposed project debt. North Beckley will close both the BB&T tie-in loan and the Infrastructure project loan upon approval of the certificate, project financing and increased rates requested in this case. The rate structure proposed by Staff provides sufficient revenues to pay the debt service for both loans (CN Step 1 rates) and upon the complete pay-down of the BB&T loan, revenues sufficient to pay the debt service on the Infrastructure loan only (CN Step 2 rates).

## DISCUSSION

Although in 2013 the Commission granted its consent for North Beckley to enter into a three-year loan with BB&T, as well as increased rates for three years for customers residing in Stanaford Acres, to date North Beckley has not been able to close on the tie-in loan and the three-year 19A Step 1 rates have not taken effect.

In the pending certificate case, North Beckley requested rates that will generate sufficient revenues to allow North Beckley to close on both the BB&T tie-in loan, as well as the Infrastructure funding for the certificate project. Increased rates were designed in this certificate case with two steps so that all customers will pay the same rates after the BB&T loan is repaid.

Staff's tariff reflects this schedule with the language that the CN Step 1 rates will be "effective upon substantial completion of the project and during the remaining three-year period after the acquisition of Stanaford Acres" and that the decreased CN Step 2 rates would become "effective upon substantial completion of the project and after the remaining three-year period after the acquisition of Stanaford Acres."

Upon these facts, substituting a specific date for the phrase "after the acquisition of Stanaford Acres" does not provide clarification or specificity as the ALJ intended. The Staff-proposed language is necessary to provide that the CN Step 1 rates will be in effect for the entire three-year period when the BB&T loan is being repaid. The Commission will grant the Exceptions and restore the language that Staff proposed.

Because North Beckley's takeover of the Stanaford Acres involves multiple loans and rates, it is helpful to provide this summary:

around April 24, 2015	BB&T loan closing, three-year payback period begins. 19A Step 1 rates commence.
May 7, 2015	Infrastructure loan closing, start of certificate project.
around April 1, 2016	Substantial completion of certificate project, about one year into the BB&T three-year payback period. CN Step 1 rates begin and continue in effect until the BB&T loan is repaid (about two more years).
around May 1, 2018	BB&T loan is paid off, lower CN Step 2 rates commence. Revenues for the BB&T loan are no longer needed.

## FINDINGS OF FACT

1. In the Staff-proposed tariff for the CN Step 1 rates, the ALJ substituted "after January 28, 2014" for the phrase "after the acquisition of Stanaford Acres." Rec. Dec. at 3, 4 (Mar. 18, 2015) (Concl. of Law 6).

2. North Beckley opposed the ALJ's substitution and requested that the Staff-proposed language be approved. North Beckley Exceptions at 1-6 (Mar. 27, 2015).

## CONCLUSIONS OF LAW

1. Upon these facts, substituting a specific date for the phrase "after the acquisition of Stanaford Acres" does not provide clarification or specificity of the time period during which the CN Step 1 rates will be in effect.

2. The Staff-proposed language is necessary to provide that the CN Step 1 rates will be in effect for the entire three-year period when the BB&T loan is being repaid.

## ORDER

IT IS THEREFORE ORDERED that the Exceptions filed by North Beckley PSD are granted. The Commission adopts the Staff-recommended tariff that appears in Appendix A to this Order.

IT IS FURTHER ORDERED that the Recommended Decision is adopted to the extent that it is consistent with this Order.

IT IS FURTHER ORDERED that upon entry of this Order this case shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this Order by electronic service on all parties of record who have filed an e-service agreement, and by United States First Class Mail on all parties of record who have not filed an e-service agreement, and on Commission Staff by hand delivery.

A True Copy, Teste,



Ingrid Ferrell  
Executive Secretary

CLW/sek  
141924ca.doc

STAFF RECOMMENDED STEP 1 TARIFF

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stansford Acres)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for general domestic, commercial, industrial and sale for resale sewer service.

(I) RATES (customers with metered water supply)

First	2,000 gals used per month	\$ 9.52 per 1,000 gallons
Next	23,000 gals used per month	\$ 8.19 per 1,000 gallons
All Over	25,000 gals used per month	\$ 5.47 per 1,000 gallons

(I) MINIMUM CHARGE

No bill shall be rendered for less than \$ 19.04 per month which is the equivalent of  
2,000 gallons of usage.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service, which has been disconnected for non-payment of sewer bills in conjunction  
with a water service termination agreement with Beckley Water, a disconnection fee of \$25 shall be  
charged; or in the event the delinquent sewer bill is collected by the water company, an  
administrative fee of \$25.00 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for  
non-payment of a sewer bill in conjunction with a water service termination agreement with  
Beckley Water, is reconnected, a reconnection fee of \$25.00 shall be charged.

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 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 an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$300.00 will be charged to customers applying for service outside of a certificate  
proceeding before the Commission for each new tap to the system.

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.

(I) LEAK ADJUSTMENT

\$0.77 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can  
be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such  
consumption above the customer's historical average usage.

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanaford Acres)

SCHEDULE II

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

APPLICABILITY

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

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

S = The surcharge in dollars.

A = The area under roof and/or the area of any other water collection surface connected to the District's sanitary sewer, in square feet.

R = The measured monthly rainfall in inches.

.0006233 = A conversion factor to change inches of rain x square feet of surface thousands of gallons of water.

C = the District's approved rate per thousand gallons of metered water usage.

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

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

Note: The surcharge is not cumulative so as not to reduce the incentive of the larger users to disconnect. The minimum charge does not apply to the surcharge.

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanaford Acres)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN THE CASES OF USERS PRODUCING UNUSUAL WATER

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

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

$C_i$  = charge to unusual users per year

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

$V_i$  = volume of wastewater from unusual users, in gallons per year

$B_o$  = average unit cost of treatment, chargeable to Biochemical Oxygen  
Demand (BOD), in dollars per pound

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

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

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

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. The total cost of any such study performed shall be borne entirely by the unusual user. Waste containing materials which, in the judgement of the utility, should not be introduced into the sewer system, will not be accepted. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefore, based upon the formula set out above.

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

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanford Acres)

SCHEDULE IV

Where the amount of sanitary sewage discharge into the Utility's wastewater collection and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Utility a sewer charge calculated at fifty gallons of water per each employee at the plant each working day.

SCHEDULE V

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Commodity charge - Each customer shall pay a commodity charge of \$40 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined, or verified solely, by the Utility.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or 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.

STAFF RECOMMENDED STEP 1 TARIFF

(Effective upon substantial completion of the project and during the remaining  
3 year period after the acquisition of Stanaford Acres)

SCHEDULE VI

APPLICABILITY

Applicable to those customers formerly served by the Stanaford Acres Sewerage System.

AVAILABILITY

Available for general domestic, commercial and industrial Service.

RATES (customers with metered water supply)

First	3,000 gallons used per month	\$ 16.32 per 1,000 gallons (Includes a surcharge of \$7.82 for debt repayment)
All Over	3,000 gallons used per month	\$ 11.91 per 1,000 gallons (Includes a surcharge of \$5.71 for debt repayment)

MINIMUM CHARGE

No minimum bill will be rendered for less than \$48.96 per month, which is the equivalent of 3,000 gallons with a 5/8 inch meter. (Includes a surcharge of \$23.45 for debt repayment)

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent of 4,500 gallons of water usage or \$63.63 per month.  
(Includes a surcharge of \$32.01 for debt repayment)

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

TAP FEE

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

A tap fee of \$300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to Stanaford 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.

LEAK ADJUSTMENT

\$1.91 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

STAFF RECOMMENDED STEP 2 TARIFF

(Effective upon substantial completion of the project and after  
the remaining 3 year period after the acquisition of Stanaford Acres)

APPLICABILITY

Applicable within the entire territory served, including the former Stanaford Acres Sewerage System.

AVAILABILITY

Available for general domestic, commercial, industrial and sale for resale sewer service.

(I) RATES (customers with metered water supply)

First	2,000 gals used per month	\$ 9.47 per 1,000 gallons
Next	23,000 gals used per month	\$ 8.14 per 1,000 gallons
All Over	25,000 gals used per month	\$ 5.44 per 1,000 gallons

(I) MINIMUM CHARGE

No bill shall be rendered for less than \$ 18.94 per month which is the equivalent of 2,000 gallons of usage.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service, which has been disconnected for non-payment of sewer bills in conjunction with a water service termination agreement with Beckley Water, a disconnection fee of \$25 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of \$25.00 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with Beckley Water, is reconnected, a reconnection fee of \$25.00 shall be charged.

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 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 an applicant's premises that is associated with a certificate proceeding.

A tap fee of \$300.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

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.

(I) LEAK ADJUSTMENT

\$0.77 per 1,000 gallons is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

(Effective upon substantial completion of the project and after  
the remaining 3 year period after the acquisition of Stanaford Acres)

SCHEDULE II

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

APPLICABILITY

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

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

S = The surcharge in dollars.

A = The area under roof and/or the area of any other water collection surface connected to the District's sanitary sewer, in square feet.

R = The measured monthly rainfall in inches.

.0006233 = A conversion factor to change inches of rain x square feet of surface thousands of gallons of water.

C = the District's approved rate per thousand gallons of metered water usage.

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

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

Note: The surcharge is not cumulative so as not to reduce the incentive of the larger users to disconnect. The minimum charge does not apply to the surcharge.

(Effective upon substantial completion of the project and after  
the remaining 3 year period after the acquisition of Stanaford Acres)

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN THE CASES OF USERS PRODUCING UNUSUAL WATER

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

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

- $C_i$  = charge to unusual users per year
- $V_o$  = average unit cost of transport and treatment chargeable to volume,  
in dollars per gallon
- $V_i$  = volume of wastewater from unusual users, in gallons per year
- $B_o$  = average unit cost of treatment, chargeable to Biochemical Oxygen  
Demand (BOD), in dollars per pound
- $B_i$  = weight of BOD from unusual users, in pounds per year
- $S_o$  = average unit cost of treatment (including sludge treatment), chargeable  
to total solids in dollars per pound
- $S_i$  = weight of total solids from unusual users, in pounds per year

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and treatment thereof, will be made. The total cost of any such study performed shall be borne entirely by the unusual user. Waste containing materials which, in the judgement of the utility, should not be introduced into the sewer system, will not be accepted. The results of the preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefore, based upon the formula set out above.

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

(Effective upon substantial completion of the project and after  
the remaining 3 year period after the acquisition of Stanaford Acres)

SCHEDULE IV

Where the amount of sanitary sewage discharge into the Utility's wastewater collection and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Utility a sewer charge calculated at fifty gallons of water per each employee at the plant each working day.

SCHEDULE V

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

Available for wastewater and leachate haulers.

RATES

Commodity charge - Each customer shall pay a commodity charge of \$40 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined, or verified solely, by the Utility.

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) 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.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the District or 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.

**Exhibit D**

Form of Project Fund Agreement

## PROJECT FUND AGREEMENT

THIS PROJECT FUND AGREEMENT is dated as of \_\_\_\_\_, 2015, and is by and between the \_\_\_\_\_ PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia (the "Public Service District") and BRANCH BANKING AND TRUST COMPANY (GOVERNMENTAL FINANCE) ("BB&T").

### RECITALS

The Public Service District is, simultaneously with the execution and delivery of this Project Fund Agreement, executing and delivering its \_\_\_\_\_ Revenue Bonds, Series 2015 (BB and T) dated \_\_\_\_\_, 2015 (the "Bonds") pursuant to the Bond Resolution finally adopted by the Public Service District on \_\_\_\_\_, 2015, as supplemented and amended by a Supplemental Resolution adopted on \_\_\_\_\_, 2015 (the "Bond Resolution"). The purpose of the Bonds is to provide for BB&T's advance of \$ \_\_\_\_\_ to finance the acquisition, construction and equipping of the Project, as defined in the Bond Resolution. In partial consideration for BB&T's purchase of the Bonds, the Public Service District has agreed to provide for financing proceeds to be deposited and disbursed pursuant to this Project Fund Agreement.

**NOW, THEREFORE**, the parties agree as follows:

### **SECTION 1. DEFINITIONS**

In this Project Fund Agreement, the term "*Project Costs*" means all costs of the design, planning, constructing, acquiring and equipping of the Project as determined in accordance with generally accepted accounting principles and that will not adversely affect the exclusion from gross income for federal income tax purposes of the interest payable by the Public Service District under the Bonds, including (a) sums required to reimburse the Public Service District or its agents for advances made for any such costs, (b) interest during the construction process and for up to six months thereafter, and (c) all costs related to the financing of the Project through the Bonds and all related transactions.

In addition, any capitalized terms used in this Project Fund Agreement and not otherwise defined shall have the meanings assigned thereto in the Bond.

### **SECTION 2. PROJECT FUND.**

**2.1. Project Fund.** On the date of issuance of the Bond (the "Closing Date"), BB&T will deposit \$ \_\_\_\_\_ into a special account of the Public Service District at BB&T to be designated "\_\_\_\_\_ Public Service District Construction Account" (the "Project Fund"). This account shall be held separate and apart from all other funds of the Public Service District. The Project Fund is the Public Service District's property, but the Public Service District is hereby authorized to withdraw amounts on deposit in the Project Fund only as provided in this Project Fund Agreement and only for application from time to time to the payment of Project Costs. Pending such application, such amounts shall be subject to a lien and charge in favor of BB&T to secure the Public Service District's obligations under the Bonds.

2.2. **Requisitions from Project Fund.** The Public Service District may withdraw funds from the Project Fund only after authorization from BB&T. BB&T will disburse funds from the Project Fund only to the Public Service District and only upon its receipt of one or more written requisitions signed by one of the below listed designated Public Service District Representatives substantially in the form of Exhibit A.

Name and Title:

Signature:

\_\_\_\_\_, \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

The Public Service District may designate additional Representatives to sign requisitions upon written notification to BB&T.

Upon receipt of a requisition from the Public Service District, BB&T will promptly undertake such review of the matters referred to in such requisition as it shall deem appropriate, and will then promptly notify the Public Service District of its approval of the requisition or the reasons for its disapproval.

2.3. **Disposition of Project Fund Balance.**

(a) ***Upon completion*** -- Promptly after the Project has been completed to the point that it is suitable for carrying out substantially all the purposes it is to serve for the Public Service District, the Public Service District must deliver to BB&T (i) a certificate to such effect signed by a Public Service District Representative and by a licensed architect or engineer reasonably acceptable to BB&T, and (ii) an opinion of counsel to the Public Service District that there are no liens or encumbrances on the Project. BB&T will then withdraw any balance remaining in the Project Fund (and not required to be retained to pay Project Costs incurred but not yet paid) and apply such balance against the outstanding balance of principal and interest payable under the Bond.

(b) ***Upon default*** -- Upon the occurrence of an Event of Default, BB&T may withdraw any balance remaining in the Project Fund and apply such balance against the outstanding balance of principal and interest payable under the Bond.

(c) ***After delay or inactivity*** -- If (i) more than two years have elapsed from the Closing Date or (ii) at least six months has passed from BB&T's most recent receipt of a requisition for Project Costs, then BB&T, upon 30 days' notice from BB&T to the Public Service District, may withdraw any balance remaining in the Project Fund and apply such balance against the outstanding balance of principal and interest payable under the Bond.

(d) ***Application of Project Fund balance*** -- BB&T will apply any amounts paid to it pursuant to this section (i) first against all additional payments then due and payable, (ii) then to interest accrued and unpaid to the prepayment date, and (iii) then to the prepayment of the outstanding principal of the Bond. Such prepayment, however, will not affect any other payment obligation under the Bonds. BB&T will notify the Public Service District of any withdrawal from the Project

Fund made under this Section 2.3, and in the notice will describe its application of the funds withdrawn.

At the time of the disposition of the project fund and closure of the project fund account, accrued interest will post to the account only through the last complete calendar month the account is opened. If the account is closed prior to month end, accrued but unposted interest will be forfeited.

**2.4. Investment.** (a) The Public Service District and BB&T agree that money in the Project Fund will be continuously invested and reinvested in a public funds money rate savings account.

(b) From and after the date that is three years from the Closing Date, the Public Service District will not purchase or hold any investment which has a "yield," as determined under the Code, in excess of the "yield" on the Public Service District's obligations under the Bonds, unless the Public Service District has supplied BB&T with a Bond Counsel Opinion to the effect that such investment will not adversely affect the exclusion from gross income for federal income tax purposes to which the interest components of payments under the Bond would otherwise be entitled.

(c) Investment obligations acquired with money in the Project Fund shall be deemed at all times to be part of the Project Fund. The interest accruing thereon and any profit or loss realized upon the disposition or maturity of any such investment shall be credited to or charged against the Project Fund.

(d) All earnings on moneys in the Project Fund must be used for Project Costs.

### **SECTION 3. MISCELLANEOUS.**

**3.1. Notices.** Any notice or other communication required or contemplated by this Project Fund Agreement shall be deemed to be delivered if in writing, addressed as provided below and if (a) actually received by such addressee, or (b) in the case of mailing, when indicated to have been delivered by a signed receipt returned by the United States Postal Service after deposit in the United States mails, postage and registry fees prepaid, and clearly directed to be transmitted as registered or certified mail:

- (i) If intended for the Public Service District, addressed to it at the following address: \_\_\_\_\_ Public Service District, \_\_\_\_\_, \_\_\_\_\_, West Virginia \_\_\_\_\_, Attention: \_\_\_\_\_.
- (ii) If intended for BB&T, addressed to it at the following address: BB&T Governmental Finance, Attention: Account Administration/Municipal – Project Fund Agreement Notice, 5130 Parkway Plaza Boulevard, Building 9, Charlotte, North Carolina 28217.

Any party may designate a different or alternate address for notices by notice given under this Project Fund Agreement.

3.2. **Survival of Covenants and Representations.** All covenants, representations and warranties made by the Public Service District in this Project Fund Agreement and in any certificates delivered pursuant to this Project Fund Agreement shall survive the delivery of this Project Fund Agreement.

3.3. **Choice of Law.** The parties intend that West Virginia law shall govern this Project Fund Agreement.

3.4. **Amendments.** This Project Fund Agreement may not be modified or amended unless such amendment is in writing and signed by BB&T or the Public Service District.

3.5. **No Third-Party Beneficiaries.** There are no parties intended to be or which shall be deemed to be third-party beneficiaries of this Project Fund Agreement.

3.6. **Successors and Assigns.** All of the covenants and conditions of this Project Fund Agreement shall be binding upon and inure to the benefit of the parties to this Project Fund Agreement and their respective successors and assigns.

3.7. **Severability.** If any court of competent jurisdiction shall hold any provision of this Project Fund Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Project Fund Agreement.

3.8. **Counterparts.** This Project Fund Agreement may be executed in any number of counterparts, including separate counterparts, each executed counterpart constituting an original but all together only one agreement.

3.9. **Termination.** Except as otherwise provided in this Project Fund Agreement, this Project Fund Agreement shall cease and terminate upon payment of all funds (including investment proceeds) from the Project Fund.

*[The remainder of this page has been left blank intentionally.]*

IN WITNESS WHEREOF, each of the parties has caused this Project Fund Agreement to be signed and delivered by a duly authorized officer, all as of the date first above written.

**NORTH BECKLEY PUBLIC SERVICE  
DISTRICT**

By: \_\_\_\_\_  
Its: Chairman

**BRANCH BANKING AND TRUST COMPANY**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT A

PROJECT FUND REQUISITION

*[To Be Prepared on Public Service District's Letterhead for Submission]*

[Date] \_\_\_\_\_

\_\_\_\_\_  
Funding Specialist  
BB&T Governmental Finance  
5130 Parkway Plaza Boulevard, Building 9  
Charlotte, North Carolina 28217

RE: Request for disbursement of funds from the Project Fund related to Contract No. \_\_\_\_\_ with \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_.

Dear \_\_\_\_\_,

Pursuant to the terms and conditions of the Project Fund Agreement dated as of \_\_\_\_\_, 20\_\_, the \_\_\_\_\_ (the "Public Service District"), requests the disbursement of funds from the Project Fund established under the Project Fund Agreement for the following Project Costs:

This is requisition number \_\_\_\_ from the Project Fund.

Amount:

Vendor:

Vendor Address:

Vendor Federal Tax Number:

Applicable Vendor Invoices: \_\_\_\_\_

Payee *(if different from vendor; attach explanation)*

Project Description:

Location of Project:

The \_\_\_\_\_ makes this requisition pursuant to the following representations:

1. The Public Service District has appropriated in its current fiscal year funds sufficient to pay the payments and any estimated additional payments due in the current fiscal year with respect to the Bonds delivered in connection with this transaction.
2. The purpose of this disbursement is for partial payment on the project provided for under the Contract referenced above.
3. The requested disbursement has not been subject to any previous requisition.
4. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable herein to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this requisition.
5. This requisition contains no items representing payment on account of any percentage entitled to be retained on the date of this requisition.
6. No Event of Default is continuing under the Bonds, and no event or condition is existing which, with notice or lapse of time or both, would become an Event of Default.
7. The Public Service District will execute any Uniform Commercial Code financing statements with respect to this portion of the Project that BB&T may request to evidence its security interest.
8. The Public Service District has in place insurance on this portion of the Project that complies with the insurance provisions of the above-referenced Contract.

Attached is evidence that the amounts shown in this requisition are properly payable at this time, such as bills, receipts, invoices, architects' payment certifications or other appropriate documents.

\_\_\_\_\_  
By: ***[Exhibit Form Only – Do Not Sign]***

Title: \_\_\_\_\_

**Exhibit E**

Debt Service Schedule

BOND DEBT SERVICE

North Beckley Public Service District, WV NAICS 221320 Customer Number 9948001419  
 Sewer Revenue Bond 2015 9948001419-00001

Dated Date 05/07/2015  
 Delivery Date 05/07/2015

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service	Bond Balance	Total Bond Value
05/07/2015						210,000.00	210,000.00
06/01/2015	5,750.76	1.640%	229.60	5,980.36		204,249.24	204,249.24
07/01/2015	5,701.22	1.640%	279.14	5,980.36		198,548.02	198,548.02
08/01/2015	5,709.01	1.640%	271.35	5,980.36		192,839.00	192,839.00
09/01/2015	5,716.81	1.640%	263.55	5,980.36		187,122.19	187,122.19
10/01/2015	5,724.63	1.640%	255.73	5,980.36		181,397.56	181,397.56
11/01/2015	5,732.45	1.640%	247.91	5,980.36		175,665.11	175,665.11
12/01/2015	5,740.29	1.640%	240.08	5,980.36		169,924.82	169,924.82
01/01/2016	5,748.13	1.640%	232.23	5,980.36		164,176.69	164,176.69
02/01/2016	5,755.99	1.640%	224.37	5,980.36		158,420.71	158,420.71
03/01/2016	5,763.85	1.640%	216.51	5,980.36		152,656.85	152,656.85
04/01/2016	5,771.73	1.640%	208.63	5,980.36		146,885.12	146,885.12
05/01/2016	5,779.62	1.640%	200.74	5,980.36	71,764.34	141,105.50	141,105.50
06/01/2016	5,787.52	1.640%	192.84	5,980.36		135,317.99	135,317.99
07/01/2016	5,795.43	1.640%	184.93	5,980.36		129,522.56	129,522.56
08/01/2016	5,803.35	1.640%	177.01	5,980.36		123,719.21	123,719.21
09/01/2016	5,811.28	1.640%	169.08	5,980.36		117,907.93	117,907.93
10/01/2016	5,819.22	1.640%	161.14	5,980.36		112,088.71	112,088.71
11/01/2016	5,827.17	1.640%	153.19	5,980.36		106,261.54	106,261.54
12/01/2016	5,835.14	1.640%	145.22	5,980.36		100,426.40	100,426.40
01/01/2017	5,843.11	1.640%	137.25	5,980.36		94,583.29	94,583.29
02/01/2017	5,851.10	1.640%	129.26	5,980.36		88,732.19	88,732.19
03/01/2017	5,859.09	1.640%	121.27	5,980.36		82,873.10	82,873.10
04/01/2017	5,867.10	1.640%	113.26	5,980.36		77,006.00	77,006.00
05/01/2017	5,875.12	1.640%	105.24	5,980.36	71,764.34	71,130.88	71,130.88
06/01/2017	5,883.15	1.640%	97.21	5,980.36		65,247.73	65,247.73
07/01/2017	5,891.19	1.640%	89.17	5,980.36		59,356.54	59,356.54
08/01/2017	5,899.24	1.640%	81.12	5,980.36		53,457.30	53,457.30
09/01/2017	5,907.30	1.640%	73.06	5,980.36		47,549.99	47,549.99
10/01/2017	5,915.38	1.640%	64.98	5,980.36		41,634.62	41,634.62
11/01/2017	5,923.46	1.640%	56.90	5,980.36		35,711.16	35,711.16
12/01/2017	5,931.56	1.640%	48.81	5,980.36		29,779.60	29,779.60
01/01/2018	5,939.66	1.640%	40.70	5,980.36		23,839.94	23,839.94
02/01/2018	5,947.78	1.640%	32.58	5,980.36		17,892.16	17,892.16
03/01/2018	5,955.91	1.640%	24.45	5,980.36		11,936.25	11,936.25
04/01/2018	5,964.05	1.640%	16.31	5,980.36		5,972.20	5,972.20
05/01/2018	5,972.20	1.640%	8.16	5,980.36	71,764.34		
	210,000.00		5,293.02	215,293.02	215,293.02		

**Exhibit F**

(FORM OF BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES A  
(BRANCH BANKING AND TRUST COMPANY)

No. AR-1

\$210,000

KNOW ALL MEN BY THESE PRESENTS: This \_\_\_ day of \_\_\_\_\_, 2015, that North Beckley Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Raleigh County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the sources and in the manner hereinafter set forth, to the order of BRANCH BANKING AND TRUST COMPANY or registered assigns (the "Registered Owner"), on \_\_\_\_\_, 2018, the principal sum of TWO HUNDRED TEN THOUSAND DOLLARS (\$210,000) at the rates per annum set forth as follows:

A. Interest on this Bond shall be payable at the rate of 1.64% per annum (hereinafter sometimes called the "Tax-Exempt Rate").

B. Principal and interest on the Bonds shall be due and payable in arrears commencing on June 1, 2015, and continuing on the same day of each month thereafter in such amounts as set forth in the EXHIBIT A hereto. The principal amount of the Bond and any unpaid interest accrued thereon shall be due and payable thirty-six (36) months from the date hereof, being \_\_\_\_\_, 2018.

The principal of and interest on this Bond are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of Branch Banking and Trust Company, as Paying Agent.

This Bond is subject to prepayment of principal and interest only in whole on any scheduled payment date with a 1% prepayment premium.

This Bond is issued (i) to finance costs of design, acquisition and construction of certain additions, betterments, improvements and extensions to the existing public sewerage facilities of the Issuer, including the initial tie-in of the Stanaford Acres Sewerage System, Inc. sewer system to the Issuer's existing public sewerage facilities, and all necessary appurtenant

facilities (the “Project”); and (ii) to pay the costs of issuance of the Bonds and related costs. The existing public sewerage 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 (the “State”), including particularly Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the “Act”), and a Resolution duly enacted by the Issuer on April 21, 2015 (the “Resolution”), and is subject to all the terms and conditions thereof. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Resolution.

**THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER’S (I) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 (WEST VIRGINIA SRF PROGRAM), DATED JANUARY 28, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$8,090,898 (THE “SERIES 1999 BONDS”), (II) SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (WEST VIRGINIA SRF PROGRAM), DATED SEPTEMBER 29, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,307,741 (THE “SERIES 2003 BONDS”), AND (III) SEWER REVENUE BONDS, SERIES 2009 A (WEST VIRGINIA SRF PROGRAM), DATED OCTOBER 29, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$4,544,324 AND SEWER REVENUE BONDS, SERIES 2009 B (WEST VIRGINIA SRF PROGRAM/ARRA), DATED OCTOBER 29, 2009, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,415,521 (TOGETHER, THE “SERIES 2009 BONDS,” AND COLLECTIVELY WITH THE 1999 BONDS AND THE 2003 BONDS, THE “PRIOR BONDS”).**

This Bond is payable only from and secured by a pledge from Net Revenues to be derived from the operation of the System, on a parity with the lien of the Prior Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter 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 and unexpended proceeds of the Bonds. Under the Resolution, 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 be 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 the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements in the Reserve Accounts for obligations on a parity with the 2015 Series A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the 2015 Series A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the 2015 Series A Bonds,

including the Prior Bonds. The Issuer has entered into certain further covenants with the Registered Owner, for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner are exclusively as provided in the Resolution to which reference is here made for a detailed description thereof.

Subject to the requirements for transfer set forth below, this Bond is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State. This Bond is transferable, as provided in the Resolution, only by transfer of registration upon the books of the Registrar, to be made at the request of the Registered Owner hereof in person or by its attorney duly authorized in writing, and upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its duly authorized attorney.

All monies received from the sale of this Bond shall be applied solely to the payment of the costs of Project and the costs of issuance and related costs described in the Resolution, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the Registered Owner of this Bond.

Under the Act, this Bond and the interest hereon are exempt from taxation by the State and the other taxing bodies of the State.

The Issuer has designated the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at 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 Bonds, together with all other obligations of the Issuer, do not exceed any limit prescribed by the Constitution or statutes of the State and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

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

This Bond shall not be valid or obligatory unless authenticated and registered by the Registrar by the execution of the Registrar’s Certificate of Authentication and Registration attached hereto and incorporated herein.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, NORTH BECKLEY 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 the day and year first written above.

[SEAL]

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Bond is the Bond described in and issued under the provisions of the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

Date: \_\_\_\_\_, 2015

BRANCH BANKING AND TRUST COMPANY,  
as Registrar

By: \_\_\_\_\_  
Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

(FORM OF)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto \_\_\_\_\_ the within-mentioned Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, attorney, to transfer said Bond on the books of the Registrar on behalf of said Issuer with full power of substitution in the premises.

Date: \_\_\_\_\_, 20\_\_

\_\_\_\_\_

IN THE PRESENCE OF:

\_\_\_\_\_

## PROJECT FUND AGREEMENT

**THIS PROJECT FUND AGREEMENT** is dated as of May 7, 2015, and is by and between the **NORTH BECKLEY PUBLIC SERVICE DISTRICT**, a public service district, public corporation and political subdivision of the State of West Virginia (the “Public Service District”) and **BRANCH BANKING AND TRUST COMPANY (GOVERNMENTAL FINANCE)** (“BB&T”).

### RECITALS

The Public Service District is, simultaneously with the execution and delivery of this Project Fund Agreement, executing and delivering its Sewer Revenue Bonds, Series 2015 (Branch Banking and Trust Company) dated May 7, 2015 (the “Bonds”) pursuant to the Bond Resolution finally adopted by the Public Service District on April 21, 2015 (the “Bond Resolution”). The purpose of the Bonds is to provide for BB&T’s advance of \$210,000 to finance the acquisition, construction and equipping of the Project, as defined in the Bond Resolution. In partial consideration for BB&T’s purchase of the Bonds, the Public Service District has agreed to provide for financing proceeds to be deposited and disbursed pursuant to this Project Fund Agreement.

**NOW, THEREFORE**, the parties agree as follows:

### **SECTION 1. DEFINITIONS**

In this Project Fund Agreement, the term “*Project Costs*” means all costs of the design, planning, constructing, acquiring and equipping of the Project as determined in accordance with generally accepted accounting principles and that will not adversely affect the exclusion from gross income for federal income tax purposes of the interest payable by the Public Service District under the Bonds, including (a) sums required to reimburse the Public Service District or its agents for advances made for any such costs, (b) interest during the construction process and for up to six months thereafter, and (c) all costs related to the financing of the Project through the Bonds and all related transactions.

In addition, any capitalized terms used in this Project Fund Agreement and not otherwise defined shall have the meanings assigned thereto in the Bond.

### **SECTION 2. PROJECT FUND.**

**2.1. Project Fund.** On the date of issuance of the Bond (the “Closing Date”), BB&T will deposit \$210,000 into a special account of the Public Service District at BB&T to be designated “North Beckley Public Service District Project Fund” (the “Project Fund”). This account shall be held separate and apart from all other funds of the Public Service District. The Project Fund is the Public Service District’s property, but the Public Service District is hereby authorized to withdraw amounts on deposit in the Project Fund only as provided in this Project Fund Agreement and only for application from time to time to the payment of Project Costs. Pending such application, such amounts shall be subject to a lien and charge in favor of BB&T to secure the Public Service District’s obligations under the Bonds.

**2.2. Requisitions from Project Fund.** The Public Service District may withdraw funds from the Project Fund only after authorization from BB&T. BB&T will disburse funds from the Project Fund only to the Public Service District and only upon its receipt of one or more written requisitions signed by one of the below listed designated Public Service District Representatives substantially in the form of Exhibit A.

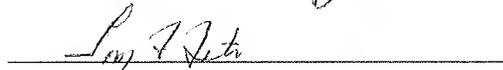
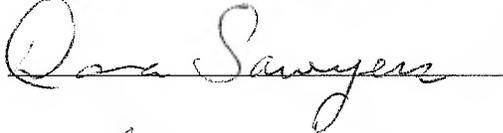
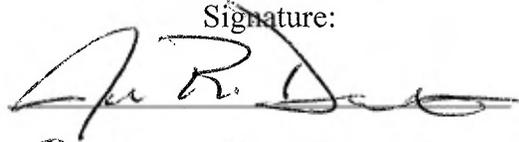
Name and Title:

Jan R. Datsko, Chairman

Donna Sawyers, Gen. Mgr.

Tom Foti, Treasurer

Signature:



The Public Service District may designate additional Representatives to sign requisitions upon written notification to BB&T.

Upon receipt of a requisition from the Public Service District, BB&T will promptly undertake such review of the matters referred to in such requisition as it shall deem appropriate, and will then promptly notify the Public Service District of its approval of the requisition or the reasons for its disapproval.

**2.3. Disposition of Project Fund Balance.**

(a) *Upon completion* -- Promptly after the Project has been completed to the point that it is suitable for carrying out substantially all the purposes it is to serve for the Public Service District, the Public Service District must deliver to BB&T (i) a certificate to such effect signed by a Public Service District Representative and by a licensed architect or engineer reasonably acceptable to BB&T, and (ii) an opinion of counsel to the Public Service District that there are no liens or encumbrances on the Project. BB&T will then withdraw any balance remaining in the Project Fund (and not required to be retained to pay Project Costs incurred but not yet paid) and apply such balance against the outstanding balance of principal and interest payable under the Bond.

(b) *Upon default* -- Upon the occurrence of an Event of Default, BB&T may withdraw any balance remaining in the Project Fund and apply such balance against the outstanding balance of principal and interest payable under the Bond.

(c) *After delay or inactivity* -- If (i) more than two years have elapsed from the Closing Date or (ii) at least six months has passed from BB&T's most recent receipt of a requisition for Project Costs, then BB&T, upon 30 days' notice from BB&T to the Public Service District, may withdraw any balance remaining in the Project Fund and apply such balance against the outstanding balance of principal and interest payable under the Bond.

under the Bonds. BB&T will notify the Public Service District of any withdrawal from the Project Fund made under this Section 2.3, and in the notice will describe its application of the funds withdrawn.

At the time of the disposition of the project fund and closure of the project fund account, accrued interest will post to the account only through the last complete calendar month the account is opened. If the account is closed prior to month end, accrued but unposted interest will be forfeited.

**2.4. Investment.** (a) The Public Service District and BB&T agree that money in the Project Fund will be continuously invested and reinvested in a public funds money rate savings account.

(b) From and after the date that is three years from the Closing Date, the Public Service District will not purchase or hold any investment which has a “yield,” as determined under the Code, in excess of the “yield” on the Public Service District’s obligations under the Bonds, unless the Public Service District has supplied BB&T with a Bond Counsel Opinion to the effect that such investment will not adversely affect the exclusion from gross income for federal income tax purposes to which the interest components of payments under the Bond would otherwise be entitled.

(c) Investment obligations acquired with money in the Project Fund shall be deemed at all times to be part of the Project Fund. The interest accruing thereon and any profit or loss realized upon the disposition or maturity of any such investment shall be credited to or charged against the Project Fund.

(d) All earnings on moneys in the Project Fund must be used for Project Costs.

### **SECTION 3. MISCELLANEOUS.**

**3.1. Notices.** Any notice or other communication required or contemplated by this Project Fund Agreement shall be deemed to be delivered if in writing, addressed as provided below and if (a) actually received by such addressee, or (b) in the case of mailing, when indicated to have been delivered by a signed receipt returned by the United States Postal Service after deposit in the United States mails, postage and registry fees prepaid, and clearly directed to be transmitted as registered or certified mail:

(i) If intended for the Public Service District, addressed to it at the following address: North Beckley Public Service District, 122 Clear Water Lane, Beckley, West Virginia 25801, Attention: General Manager.

(ii) If intended for BB&T, addressed to it at the following address: BB&T Governmental Finance, Attention: Account Administration/Municipal – Project Fund Agreement Notice, 5130 Parkway Plaza Boulevard, Building 9, Charlotte, North Carolina 28217.

Any party may designate a different or alternate address for notices by notice given under this Project Fund Agreement.

**3.2. Survival of Covenants and Representations.** All covenants, representations and warranties made by the Public Service District in this Project Fund Agreement and in any certificates delivered pursuant to this Project Fund Agreement shall survive the delivery of this Project Fund Agreement.

**3.3. Choice of Law.** The parties intend that West Virginia law shall govern this Project Fund Agreement.

**3.4. Amendments.** This Project Fund Agreement may not be modified or amended unless such amendment is in writing and signed by BB&T or the Public Service District.

**3.5. No Third-Party Beneficiaries.** There are no parties intended to be or which shall be deemed to be third-party beneficiaries of this Project Fund Agreement.

**3.6. Successors and Assigns.** All of the covenants and conditions of this Project Fund Agreement shall be binding upon and inure to the benefit of the parties to this Project Fund Agreement and their respective successors and assigns.

**3.7. Severability.** If any court of competent jurisdiction shall hold any provision of this Project Fund Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Project Fund Agreement.

**3.8. Counterparts.** This Project Fund Agreement may be executed in any number of counterparts, including separate counterparts, each executed counterpart constituting an original but all together only one agreement.

**3.9. Termination.** Except as otherwise provided in this Project Fund Agreement, this Project Fund Agreement shall cease and terminate upon payment of all funds (including investment proceeds) from the Project Fund.

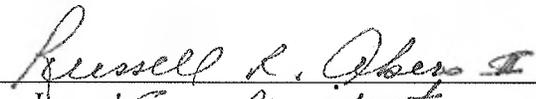
*[The remainder of this page has been left blank intentionally.]*

IN WITNESS WHEREOF, each of the parties has caused this Project Fund Agreement to be signed and delivered by a duly authorized officer, all as of the date first above written.

**NORTH BECKLEY PUBLIC SERVICE  
DISTRICT**

By:   
Its: Chairman

**BRANCH BANKING AND TRUST COMPANY**

By:   
Its: *Vice President*

**EXHIBIT A**

PROJECT FUND REQUISITION

*[To Be Prepared on Public Service District's Letterhead for Submission]*

[Date] \_\_\_\_\_

\_\_\_\_\_  
Funding Specialist  
BB&T Governmental Finance  
5130 Parkway Plaza Boulevard, Building 9  
Charlotte, North Carolina 28217

RE: Request for disbursement of funds from the Project Fund related to Contract No. \_\_\_\_\_ with \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_.

Dear \_\_\_\_\_,

Pursuant to the terms and conditions of the Project Fund Agreement dated as of \_\_\_\_\_, 20\_\_, the \_\_\_\_\_ (the "Public Service District"), requests the disbursement of funds from the Project Fund established under the Project Fund Agreement for the following Project Costs:

This is requisition number \_\_\_\_ from the Project Fund.

Amount:

Vendor:

Vendor Address:

Vendor Federal Tax Number:

Applicable Vendor Invoices:

Payee *(if different from vendor; attach explanation)*

Project Description:

Location of Project:

The \_\_\_\_\_ makes this requisition pursuant to the following representations:

1. The Public Service District has appropriated in its current fiscal year funds sufficient to pay the payments and any estimated additional payments due in the current fiscal year with respect to the Bonds delivered in connection with this transaction.
2. The purpose of this disbursement is for partial payment on the project provided for under the Contract referenced above.
3. The requested disbursement has not been subject to any previous requisition.
4. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable herein to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this requisition.
5. This requisition contains no items representing payment on account of any percentage entitled to be retained on the date of this requisition.
6. No Event of Default is continuing under the Bonds, and no event or condition is existing which, with notice or lapse of time or both, would become an Event of Default.
7. The Public Service District will execute any Uniform Commercial Code financing statements with respect to this portion of the Project that BB&T may request to evidence its security interest.
8. The Public Service District has in place insurance on this portion of the Project that complies with the insurance provisions of the above-referenced Contract.

Attached is evidence that the amounts shown in this requisition are properly payable at this time, such as bills, receipts, invoices, architects' payment certifications or other appropriate documents.

---

By: **[Exhibit Form Only – Do Not Sign]**

Title: \_\_\_\_\_

**\$2,354,862**  
**NORTH BECKLEY PUBLIC SERVICE DISTRICT**  
**SEWER REVENUE BONDS, 2015 SERIES B**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**CLOSING MEMORANDUM**

To: Financing Team  
From: Elizabeth A. Benedetto, Esquire  
Date: June 18, 2015

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DISBURSEMENT TO NORTH BECKLEY PUBLIC SERVICE DISTRICT

Payor: West Virginia Water Development Authority/West Virginia  
Infrastructure & Jobs Development Council  
Project No.: 2013S-1467 (Stanaford Acres)  
Source: 2015 Series B Bonds Proceeds  
Amount: \$142,120  
Date: June 18, 2015  
Form: Wire Transfer  
Payee: North Beckley Public Service District  
Bank: United Bank, Inc.  
Routing #: 051900395  
Account #: 0067023055  
Account: 2015 Series B Bonds Construction Trust Fund  
Contact: Greg Lilly (304.256.7275)

**North Beckley Public Service District**  
**122 Clear Water Lane**  
**BECKLEY, WEST VIRGINIA 25801-3159**  
**Bus: (304) 253-2191 – Fax (304) 253-4106**

June 11, 2015

Mr. James W. Ellars, PE  
Executive Director  
WV Infrastructure & Jobs Development Council  
1009 Bullitt Street  
Charleston, WV 25301

**RE: NORTH BECKLEY PSD STANAFORD ACRES SEWER PROJECT #2013S-1467**  
**IJDC PAYMENT REQUEST NUMBER ONE (1) (CLOSING) \$142,120.00**

Dear Mr. Ellars:

Please find enclosed **IJDC payment request number ONE (1) in the amount of \$142,120.00** for the North Beckley PSD Stanaford Acres Sewer Project, along with a copy of the associated invoices.

Should you have any questions concerning this payment request, please contact me or Lisa Miller with Region I PDC at 304-431-7225.

Sincerely,



Jan Datsko  
Chairman

cc: Mike Lawson – Lawson Engineering  
North Beckley PSD  
Region I PDC

RESOLUTION OF THE NORTH BECKLEY PUBLIC SERVICE DISTRICT  
 APPROVING INVOICES RELATING TO DESIGN  
 AND CONSTRUCTION FOR THE PROPOSED WATER PROJECT  
 AND AUTHORIZING PAYMENT THEREOF,

**IJDC # 2013S-1467**

**INVOICE # 1**

**WHEREAS, the North Beckley PSD has reviewed the invoices attached hereto and incorporated herein by reference relating to the Sewer Project funded by the West Virginia Infrastructure & Jobs Development Council (IJDC), and finds as follows:**

- a) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement heretofore made.
- b) That each item for which the payment is proposed to be paid is or was necessary in connection with the project and constitutes a cost of the project.
- c) That each of such costs has been otherwise property incurred.
- d) That payment for each of the items proposed is due and owing as the date hereof.

**NOW, THEREFORE, BE IT RESOLVED BY THE NORTH BECKLEY PSD AS FOLLOWS:**

**There is hereby authorized and directed the payment of the attached invoices as follows:**

VENDOR NAME/ PAYEE	TOTAL AMOUNT	IJDC GRANT		
Region I PDC	<b>\$4,420.00</b>	<b>\$4,420.00</b>		
Rist, Higgins & Associates, PLLC	<b>\$2,200.00</b>	<b>\$2,200.00</b>		
Lawson Engineering & Technical Services, Inc.	<b>\$125,000.00</b>	<b>\$125,000.00</b>		
United Bank	<b>\$500.00</b>	<b>\$500.00</b>		
Spilman, Thomas & Battle, PLLC	<b>\$10,000.00</b>	<b>\$10,000.00</b>		
	<b>\$0.00</b>			
	<b>\$0.00</b>			
<b>TOTALS</b>	<b>\$142,120.00</b>	<b>\$142,120.00</b>	<b>\$0.00</b>	

**ADOPTED BY THE North Beckley PSD, at their meeting held the 11th day of June 2015.**

**North Beckley Public Service District**

BY:   
 Its: Chairman

**NORTH BECKLEY PSD**  
**STANAFORD ACRES SEWER PROJECT**

INVOICES THROUGH JUNE 11, 2015

Payment is approved to the following vendors for their respective invoices:

PAYEE	EXPLANATION	AMOUNT
<b>ADMINISTRATIVE</b>		
Region I PDC	March and April 2015 Invoices	\$4,420.00
<b>ENGINEERING</b>		
Lawson Engineering, Inc.	Invoice# 00036- Design \$110,000; Bidding & Negotiation \$15,000	\$125,000.00
<b>LEGAL</b>		
Rist, Higgins & Associates, PLLC	Billing dates 3/31/15	\$2,200.00
<b>ACCOUNTING</b>		
<b>BOND COUNSEL</b>		
Spilman, Thomas & Battle, PLLC	Invoice # 5257742	\$10,000.00
United Bank	Registrar Fee	\$500.00
<b>CONSTRUCTION</b>		
TOTAL AMOUNT -----		<b>\$142,120.00</b>

North Beckley PSD Stanaford Acres Sewer Project #2010S-1467

IJDC LOAN

As of June 11, 2015

IJDC LOAN	SCHEDULE B BUDGET	Adjustments	FINAL BUDGET	Paid Prior to this Draw	Requested this draw	Requested to date	Remaining Funds
Administration	\$55,000.00		\$55,000.00	\$0.00	\$4,420.00	\$4,420.00	\$50,580.00
Legal - Project Attorney (Rist)	\$30,000.00		\$30,000.00	\$0.00	\$2,200.00	\$2,200.00	\$27,800.00
Legal - PSC Attorney (Riggs)	\$10,000.00		\$10,000.00	\$0.00		\$0.00	\$10,000.00
Engineer - Final Design	\$110,000.00		\$110,000.00	\$0.00	\$110,000.00	\$110,000.00	\$0.00
Engineer - Bidding & Neg.	\$15,000.00		\$15,000.00	\$0.00	\$15,000.00	\$15,000.00	\$0.00
Engineer - RPR	\$90,000.00		\$90,000.00	\$0.00		\$0.00	\$90,000.00
Engineer - Const. Admin.	\$120,000.00		\$120,000.00	\$0.00		\$0.00	\$120,000.00
Engineer - Construction Stakeout	\$18,000.00		\$18,000.00	\$0.00		\$0.00	\$18,000.00
Engineer - Record Drawings	\$12,000.00		\$12,000.00	\$0.00		\$0.00	\$12,000.00
Engineer - One year Certification	\$2,000.00		\$2,000.00	\$0.00		\$0.00	\$2,000.00
Accounting	\$12,500.00		\$12,500.00	\$0.00		\$0.00	\$12,500.00
Right of Ways	\$3,625.00		\$3,625.00	\$0.00		\$0.00	\$3,625.00
Construction	\$1,528,000.00		\$1,528,000.00	\$0.00		\$0.00	\$1,528,000.00
Construction Contingency	\$76,400.00		\$76,400.00	\$0.00		\$0.00	\$76,400.00
Registrar Fees	\$500.00		\$500.00	\$0.00	\$500.00	\$500.00	\$0.00
Bond Counsel (Spilman)	\$10,000.00		\$10,000.00	\$0.00	\$10,000.00	\$10,000.00	\$0.00
			\$0.00			\$0.00	\$0.00
<b>Total</b>	<b>\$2,093,025.00</b>	<b>\$0.00</b>	<b>\$2,093,025.00</b>	<b>\$0.00</b>	<b>\$142,120.00</b>	<b>\$142,120.00</b>	<b>\$1,950,905.00</b>

North Beckley PSD Stanaford Acres Project #2013S-1467

IJDC LOAN - BID UNDERRUN

As of June 11, 2015

<b>AML - COALDALE MTN</b>	<b>SCHEDULE B BUDGET</b>	<b>Adjustments</b>	<b>FINAL BUDGET</b>	<b>Paid Prior to this Draw</b>	<b>Requested this draw</b>	<b>Requested to date</b>	<b>Remaining Funds</b>
Legal - Project Attorney (Rist) Bid underrun	\$7,500.00		\$7,500.00	\$0.00		\$0.00	\$7,500.00
Engineer - Final Design (Bid Underrun)	\$9,500.00		\$9,500.00	\$0.00		\$0.00	\$9,500.00
Engineer - Const admin Bid underrun	\$3,250.00		\$3,250.00	\$0.00		\$0.00	\$3,250.00
Sites & Other Lands Bid underrun	\$2,000.00		\$2,000.00	\$0.00		\$0.00	\$2,000.00
Construction Bid underrun	\$227,087.00		\$227,087.00	\$0.00		\$0.00	\$227,087.00
Construction Contingency Bid underrun	\$12,500.00		\$12,500.00	\$0.00		\$0.00	\$12,500.00
<b>Total</b>	<b>\$261,837.00</b>	<b>\$0.00</b>	<b>\$261,837.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$261,837.00</b>

North Beckley PSD Stanaford Acres Sewer Project #2013S-1467

TOTAL PROJECT BUDGET

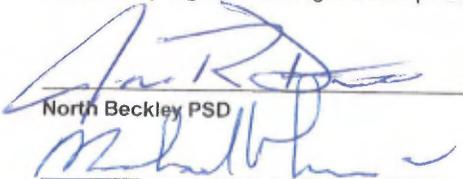
As of June 11, 2015

TOTAL PROJECT	SCHEDULE B BUDGET	Adjustments	FINAL BUDGET	Paid Prior to this Draw	Requested this draw	Requested to date	Remaining Funds
Administration	\$55,000.00		\$55,000.00	\$0.00	\$4,420.00	\$4,420.00	\$50,580.00
Legal - Project Attorney (Rist)	\$30,000.00		\$30,000.00	\$0.00	\$2,200.00	\$2,200.00	\$27,800.00
Legal - Project Attorney (Rist) Bid underrun	\$7,500.00		\$7,500.00	\$0.00		\$0.00	\$7,500.00
Legal - PSC Attorney (Riggs)	\$10,000.00		\$10,000.00	\$0.00		\$0.00	\$10,000.00
Engineer - Final Design	\$110,000.00		\$110,000.00	\$0.00	\$110,000.00	\$110,000.00	\$0.00
Engineer - Final Design (Bid Underrun)	\$9,500.00		\$9,500.00	\$0.00		\$0.00	\$9,500.00
Engineer - Bidding & Neg.	\$15,000.00		\$15,000.00	\$0.00	\$15,000.00	\$15,000.00	\$0.00
Engineer - RPR	\$90,000.00		\$90,000.00	\$0.00		\$0.00	\$90,000.00
Engineer - Const. Admin.	\$120,000.00		\$120,000.00	\$0.00		\$0.00	\$120,000.00
Engineer - Const admin Bid underrun	\$3,250.00		\$3,250.00	\$0.00		\$0.00	\$3,250.00
Engineer - Construction Stakeout	\$18,000.00		\$18,000.00	\$0.00		\$0.00	\$18,000.00
Engineer - Record Drawings	\$12,000.00		\$12,000.00	\$0.00		\$0.00	\$12,000.00
Engineer - One year Certification	\$2,000.00		\$2,000.00	\$0.00		\$0.00	\$2,000.00
Accounting	\$12,500.00		\$12,500.00	\$0.00		\$0.00	\$12,500.00
Sites & Other Lands	\$15,000.00		\$15,000.00	\$0.00		\$0.00	\$15,000.00
Sites & Other Lands Bid underrun	\$2,000.00		\$2,000.00	\$0.00		\$0.00	\$2,000.00
Right of Ways	\$3,625.00		\$3,625.00	\$0.00		\$0.00	\$3,625.00
Construction	\$1,528,000.00		\$1,528,000.00	\$0.00		\$0.00	\$1,528,000.00
Construction Bid underrun	\$227,087.00		\$227,087.00	\$0.00		\$0.00	\$227,087.00
Construction Contingency	\$76,400.00		\$76,400.00	\$0.00		\$0.00	\$76,400.00
Construction Contingency Bid underrun	\$12,500.00		\$12,500.00	\$0.00		\$0.00	\$12,500.00
Registrar Fees	\$500.00		\$500.00	\$0.00	\$500.00	\$500.00	\$0.00
Bond Counsel (Spilman)	\$10,000.00		\$10,000.00	\$0.00	\$10,000.00	\$10,000.00	\$0.00
<b>Total</b>	<b>\$2,369,862.00</b>	<b>\$0.00</b>	<b>\$2,369,862.00</b>	<b>\$0.00</b>	<b>\$142,120.00</b>	<b>\$142,120.00</b>	<b>\$2,227,742.00</b>

**NORTH BECKLEY PSD STANAFORD ACRES SEWER PROJECT**  
**SCHEDULE B MAY 14, 2015 \*\* POST BID DRAFT\*\***

A. COST OF PROJECT	Total	IJDC Loan (1% 40 yrs)	IJDC Loan (1% 40yrs) UNDERRUN FUNDS	PSD Contribution
<b>1 Construction</b>				
CONTRACT #1 Stanaford Acres Replacement	\$ 1,528,000.00	\$ 1,528,000.00		
* Line Extension (Bid underrun)	\$ 227,087.00		\$ 227,087.00	
Construction Contingency <b>LIMIT TO 5% OF CONSTRUCTION</b>	\$ 88,900.00	\$ 76,400.00	\$ 12,500.00	
<b>2 Technical Services (Lawson)</b>				
a. Preliminary Design	\$ -			
b. Final Design (+ \$9,500 bid underrun)	\$ 119,500.00	\$ 110,000.00	\$ 9,500.00	
c. Bidding & Negotiation	\$ 15,000.00	\$ 15,000.00		
d. RPR	\$ 90,000.00	\$ 90,000.00		
e. Engineering During Construction (+ \$3,250 bid underrun)	\$ 123,250.00	\$ 120,000.00	\$ 3,250.00	
f. Special Services				
i Construction Stakeout	\$ 18,000.00	\$ 18,000.00		
ii Record Drawings	\$ 12,000.00	\$ 12,000.00		
iii Engineering Surveys & Topo	\$ -			
iv Mat'ls & Equipment Inspections	\$ -			
v Field Investigations	\$ -			
vi One year Certification	\$ 2,000.00	\$ 2,000.00		
vii Environmental Assesment	\$ -			
viii Special Meetings	\$ -			
<b>3 Legal &amp; Fiscal (Spilman)</b>				
a. Project Attorney (John Rist) (+ \$7,500 bid underrun)	\$ 37,500.00	\$ 30,000.00	\$ 7,500.00	
b. PSC Attorney (S. Riggs sub under Rist)	\$ 10,000.00	\$ 10,000.00		
<b>4 Administrative Services</b>				
a. Project Administrator (Reg. 1)	\$ 55,000.00	\$ 55,000.00		
b. Other Admin costs	\$ -			
<b>5 Accounting (Blackwell)</b>	\$ 12,500.00	\$ 12,500.00		
<b>6 Sites &amp; Other Lands (+ \$2,000 bid underrun)</b>	\$ 17,000.00		\$ 2,000.00	\$ 15,000.00
<b>7 Permits</b>	\$ -			
a. Right-of-way Activities	\$ 3,625.00	\$ 3,625.00		
<b>8 TOTAL of Lines 1 through 7</b>	\$ 2,359,362.00	\$ 2,082,525.00	\$ 261,837.00	\$ 15,000.00
<b>B. COST OF FINANCING</b>				
<b>9 Interim Financing</b>	\$ -	\$ -		\$ -
<b>10 Capitalized Interest</b>	\$ -	\$ -		\$ -
<b>11 Registrar Fee</b>	\$ 500.00	\$ 500.00		
<b>12 Bond Counsel (Spilman)</b>	\$ 10,000.00	\$ 10,000.00		
<b>13 Cost of Financing (Lines 10 thru 13)</b>	\$ 10,500.00	\$ 10,500.00		\$ -
<b>14 TOTAL PROJECT COST(Line 8 plus Line 13)</b>	\$ 2,369,862.00	\$ 2,093,025.00	\$ 261,837.00	\$ 15,000.00
<b>C. SOURCES OF OTHER FUNDS</b>				
<b>16 Federal Grants</b>	\$ -			\$ -
<b>17 State Grants</b>	\$ -			\$ -
<b>18 Other Grants</b>	\$ -			\$ -
<b>19 Any Other Source (PSD)</b>	\$ 15,000.00			\$ 15,000.00
<b>20 TOTAL GRANTS (Lines 16 through 19)</b>	\$ 15,000.00	\$ -	\$ -	\$ 15,000.00
<b>21 Size of Bond Issue (Line 15 minus Line 20)</b>	\$ 2,354,862.00	\$ 2,093,025.00	\$ 261,837.00	\$ -

Prepared by Region I Planning & Development Council

  
 North Beckley PSD  
 Engineer



  
 Date  
 6/11/2015  
 Date

# Region 1 Planning & Development

1439 E. Main Street, Suite 5

Princeton, WV 24740

(304) 431-7225

## STATEMENT

Date
May 7, 2015
Account
0509

North Beckley PSD  
 122 Clear Water Lane  
 Beckley, WV 25801

Project:  
North Beckley Stanaford Acres

<u>Date of Service</u>	<u>Service</u>	<u>Time</u>	<u>Amount</u>
4/01/2015	Filing	0.5000 Hour	\$42.50
4/01/2015	Phone calls and follow-up	0.5000	\$42.50
4/02/2015	Emails and follow-up	1.0000 Hour	\$85.00
4/02/2015	Emails and Follow-up	0.5000	\$42.50
4/02/2015	Phone calls and follow-up	1.5000	\$127.50
4/06/2015	Project Management	0.5000	\$42.50
4/08/2015	Attended Meeting - IJDC RE time extension	5.0000	\$425.00
4/08/2015	Conference Call	0.5000	\$42.50
4/09/2015	Attended Meeting	3.5000	\$297.50
4/10/2015	Phone calls and follow-up - RE: undeerrun request	0.5000	\$42.50
4/10/2015	Letter - to IJDC RE: underrun request	0.5000	\$42.50
4/13/2015	Emails and Follow-up RE: underrun	1.5000	\$127.50
4/16/2015	Emails and follow-up	0.5000 Hour	\$42.50
4/16/2015	Emails and Follow-up RE: conf call	0.5000	\$42.50
4/17/2015	Project Management	0.5000	\$42.50
4/21/2015	Phone calls and follow-up	1.5000	\$127.50
4/21/2015	Project Management - underrun	3.0000	\$255.00
4/21/2015	Attended Meeting	4.0000	\$340.00
4/21/2015	Miscellaneous - Revised Schedule B	1.5000 Hour	\$127.50
4/22/2015	Project Management - underrun	1.5000	\$127.50
4/22/2015	Emails and Follow-up	0.5000	\$42.50
4/24/2015	Emails and Follow-up	0.5000	\$42.50
4/28/2015	Project Management	1.0000	\$85.00
4/29/2015	Emails and follow-up	0.5000 Hour	\$42.50

**Region 1 Planning & Development**

1439 E. Main Street, Suite 5

Princeton, WV 24740

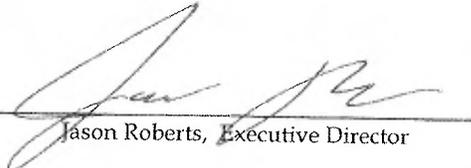
(304) 431-7225

**STATEMENT**

<b>Date</b>
May 7, 2015
<b>Account</b>
0509

North Beckley PSD  
 122 Clear Water Lane  
 Beckley, WV 25801

**Project:**  
North Beckley Stanaford Acres

<u>Date of Service</u>	<u>Service</u>	<u>Time</u>	<u>Amount</u>
4/30/2015	Project Management	1.0000	\$85.00
	<u>Total for Project North Beckley Stanaford Acres</u>	<u>32.5000</u>	<u>\$2,762.50</u>
	 Jason Roberts, Executive Director		

**Region 1 Planning & Development**

1439 E. Main Street, Suite 5

Princeton, WV 24740

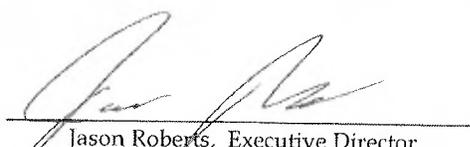
(304) 431-7225

**STATEMENT**

Date
April 2, 2015
Account
0509

North Beckley PSD  
 122 Clear Water Lane  
 Beckley, WV 25801

**Project:**  
North Beckley Stanaford Acres

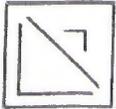
<u>Date of Service</u>	<u>Service</u>	<u>Time</u>	<u>Amount</u>
3/04/2015	Pre bid Project Management	0.5000	\$42.50
3/04/2015	Pre bid Attended Meeting	2.0000	\$170.00
3/12/2015	Attended Meeting	2.5000	\$212.50
3/17/2015	Emails and follow-up re: Checking Account	0.5000 Hour	\$42.50
3/17/2015	Conference call Prep and follow up	1.0000 Hour	\$85.00
3/18/2015	Filing	0.5000 Hour	\$42.50
3/18/2015	Emails and Follow-up	0.5000	\$42.50
3/18/2015	Conference Call	0.5000	\$42.50
3/18/2015	Project Management	0.5000	\$42.50
3/19/2015	Planning	0.5000	\$42.50
3/20/2015	Emails and Follow-up RE: census figures	0.5000	\$42.50
3/20/2015	Bid Opening Attended Meeting	3.5000	\$297.50
3/20/2015	Planning	1.0000	\$85.00
3/20/2015	Emails and Follow-up	0.5000	\$42.50
3/23/2015	Planning	1.0000	\$85.00
3/23/2015	Conference Call	0.5000	\$42.50
3/23/2015	Conference call	1.0000 Hour	\$85.00
3/23/2015	Emails and follow-up RE: bank account	1.0000 Hour	\$85.00
3/31/2015	Bank Reconciliation	0.5000 Hour	\$42.50
3/31/2015	Set Up Quickbooks Accounts	1.0000 Hour	\$85.00
<u>Total for Project North Beckley Stanaford Acres</u>		<u>19.5000 Hour</u>	<u>\$1,657.50</u>
 Jason Roberts, Executive Director			

**North Beckley PSD**  
**STANAFORD ACRES SEWER PROJECT**  
 REGION I PLANNING & DEVELOPMENT COUNCIL  
 IJDC ADMINISTRATIVE COSTS

<b>Contract Amount \$55,000</b>
---------------------------------

IJDC CLOSING DD#1 6-11-15	\$4,420.00
<b>Total Requested to Date</b>	<b>\$4,420.00</b>

Contract Amount	\$55,000.00
Requested to Date	\$4,420.00
<b>Balance Remaining</b>	<b>\$50,580.00</b>



LAWSON ENGINEERING &  
 TECHNICAL SERVICES, INC.  
 P.O. Box 1419 144 Oleander Drive  
 Beckley, West Virginia 25801

March 31, 2015

North Beckley Public Service District  
 122 Clear Water Lane  
 Beckley, West Virginia 25801

PROCESS FOR PAYMENT

GRANT# NBPSD Stanford Acres Sewer #2013S-1467  
 LINE ITEM Engineer  
 BY EC DATE 5.22.15

Re: Stanaford Acres  
 IJDC Project # 2013S-1467

INVOICE # - 00036

Design		\$ 110,000.00
Bidding & Negotiating Phase & Surveying		\$ 15,000.00
SubTotal	\$ 125,000.00	
Less Previous Payment		-\$ 7,500.00

*Reimburse  
NBPSD Full payment*

TOTAL THIS INVOICE \$ 117,500.00

Please Remit Payment to:  
 Lawson Engineering & Technical Services, Inc.  
 P.O. Box 1419  
 Beckley, WV 25801



**RIST, HIGGINS & ASSOCIATES, P.L.L.C.**

1800 Harper Road  
Beckley, West Virginia 25801

304-255-1400

North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801-9801

PAGE 1  
BILLING DATE: 03/31/15  
ACCT NO.: JFR-1804

**PREVIOUS BALANCE: \$1,395.00**

DATE	PROFESSIONAL SERVICES RENDERED	AMOUNT
03/05/15	Review of correspondence from Riggs. Correspondence to & from Sheatsley. Review of orders in condemnation case. Telephone conference with Donna. Telephone conference with Sheatsley.	
03/06/15	Review of order regarding Harvey.	
03/09/15	Telephone conference with Eric.	
03/12/15	Review of drug policy. Attendance at meeting.	
03/18/15	Review of PSC order & various correspondence regarding SAS. Telephone conference with Eric.	
03/19/15	Review of various correspondence from Eric & Susan & Donna. Review of dismissal regarding condemnation case.	
03/20/15	Attendance at bid opening. Telephone conference with Susan Riggs.	
03/23/15	Attendance at in conference call.	
03/23/15	Review of correspondence from Sheatsley. Review of information from Lawson. Review of correspondence from Gee.	
03/24/15	Correspondence to & from Sheatsley. Correspondence to Riggs.	
03/30/15	Telephone conference with Mike. Review of correspondence & PSC filings from Riggs.	

**PROCESS FOR PAYMENT**

GRANT# NBRSD Standard Acc'd #20135  
LINE ITEM Legal 1467  
BY EC DATE 5-22-15

**Total of New Services: 2,200.00**

DATE	PAYMENT	AMOUNT
03/17/15		1,395.00

**Total of New Payments: 1,395.00**

**RIST, HIGGINS & ASSOCIATES, P.L.L.C.**

1800 Harper Road  
Beckley, West Virginia 25801

304-255-1400

North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801-9801

PAGE 2  
BILLING DATE: 03/31/15  
ACCT NO.: JFR-1804

**ACCOUNT SUMMARY**

---

PREVIOUS BALANCE:	\$1,395.00
NEW SERVICES:	\$2,200.00
NEW EXPENSES:	\$0.00
NEW PAYMENTS:	\$1,395.00
TOT. CURRENT PERIOD:	\$2,200.00
CURRENT BALANCE:	\$2,200.00

Payments Received After the Bill Date Are Not Included On This Bill  
We Appreciate Your Business

# Rist Higgins and Associates PLLC

Contract dated: December 13, 2012

<b>CONTRACT AMOUNT - - - - -</b>	<b>\$10,000.00</b>
Amendment #1 5-2-13	\$30,000.00
<b>TOTAL AMOUNT</b>	<b>\$40,000.00</b>
IJDC DD#1 Clsoing 6-11-15	\$2,200.00
<b>AMOUNT SPENT TO DATE</b>	<b>\$2,200.00</b>

CONTRACT AMOUNT - - - - -	<b>\$40,000.00</b>
REQUESTED TO DATE - - - - -	<b>\$2,200.00</b>
AMOUNT REMAINING - - - - -	<b>\$37,800.00</b>
% REMAINING - - - - -	<b>94.50%</b>



**SPILMAN THOMAS & BATTLE, PLLC**  
ATTORNEYS AT LAW

Direct Dial: (304) 340-3826  
E-mail: bhelmick@spilmanlaw.com

May 21, 2015

NORTH BECKLEY PUBLIC SERVICE DISTRICT  
SEWER REVENUE BONDS, 2015 SERIES B  
(WEST VIRGINIA INFRASTRUCTURE FUND)

Donna Sawyers, General Manager  
North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801-3159

Invoice Number: 5257742

Legal fees for professional services rendered in connection with the above-referenced bond issue to close on June 18, 2015.

Legal fees and expenses:	
Bond Counsel Services	\$10,000.00

**Total Due - \$10,000.00**

Wire to: Branch Banking & Trust Co.  
Credit: Spilman Thomas & Battle, PLLC  
Swift Code: BRBTUS33  
ABA Number Routing #: 051503394  
Account Number: 0005176768470  
Invoice Number: 5257742  
Re: File No: 018326.0004

**PROCESS FOR PAYMENT** #2013S-1467  
GRANT# NBPSD Stanford Acres Sewer  
LINE ITEM Bond Counsel  
BY [Signature] DATE 5.22.15

7337827 (018326.0004)



PROCESS FOR PAYMENT

GRANT# Slansford Acres Sewer  
LINE ITEM Registration Fees  
BY EC DATE 6.10.15

I N V O I C E

Date: June 10, 2015  
To: North Beckley Public Service District  
122 Clear Water Lane  
Beckley, WV 25801  
Re: North Beckley Public Service District  
Sewer REvenue Bonds  
Series 2015 B

Amount Due: \$ 500.00  
Acceptance Fee \$ 500.00  
Total \$ 500.00

Please remit to United Bank  
Corporate Trust Department  
P. O. Box 393  
Charleston, WV 25322