# RED SULPHUR PUBLIC SERVICE DISTRICT

**Combined Waterworks and Sewerage System**
**Revenue Bonds, Series 2003 A**

**(United States Department of Agriculture)**

**DATE OF CLOSING:**

**July 21, 2003**

**BOND TRANSCRIPT**

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CH634527.1

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**BOND TRANSCRIPT**

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# RED SULPHUR PUBLIC SERVICE DISTRICT

## Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A
## (United States Department of Agriculture)

## BOND RESOLUTION

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RED SULPHUR PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING COMBINED WATERWORKS AND SEWERAGE SYSTEM OF RED SULPHUR PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $1,800,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF RED SULPHUR PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

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

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

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, improvements and extensions to the existing combined waterworks and sewerage facilities of the Issuer, consisting of (i) approximately 70,900 linear feet of PVC water line, 200 linear feet of creek crossing, 565 linear feet of road bores, 35 gate valves, 30 fire hydrant assemblies, a 150 gpm booster station at Bozoo and related appurtenances, upgrading of the Peterstown water treatment plant central monitor/control panel and the reconnection of 50 customers to new water mains; (ii) approximately 28,200 linear feet of PVC water line, 150 linear feet of creek crossing, 225 linear feet of road bores, 9 gate valves, 12 fire hydrant assemblies, 1,200 linear feet of service line, the upgrading of the existing settling basin at the Peterstown water treatment plant to improve the solids removal capacity of the basin, and the installation of a chlorine residual analyzer, a low range turbidimeter, a chlorine residual level recorder and related appurtenances; and (iii) construction of 116,400 gallon Bozoo water storage tank, approximately 400 linear feet of water line, 550 linear feet of drain line, 9 gate valves, 325 linear feet of 8-inch high chain link fence, an access road, parking and related appurtenances, and all necessary appurtenant facilities (collectively, the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The existing combined waterworks and sewerage facilities of the Issuer, together with the Project and any further additions, improvements or extensions thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

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

D. The estimated maximum cost of the acquisition and construction of the Project is $3,080,000, of which $1,800,000 will be obtained from the proceeds of sale of the Series 2003 A Bonds herein authorized and $1,280,000 will be obtained from a grant from the Purchaser.

E. It is necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (United States Department of Agriculture), in the aggregate principal amount of $1,800,000 (the "Bond" or "Series 2003 A Bonds"), to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without

being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2003 A Bonds prior to, during and for six months after completion of such acquisition and construction of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the Project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the acquisition and construction of the properties and the placement of same in operation; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for costs of the Project by the Issuer shall be deemed costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2003 A Bonds as to liens, pledge and source of the security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (the "2002 A Bonds") dated July 11, 2002, and held by the Purchaser issued in the original aggregate principal amount of $1,538,500, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1999 (the "1999 Bonds") dated May 20, 1999, and held by the Purchaser, issued in the original aggregate principal amount of $156,500, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1992 (the "1992 Bonds"), dated July 14, 1992, issued in the original aggregate principal amount of $1,979,000, and held by the Purchaser, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A (the "1987 A Bonds"), dated November 16, 1987, issued in the original aggregate principal amount of $738,647, and held by the West Virginia Water Development Authority, an assumed Waterworks Loan held by the Purchaser, dated November 10, 1977 (the "1977 Bonds"), issued in the original aggregate principal amount of $36,000, and an assumed Waterworks Loan held by the Purchaser, dated May 3, 1967 (the "1967 Bonds") (collectively, the 2002 A Bonds, the 1999 Bonds, the 1992 Bonds, the 1987 A Bonds, the 1977 Bonds and the 1967 Bonds are referred to as the "First Lien Bonds").

There is outstanding an obligation of the Issuer which will rank junior and subordinate to the Bond as to liens, pledge and source of security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B (the "1987 B Bonds"), dated November 16, 1987, issued in the original aggregate principal amount of $181,173, and held by West Virginia Water Development Authority. The 1967 Bonds, the 1977 Bonds, the 1987 A Bonds, the 1987 B Bonds, the 1992 Bonds, the 1999 Bonds and the 2002 A Bonds are hereinafter collectively referred to as the "Prior Bonds."

The Issuer currently has outstanding the Combined Waterworks and Sewerage System Design Note, Series 1998 (West Virginia Infrastructure Fund), (the "Prior Note")

dated June 15, 1998, issued in the original aggregate principal amount of $180,600. The Prior Notes are not secured by the assets of the System or the Net Revenues thereof and are junior and subordinate to the First Lien Bonds and the 1987 B Bonds.

Other than the Prior Bonds and the Prior Notes, there are no outstanding bonds or obligations which will rank prior to, on a parity with or junior to the Series 2003 A Bonds as to liens, pledge and/or source of and security for payment.

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

H. It is in the best interest of the Issuer that the Series 2003 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions, dated January 16, 2001, and any and all amendments thereto (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, the issuance of the Series 2003 A Bonds, or will have so complied prior to issuance of the Series 2003 A Bonds, including, among other things and without limitation, obtaining a certificate of public convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2003 A Bonds by those who shall be the Registered Owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2003 A Bonds.

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

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

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

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

"Bonds" means, collectively, the Series 2003 A Bonds and the Prior Bonds.

"1967 Bonds" means the outstanding loan of the Issuer described in Section 1.02G hereof.

"1977 Bonds" means the outstanding loan of the Issuer described in Section 1.02G hereof.

"1987 A Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A, of the Issuer described in Section 1.02G hereof.

"1987 B Bonds" means the outstanding Combined Waterworks and Sewerage Revenue Bonds, Series 1987 B, of the Issuer described in Section 1.02G hereof.

"1992 Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1992, of the Issuer described in Section 1.02G hereof.

"1999 Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1999, of the Issuer described in Section 1.02G hereof.

"2002 A Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A, of the Issuer described in Section 1.02G hereof.

"Chairman" means the Chairman of the Governing Body.

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

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

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

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

"FDIC" means the Federal Deposit Insurance Corporation.

"First Lien Bonds" means, collectively, the 1967 Bonds, the 1977 Bonds, the 1987 A Bonds, the 1992 Bonds, the 1999 Bonds and the 2002 A Bonds.

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

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

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

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

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

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

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated January 16, 2001, and any and all amendments thereto.

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

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

"Prior Bonds" means, collectively, the 1967 Bonds, the 1977 Bonds, the 1987 A Bonds, the 1987 B Bonds, the 1992 Bonds, the 1999 Bonds and the 2002 A Bonds.

"Prior Notes" means the Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund).

"Prior Resolutions" means, collectively, the 1967 Resolution, the 1977 Resolution, the 1987 Resolution, the 1992 Resolution, the 1999 Resolution and the 2002 A Resolution.

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

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

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

(a) Government Obligations;

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

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

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

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

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

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

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

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

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

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

"Resolutions" means, collectively, the 1967 Resolution, the 1977 Resolution, the 1987 Resolution, the 1992 Resolution, the 1999 Resolution, the 2002 A Resolution and the Bond Legislation.

"1967 Resolution" means the resolution of the Association adopted April 25, 1967, authorizing the 1967 Bonds.

"1977 Resolution" means the resolution of the Association adopted October 27, 1977, authorizing the 1977 Bonds.

"1987 Resolution" means the resolution of the Issuer adopted November 12, 1987 authorizing the 1987 A Bonds and the 1987 B Bonds.

"1992 Resolution" means the resolution of the Issuer adopted July 14, 1992, authorizing the 1992 Bonds.

"1999 Resolution" means the resolution of the Issuer adopted May 20, 1999, authorizing the 1999 Bonds.

"2002 A Resolution" means the resolution of the Issuer adopted July 9, 2002, authorizing the 2002 A Bonds.

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

"Secretary" means the Secretary of the Governing Body.

"Series 2003 A Bonds" means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

"Series 2003 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2003 A Bonds in the then current or any succeeding year.

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

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

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

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of $3,080,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2003 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

## ARTICLE III

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

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of the Bond Legislation, the Series 2003 A Bonds of the Issuer, to be known as "Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (United States Department of Agriculture)", are hereby authorized to be issued in the principal amount of $1,800,000, for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2003 A Bonds shall be issued in single form, numbered AR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Series 2003 A Bonds shall bear interest from the date of delivery, payable monthly at the interest rate of 4.25% per annum, and shall be sold for the par value thereof.

The Series 2003 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2003 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2003 A Bonds, and the right to principal of and stated interest on the Series 2003 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2003 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2003 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2003 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2003 A Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Series 2003 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2003 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2003 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2003 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Series 2003 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2003 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 2003 A Bonds shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2003 A Bonds shall cease to be such officer of the Issuer before the Series 2003 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. The Series 2003 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2003 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2003 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2003 A Bonds shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2003 A Bonds shall be secured forthwith by a lien on the Net Revenues derived from the System, on a parity with the liens and pledge of the First Lien Bonds and senior and prior to the liens and pledge of the 1987 B Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 2003 A Bonds and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2003 A Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bond. Subject to the provisions hereof, the text of the Series 2003 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

RED SULPHUR PUBLIC SERVICE DISTRICT

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 2003 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$ 1,800,000

No. AR-1 Date: _____

FOR VALUE RECEIVED, RED SULPHUR PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS ($1,800,000), plus interest on the unpaid principal balance at the rate of 4.25% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $7,974, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

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

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

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

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

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

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

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

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted July 15, 2003, authorizing issuance of this Bond (the "Resolution").

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

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmer and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES WITH THE 1967 BONDS, THE 1977 BONDS, THE 1987 A BONDS, THE 1992 BONDS, THE 1999 BONDS AND THE 2002 A BONDS (THE "FIRST LIEN BONDS"), AS FURTHER DEFINED AND DESCRIBED IN THE RESOLUTION. THIS BOND IS SENIOR AND PRIOR, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES, AND IN ALL OTHER RESPECTS, TO THE 1987 B BONDS, AS FURTHER DEFINED AND DESCRIBED IN THE RESOLUTION. THE PRIOR NOTES ARE NOT SECURED BY THE ASSETS OF THE SYSTEM OR THE NET REVENUES THEREOF AND ARE JUNIOR AND SUBORDINATE TO THE FIRST LIEN BONDS AND THE 1987 B BONDS.

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

RED SULPHUR PUBLIC SERVICE DISTRICT

By: _____

Its: Chairman
Public Service Board
Post Office Box 697
Peterstown, West Virginia 24963

[CORPORATE SEAL]

ATTEST:

By: _____

Its: Secretary

(Form of)

RECORD OF ADVANCES

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

TOTAL $_____

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

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

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

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

(2) Renewal and Replacement Fund (established by the 1987 Resolution and resulting from the combination with the Depreciation Reserve established by the Prior Resolutions); and

(3) Project Construction Account.

Section 4.02. Creation of Funds and Accounts with Commission. The following special funds or accounts are hereby created with the Commission:

(1) Series 2003 A Bonds Reserve Fund.

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 2003 A Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

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

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Series 2003 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.03, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

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

Section 4.04. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Series 2003 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2003 A Bonds Reserve Account, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2003 A Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 2003 A Bonds as follows:

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

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

(1) The Issuer shall first, each month, transfer from the Revenue Fund the amount necessary and sufficient to pay the Operating Expenses of the System.

(2) The Issuer shall next, each month, on or before the due date of payment of each installment, transfer from the Revenue Fund and simultaneously (i) remit to the National Finance Office, the amounts required by the Prior Resolutions to pay the interest on, if any, and the principal of the 1967 Bonds, the 1977 Bonds, the 1992 Bonds, the 1999 Bonds and the 2002 A Bonds; (ii) remit to the Commission the amounts required by the Prior Resolutions to pay the interest on and principal of the 1987 A Bonds; and (iii) beginning on the 12th monthly anniversary of the Closing Date, transfer from the Revenue Fund and remit to the National Finance Office, the amounts required to

pay the interest on the Series 2003 A Bonds. Beginning on the 24th monthly anniversary of the Closing Date and continuing on each monthly anniversary of the Closing Date thereafter, the Issuer shall transfer from the Revenue Fund and remit to the National Finance Office the amounts required to amortize the interest on and principal of the Series 2003 A Bonds over the life of the Bond issue.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Depository Bank for deposit into the 1967 Bonds, the 1977 Bonds, the 1992 Bonds, the 1999 Bonds and the 2002 A Bonds Reserve Accounts, the amounts required by the Prior Resolutions; (ii) to the Commission for deposit into the 1987 A Bonds Reserve Account, the amount required by the Prior Resolutions; and (iii) beginning on the date specified by the Purchaser, but in any event not later than the 24th monthly anniversary of the Closing Date, and continuing on each monthly anniversary of the Closing Date thereafter, transfer from the Revenue Fund and remit to the Commission for deposit into the Series 2003 A Bonds Reserve Account, an amount equal to 0.4167% of the Minimum Reserve, until the amount in the Series 2003 A Bonds Reserve Account equals the Minimum Reserve; provided that, no further payments shall be made into the Series 2003 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 Minimum Reserve. Monies in the Series 2003 A Bonds Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 2003 A Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 2003 A Bonds, or for mandatory prepayment of the Series 2003 A Bonds as hereinafter provided, and for no other purpose; provided, however, earnings from monies in the Series 2003 A Bond Reserve Account, so long as the Series 2003 A Bonds Reserve Requirement is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer, to be deposited in the Revenue Fund.

(4) The Issuer shall next on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for the deposit in the Renewal and Replacement Fund (i) the amounts required by the Prior Resolutions; (ii) beginning on the date specified by the Purchaser, but in any event

not later than the 12th monthly anniversary of the Closing Date, and continuing on each monthly anniversary of the Closing Date thereafter, an amount equal to 0.4167% of the Minimum Reserve, until the amount in the Series 2003 A Bonds Reserve Account equals the Minimum Reserve, and thereafter, 0.8334% of the Minimum Reserve, so long as the Series 2003 A Bonds are outstanding; provided, however, that in the event Revenues are insufficient to fund the Series 2003 A Bonds Reserve Account in accordance with Section 4.04B above, or a withdrawal of funds from the Series 2003 A Bonds Reserve Account is made, payment of Revenues into the Renewal and Replacement Fund as provided in this Section 4.04B shall not be made, but instead Revenues shall be applied to the replenishment of the Series 2003 A Bonds Reserve Account until such deficiency is cured, at which time payments into the Renewal and Replacement Fund as provided in this Section 4.04B shall resume. Monies in the Renewal and Replacement Fund shall be used first to make up any deficiencies for monthly payments of interest on and principal of the Series 2003 A Bonds as the same become due, and next to restore to the Series 2003 A Bonds Reserve Account any sum or sums transferred therefrom. Thereafter, and provided that payments are current and in accordance with the foregoing provisions, monies in the Renewal and Replacement Fund may be withdrawn by the Issuer and used for replacements, repairs, improvements or extensions to the System.

(5) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, the Issuer shall next, on the first day of each month, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Sinking Fund, the amounts required by the 1987 Resolution for the payment of principal and interest on the 1987 B Bonds.

(6) The Issuer shall next, on the first day of each month, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Reserve Account, the amount required by the 1987 Resolution to be deposited therein.

(7) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to prepay installments of the First Lien Bonds and the Bond

outstanding and, thereafter, the 1987 B Bonds, or for any lawful purpose.

Whenever the money in the Series 2003 A Bonds Reserve Account shall be sufficient to prepay the Series 2003 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2003 A Bonds at the earliest practical date and in accordance with applicable provisions hereof.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2003 A Bonds Reserve Account and the Renewal and Replacement Fund as herein provided, and all amounts required for the Series 2003 A Bonds Reserve Account, and the Renewal and Replacement Fund will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund and the Series 2003 A Bonds Reserve Account shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a parity with the liens of the holders of the First Lien Bonds, for further securing payment of the Series 2003 A Bonds and the interest thereon.

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

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2003 A Bonds and the First Lien Bonds, in accordance with the respective principal amounts then Outstanding.

Subject to the Prior Resolutions, the Commission, at the direction of the Issuer, shall keep the moneys in the Series 2003 A Bonds Reserve Account invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund

or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Investment Management Board. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from moneys in the Series 2003 A Bonds Reserve Account, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually into the Revenue Fund by the Commission.

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

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2003 A Bonds, provide evidence that there will be at least 1,740 bona fide users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

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

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

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

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

Section 4.05. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Grants, if any, and advances of principal of the Series 2003 A Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed $100,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into the credit agreement with such commercial bank or other lender. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 2003 A Bonds or the Grants. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Series 2003 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2003 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2003 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 2003 A Bonds. The covenants contained in the Bond Legislation are in addition to the covenants contained in the Prior Resolutions which shall remain in full force and effect as long as the Prior Bonds are outstanding.

Section 5.02. Rates. So long as the Series 2003 A Bonds are outstanding, the Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Series 2003 A Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes. Provided, however, that any rate covenants contained in the Prior Resolutions shall remain in full force and effect so long as the Prior Bonds are outstanding and, to the extent any such rate covenants require higher rates, such covenants shall be controlling.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Series 2003 A Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

(1) The Bonds Outstanding;

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

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

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. Additionally, no additional parity bonds or obligations payable out of any of the Revenues of the System shall be issued after the issuance of the Series 2003 A Bonds pursuant to this Bond Legislation, except with the prior written consent of the Purchaser. The foregoing limitation may be waived or modified by the written consent of the Holders of the Prior Bonds.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2003 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2003 A Bonds.

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

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

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

(f) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in such amount as may be requested by the Purchaser from time to time.

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2003 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such

amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2003 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2003 A Bonds. The statutory mortgage lien of the Bond is on a parity with the statutory mortgage lien in favor of the holders of the First Lien Bonds and senior and prior to the statutory mortgage lien in favor of the holders of the 1987 B Bonds.

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

(a) Failure to make payment of any monthly amortization installment upon the Series 2003 A Bonds at the date specified for payment thereof; and

(b) Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2003 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

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

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

Section 5.09. Fiscal Year; Budget. While the Series 2003 A Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and

ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the next year preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

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

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

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

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

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2003 A Bonds are outstanding.

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

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on July 2, 2002, Case No. 02-0617-PWD-CN, which Final Order is incorporated herein by reference as a part hereof.

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

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

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

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

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

## ARTICLE VII

## MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Series 2003 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 2003 A Bonds, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2003 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through such direct payment to the Holder of the Series 2003 A Bonds, the Issuer may not defease the Series 2003 A Bonds or otherwise provide for payment thereof by escrow or like manner.

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

Section 7.03. Delivery of Bonds. The Chairman, Secretary and Treasurer of the Governing Body are hereby authorized and directed to cause the Series 2003 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2003 A Bonds.

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

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

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

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted: July 15, 2003.

RED SULPHUR PUBLIC SERVICE DISTRICT

Chairman

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of RED SULPHUR PUBLIC SERVICE DISTRICT on the 15th day of July, 2003.

Dated: July 21, 2003.

[SEAL]

Dennis Siebold
Secretary

07/12/03
742910.00001

State of West Virginia
# WATER DEVELOPMENT AUTHORITY

180 Association Drive, Charleston, WV 25311-1217
(304) 558-3612 - (304) 558-0299 (Fax)
Internet: www.wvwda.org - Email: contact@wvwda.org

July 17, 2003

Red Sulphur Public Service District
Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

TO WHOM IT MAY CONCERN:

The undersigned duly authorized representative for the West Virginia Water Development Authority (the "Authority"), the registered owner of the entire outstanding aggregate principal amounts of the Series 1987 A Bonds, the Series 1987 B Bonds and the Notes hereinafter defined and described, hereby consents to the issuance of the Combined Waterworks and Sewerage System Revenue Bond, Series 2003 A (United States Department of Agriculture) (the "2003 A Bonds"), by Red Sulphur Public Service District (the "District") under the terms of the 2003 A Bond Resolution, which 2003 A Bonds are to be issued on a parity with the District's outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A, dated November 16, 1987 (the "Series 1987 A Bonds"), and senior and prior to the District's outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B (the "Series 1987 B Bonds"), dated November 16, 1987 and Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), dated June 15, 1998 (the "Notes").

This consent has been granted in reliance upon a certificate from Jeffrey S. Feamster, CPA, attached hereto, that Red Sulphur Public Service District has met the coverage and parity tests set forth in the Resolution authorizing the Series 1987 A Bonds and the Series 1987 B Bonds.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By _____
Its Director

07/11/03
742910.00001

United States Department of Agriculture

Rural Development

75 High Street, Room 320
Morgantown, WV 26505-7500
(304) 284-4860
FAX (304) 284-4893
TDD (304) 284-5941
(For the Deaf or Hard of Hearing)

July 17, 2003

Red Sulphur Public Service District
Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

TO WHOM IT MAY CONCERN:

The undersigned STATE DIRECTOR of the United States Department of Agriculture, Rural Utilities Service, the present holder of the 1967 Bonds, 1977 Bonds, 1992 Bonds, 1999 Bonds and 2002 A Bonds, all as hereinafter defined and described, (i) hereby consents to the issuance of the Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (the "2003 A Bond"), by Red Sulphur Public Service District (the "Issuer"), in the original aggregate principal amount of $1,800,000, under the terms of the resolution authorizing the 2003 A Bond (the "2003 A Resolution"), on a parity as to liens, pledge and source of and security for payment, and in all respects, with the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A, of the Issuer, dated July 11, 2002 (the "2002 A Bonds"), the Combined Waterworks and Sewerage System Revenue Bonds, Series 1999, of the Issuer, dated May 20, 1999 (the "1999 Bonds"), the Combined Waterworks and Sewerage System Revenue Bonds, Series 1992, of the Issuer, dated July 14, 1992 (the "1992 Bonds"), a Waterworks Loan assumed by the Issuer evidenced by a promissory note dated May 3, 1967 (the "1967 Bonds"), and a Waterworks Loan assumed by the Issuer evidenced by a promissory note dated November 10, 1977 (the "1977 Bonds"), (collectively, the "Prior Bonds"), (ii) hereby waives any requirements imposed by the Prior Bonds and the resolutions authorizing the Prior Bonds (the "Prior Resolutions"), regarding the issuance of parity bonds which are not met by the 2003 A Bond and the 2003 A Resolution, and (iii) hereby consents to any amendments made to the Prior Resolutions by the 2003 A Resolution.

Acting State Director

*Rural Development is an Equal Opportunity Lender, Provider and Employer. Complaints of discrimination should be sent to: USDA, Director, Office of Civil Rights, Washington, D.C. 20250-9410*

020617alj070202.wpd

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
07-22-02

Entered: July 2, 2002

CASE NO. 02-0617-PWD-CN

RED SULPHUR PUBLIC SERVICE DISTRICT
Application for a certificate of convenience and necessity to construct water system upgrade facilities and extension facilities.

RECOMMENDED DECISION

On May 8, 2002, Red Sulphur Public Service District (District) filed an application for a certificate of convenience and necessity for Phase 2 of its water project to upgrade its water system and construct extensions to provide water service to approximately 165 customers (206 potentially) in the Bozoo, Rock Camp, Cashmere and Lindside Valley areas of Monroe County, West Virginia. The District also requested an increase in its rates. The District estimated the total cost of this project to be $3,080,000, to be funded by a $1,280,000 USDA Rural Utilities Service Grant and a $1,800,000 USDA Rural Utilities Service Loan.

By Order dated May 8, 2002, the District was directed to give notice of the filing of its application, by publishing a copy of said Order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Monroe County, making due return to the Commission of proper certificate of publication immediate after publication. The Notice directed that anyone desiring to make objection to the application or to intervene in this proceeding must do so, in writing, within thirty days after the date of publication of said Notice. It was further provided that failure to timely protest or intervene could affect one's right to protest, including any associated rate increases, or to participate in future proceedings. The Notice further provided that, if no protests were received within the thirty-day protest period, the Commission could waive formal hearing and grant the application based upon the evidence submitted in the application and the Commission's review thereof.

On May 30, 2002, Staff Attorney Cassius H. Toon filed an Initial and Final Joint Staff Memorandum. An Initial and Final Internal Memorandum dated May 23, 2002, from Randy Lengyel, Senior Utilities Analyst, Water and Wastewater Division, and David W. Holley, Technical Analyst-In-Training II, Engineering Division, was attached thereto. Commission Staff initially reported that the proposed system upgrades would also include upgrading of the Peterstown water treatment plant. The upgrades

will include improving the solids removal capacity of the existing settling basin and adding a continuous turbidity analyzer and remote residual chlorine analyzers at the existing Peterstown water storage tanks. The District's original water system was built in the early 1960s to serve approximately 200 customers in the Town of Peterstown. Through several water system expansions, the system was extended beyond the town limits to areas along West Virginia Route 12 to Ballard and along U.S. Route 219 toward Lindside Valley. The water system extension to the Lindside Valley area was completed in 1993 with the majority of the funding being provided by the Farmers Home Administration. A more recent project, completed in 1999, was also funded by Rural Utilities Service (RUS) and expanded the District's customer base to include the customers in the Ballard area that were previously served by the Ballard Water Works Association.

The District presently serves approximately 1,454 customers and Phase 1 of the upgrade and extension project, for which a certificate of convenience and necessity was approved in Case No. 01-0221-PWD-CN (Final July 12, 2001), will add an additional 169 customers. Phase 2 will add an additional 206, bringing the total customer count to approximately 1,829. Water for both phases will be produced by the District, which has two water treatment plants. One plant is the Peterstown water plant and its raw water sources consist of a well and two springs on Peters Mountain. The second plant is the Coulters Chapel plant and its raw water source consists of two wells. The two treatment plants have a total capacity of 800 gpm or 1,152,000 gpd. The District's current water requirement is approximately 300,000 gpd and, once the customers to be served by Phase 1 are on the system, the requirement will be approximately 335,000 gpd, increasing to approximately 375,000 gpd when the customers to be served by Phase 2 are on the system. An additional raw water source is also being constructed in Phase 1 for the Coulters Chapel plant.

Phase 2, which is at issue herein, is broken down into three contracts:

> Contract 1, which will cover the area referred to as Bozoo, will consist of the construction of approximately 15,000 linear feet of 8-inch, 47,200 linear feet of 6-inch, 1,000 linear feet of 4-inch and 7,700 linear feet of 2-inch PVC water line, 200 linear feet of creek crossing, 565 linear feet of road bores, 35 gate valves, 30 fire hydrant assemblies, a 150 gpm booster station at Bozoo and related appurtenances, upgrading of the Peterstown water treatment plant central monitor/control panel and the reconnection of 50 customers to new water mains.
>
> Contract 2, which will cover the area referred to as Rock Camp, will consist of the construction of approximately 9,000 linear feet of 8-inch, 18,200 linear feet of 6-inch, 750 linear feet of 4-inch and 250 linear feet of 2-inch PVC water line, 150 linear feet of creek crossing, 225 linear feet of road bores, 9 gate valves, 12 fire hydrant assemblies, 1,200 linear feet of service line, the upgrading of the existing settling basin at the Peterstown water treatment plant to improve the

solids removal capacity of the basin, and the installation of a chlorine residual analyzer, a low range turbidimeter, a chlorine residual level recorder and related appurtenances.

Contract 3 includes the construction of a 116,400 gallon Bozoo water storage tank, approximately 400 linear feet of 8-inch DIP water line, 400 linear feet of 6-inch PVC drain line and 150 linear feet of 2-inch PVC drain line, 9 gate valves, 325 linear feet of 8-inch high chain link fence, an access road, parking and related appurtenances.

The breakdown of the project cost is as follows:

| | |
|---|---|
| Construction | $2,292,700.00 |
| Construction Contingencies | 183,500.00 |
| Land and Right-of-Ways | 10.000.00 |
| Legal | 17,200.00 |
| Accounting | 3,500.00 |
| Bond Council | 15,000.00 |
| Total | $2,521,900.00 |
| ENGINEERING: | |
| Basic Services | 160,500.00 |
| Project Inspection | 137,600.00 |
| Special Services | 22,900.00 |
| Total | $ 321,000.00 |
| Equipment | 22,000.00 |
| Interest | 180,000.00 |
| Project Contingencies | 35,100.00 |
| Total | $ 237,100.00 |
| TOTAL | $3,080,000.00 |

Commission Engineering Staff reported that the project will provide potable water to approximately 165 customers (206 potentially) in the specified areas where residents have inadequate individual water sources, mainly consisting of wells which are constantly drying up. The situation is becoming worse as new residential wells are drilled nearby. The residents of these areas are also burdened with trying to operate cisterns and hauling water during dry months. The quality of the water from many of the existing individual wells is also very poor.

The total cost of the project is $3,080,000, which results in a cost per customer of $1,684, since the entire customer base will be affected by the project. Commission Staff was of the opinion that the per customer cost of $1,684 was reasonable. Approximately 93,100 linear feet or 17.63 miles of new water main will be constructed to serve the 206 new customers. The customer density calculates to be 11.68 per mile, which Commission Staff believes to be slightly low, but acceptable since approximately half of the funding is in the form of a grant.

Commission Engineering Staff also reported that it has reviewed the projected increases in operation and maintenance (O&M) expenses and believes that only certain expenses should be increased incrementally such as power, chemical, labor and administrati[illegible] due to the proposed

project. Consequently, Staff eliminated all maintenance expenses from consideration since maintenance would not be incurred in the first year of operation on warranted systems and recommended total annual O&M expenses for this project of $14,865. The maintenance expenses, of course, will be analyzed in the District's next general rate case.

Commission Financial Staff reported that the District will finance the project with a $1,280,000 grant from the RUS and a $1,800,000 loan from the RUS scheduled for repayment over forty years, at five percent interest. A Rule 42 Exhibit, Form 4, Form 14, commitment letters from RUS, the existing rate structure and the proposed rate structure were filed with the original certificate application filing. The District has informed Commission Financial Staff that there was no need to obtain interim financing and Staff agreed with that decision.

The District's current rates were approved on February 5, 1998. Its going-level revenue was based on the rates approved in the Final Order in Case No. 01-0221-PWD-CN, which will go into effect once Phase 1 is substantially completed. The District has proposed another rate increase for this project (Phase 2), which will result in a 17% increase over the rates approved in Case No. 01-0221-PWD-CN.

Based upon its review of the financial and technical data submitted with the certificate application, Commission Staff recommended that:

(1) The District be granted a certificate of convenience and necessity to construct the proposed Phase 2 project described herein;

(2) The RUS loan in the amount of $1,800,000 for forty years at five percent interest be approved;

(3) Copies of the bids be filed as soon as they are tabulated;

(4) The rate increase, as set forth in Exhibit 2 to Staff's Memorandum, be approved;

(5) If there is any change in the plans, scope or terms of financing, the District request that this matter be reopened for the necessary adjustments and Commission approval; and

(6) The District notify the Commission when the Engineer has performed the substantial completion inspection.

On June 13, 2002, the District filed an affidavit of publication from The Monroe Watchman, a newspaper published and of general circulation in Monroe County, reflecting publication of the Notice of Filing on May 30, 2002.

By Order dated June 13, 2002, the Commission referred this matter to the Division of Administrative Law Judges for a decision to be rendered on or before July 11, 2002.

## DISCUSSION

Based upon a review of the District's application and supporting materials, as well as Staff's recommendation, it is clear that the proposed project will provide needed potable water to the approximately 165 customers (206 potentially) in the Bozoo, Rock Camp, Cashmere and Lindside Valley areas of Monroe County, who are now beset by wells which are constantly going dry and who are also burdened with trying to operate cisterns and hauling water during the dry months. The proposed project will also improve the quality of water and provide for at least two days of storage plus a reserve for fire protection needs and normal water demands. Moreover, the financing should be approved, since it will not financially burden the District's customers and the proposed rates will provide an adequate cash flow surplus.

## FINDINGS OF FACT

1. On May 8, 2002, the Red Sulphur Public Service District filed an application, together with supporting documentation, for a certificate of convenience and necessity for Phase 2 of a water project to upgrade its water system and construct extensions to provide water service to approximately 165 customers (206 potentially) in the Bozoo, Rock Camp, Cashmere and Lindside Valley areas of Monroe County, West Virginia. The District also requested an increase in its rates. (See May 8, 2002 filing).

2. The estimated project cost of $3,080,000 will be financed by a $1,280,000 USDA RUS Grant, and a $1,800,000 USDA RUS Loan for forty years at a five percent interest rate. (See Application and attachments filed May 8, 2002).

3. The District gave notice of the filing of the application for a certificate of convenience and necessity in accordance with the Commission's requirements by publishing a Notice of Filing on May 30, 2002, in The Monroe Watchman. (See Affidavit of Publication filed June 13, 2002).

4. No protests were received to the application within the thirty-day response period, which expired on July 1, 2002, or as of the date of this Order. (See case file generally).

5. The proposed project is designed to replace the existing water mains to better service existing customers and provide fire flow to areas within the corporate limits of Peterstown; provide potable water to as many as 206 customers who have inadequate individual water sources; increase the total water storage capacity of the District; and improve the quality of water provided by, and the operation of, the District's water system. (See Initial and Final Joint Staff Memorandum and attachment filed May 30, 2002).

6. Commission Staff recommended that: the District be granted a certificate of convenience and necessity; the Commission approve the RUS Grant in the amount of $1,280,000, and the RUS Loan of $1,800,000 for forty years at five percent interest; the District seek and obtain

additional approval from the Commission should there be any changes in the scope of the project, financing, etc.; the District provide copies of bids as soon as they are tabulated; the rate increase as set forth in Exhibit 2 to Staff's Memorandum be approved; and the District notify the Commission when the Engineer has performed the substantial completion inspection.

## CONCLUSIONS OF LAW

1. The public convenience and necessity require the issuance of a certificate of convenience and necessity to Red Sulphur Public Service District for Phase 2 of its water project, to upgrade its water system and construct extensions to provide water service to approximately 165 customers (206 potentially) in the Bozoo, Rock Camp, Cashmere and Lindside Valley areas of Monroe County, West Virginia.

2. It is reasonable to approve the financing of the project which consists of a USDA Rural Utilities Service Grant in the amount of $1,280,000 and a USDA Rural Utilities Service Loan in the amount of $1,800,000, repayable over a forty-year period at five percent (5%) interest.

3. The proposed rate increase will provide an adequate cash flow surplus and should be approved.

4. A certificate of convenience and necessity should be granted to the Red Sulphur Public Service District for the proposed project, as recommended by Commission Staff, without need for a hearing.

## ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed herein on May 8, 2002, by the Red Sulphur Public Service District, for Phase 2 of its water project, to upgrade its water system and construct extensions to provide water service to approximately 165 customers (206 potentially) in the Bozoo, Rock Camp, Cashmere and Lindside Valley areas of Monroe County, West Virginia, for a total estimated project cost not to exceed $3,080,000, be, and hereby is, granted.

IT IS FURTHER ORDERED that the financing of the project, consisting of a $1,280,000 USDA Rural Utilities Service Grant and a $1,800,000 USDA Rural Utilities Service Loan, repayable over a forty (40) year period at five percent (5%) interest, be, and hereby is, approved.

IT IS FURTHER ORDERED that the rate increase contained in the Approved Tariff, attached hereto as Appendix A, be, and hereby is, approved, to become effective upon completion of the project.

IT IS FURTHER ORDERED that, within thirty (30) days of the project's completion, the District will so inform the Commission of the completion date.

IT IS FURTHER ORDERED that the District file with the Commission's Tariff Office an original and five (5) copies of the Approved Tariff within thirty (30) days of the date that the certificated project becomes operational.

IT IS FURTHER ORDERED that, should there be any change in the cost, scope, terms and conditions or financing of the project herein approved, the District shall notify the Commission immediately and obtain Commission consent and approval of any such revision or change prior to commencing construction.

IT IS FURTHER ORDERED that the District shall file copies of the bids for the project herein approved as soon as the same are tabulated.

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

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

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

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

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

Melissa K. Marland
Chief Administrative Law Judge

MKM/JPC:dfs
020617a.wpd

RED SULPHUR PUBLIC SERVICE DISTRICT
CASE NO. 02-0617-PWD-CN

## APPROVED TARIFF - PHASE 2

## SCHEDULE NO. 1

### APPLICABILITY

Entire District Service Area.

### AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

### METERED RATES

| | | | |
|---|---|---|---|
| First | 3,000 gallons used per month | $7.00 | per 1,000 gallons |
| Next | 4,000 gallons used per month | $6.58 | per 1,000 gallons |
| Next | 95,000 gallons used per month | $6.06 | per 1,000 gallons |
| All Over | 102,000 gallons used per month | $5.64 | per 1,000 gallons |

### MINIMUM CHARGE

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

| | |
|---|---|
| 5/8 inch meter | $ 21.00 per month |
| 3/4 inch meter | 31.50 per month |
| 1 inch meter | 52.50 per month |
| 1-1/4 inch meter | 76.65 per month |
| 1-1/2 inch meter | 105.00 per month |
| 2 inch meter | 168.00 per month |
| 3 inch meter | 315.00 per month |
| 4 inch meter | 525.00 per month |
| 6 inch meter | 1,050.00 per month |
| 8 inch meter | 1,680.00 per month |

### DELAYED PAYMENT PENALTY

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

### CONNECTION CHARGE

For connection to water main with connection to be made by District-- $300.00

For connection to water main on project prior to construction -- $100.00

For connection to water main on project after construction beings -- $300.00

### SERVICE RECONNECTION FEE

Whenever the supply of water is turned off for violation of rules and regulations, non-payment of bills or fraudulent use of water, the utility may make a charge of $20.00 for reconnection.

Public Service Commission
of West Virginia
Charleston

RETURNED CHECK CHARGE

The District may not collect any fee greater than that charged to it by a banking institution and under no circumstances shall the fee collected by the District exceed fifteen ($15.00).

INCREMENTAL LEAK ADJUSTMENT

$1.49 per 1,000 gallons. To be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

SCHEDULE NO. 2

APPLICABILITY

Applicable to Peterstown, Lindside and Ballard Fire Departments.

AVAILABILITY OF SERVICE

Available for water hauling services only.

METERED RATES

| | | | |
|---|---|---|---|
| First | 3,000 gallons used per month | $7.00 | per 1,000 gallons |
| Next | 4,000 gallons used per month | $6.58 | per 1,000 gallons |
| Next | 95,000 gallons used per month | $6.06 | per 1,000 gallons |
| All Over | 102,000 gallons used per month | $5.64 | per 1,000 gallons |

MINIMUM CHARGE

No bill will be rendered for less than the 5/8-inch meter minimum of $21.00.

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.

CONNECTION CHARGE

For connection to water main with connection to be made by District-- $300.00

For connection to water main on project prior to construction -- $100.00

For connection to water main on project after construction beings -- $300.00

SERVICE RECONNECTION FEE

Whenever the supply of water is turned off for violation of rules and regulations, non-payment of bills or fraudulent use of water, the utility may make a charge of $20.00 for reconnection.

**ON FILE WITH ISSUER**

RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

RECEIPT FOR BOND

The undersigned, authorized representative of the United States Department of Agriculture, Rural Utilities Service, for and on behalf of the United States of America (the "Purchaser"), hereby certifies as follows:

1. On the 21st day of July, 2003, at Peterstown, West Virginia, the undersigned received for the Purchaser the single, fully registered Red Sulphur Public Service District Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (United States Department of Agriculture), No. AR-1, in the principal amount of $1,800,000 (the "Bonds"), dated the date hereof, bearing interest at the rate of 4.25% per annum, payable in monthly installments as stated in the Bonds. The Bonds represent the entire above-captioned Bond issue.

2. At the time of such receipt, the Bonds had been executed and sealed by the designated officials of the Public Service Board of Red Sulphur Public Service District (the "Issuer").

3. At the time of such receipt, there was paid to the Issuer the sum of $186,160 being a portion of the principal amount of the Bonds. Further advances of the balance of the principal amount of the Bonds will be paid to the Issuer as acquisition and construction of the Project progresses.

WITNESS my signature on this 21st day of July, 2003.

Rose Mary Christian
Authorized Representative

07/15/03
742910.00001

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
RED SULPHUR PUBLIC SERVICE DISTRICT
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 2003 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$ 1,800,000

No. AR-1

Date: July 21, 2003

FOR VALUE RECEIVED, RED SULPHUR PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS ($1,800,000), plus interest on the unpaid principal balance at the rate of 4.25% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $7,974, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

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

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

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

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

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

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

cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted July 15, 2003, authorizing issuance of this Bond (the "Resolution").

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

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farmer and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES WITH THE 1967 BONDS, THE 1977 BONDS, THE 1987 A BONDS, THE 1992 BONDS, THE 1999 BONDS, THE 2002 A BONDS AND THE PRIOR NOTES (THE "FIRST LIEN BONDS"), AS FURTHER DEFINED AND DESCRIBED IN THE RESOLUTION. THIS BOND IS SENIOR AND PRIOR, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES, AND IN ALL OTHER RESPECTS, TO THE 1987 B BONDS, AS FURTHER DEFINED AND DESCRIBED IN THE RESOLUTION. THE PRIOR NOTES ARE NOT SECURED BY THE ASSETS OF THE SYSTEM OR THE NET REVENUES THEREOF AND ARE JUNIOR AND SUBORDINATE TO THE FIRST LIEN BONDS AND 1987 B BONDS.

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

RED SULPHUR PUBLIC
SERVICE DISTRICT

By: Robert M. Williams
Its: Chairman
Public Service Board
Post Office Box 697
Peterstown, West Virginia 24963

[CORPORATE SEAL]

ATTEST:

By: Dennis Sibold
Its: Secretary

## RECORD OF ADVANCES

| | AMOUNT | DATE | | AMOUNT | DATE |
|---|---|---|---|---|---|
| (1) | $186,160 | July 21, 2003 | (19) | $ | |
| (2) | $ | | (20) | $ | |
| (3) | $ | | (21) | $ | |
| (4) | $ | | (22) | $ | |
| (5) | $ | | (23) | $ | |
| (6) | $ | | (24) | $ | |
| (7) | $ | | (25) | $ | |
| (8) | $ | | (26) | $ | |
| (9) | $ | | (27) | $ | |
| (10) | $ | | (28) | $ | |
| (11) | $ | | (29) | $ | |
| (12) | $ | | (30) | $ | |
| (13) | $ | | (31) | $ | |
| (14) | $ | | (32) | $ | |
| (15) | $ | | (33) | $ | |
| (16) | $ | | (34) | $ | |
| (17) | $ | | (35) | $ | |
| (18) | $ | | (36) | $ | |

TOTAL $

## ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

742910.00001
07/08/03

CH612159.1

STEPTOE & JOHNSON PLLC
ATTORNEYS AT LAW
Clarksburg Charleston Morgantown Martinsburg Wheeling Parkersburg

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

Writer's Contact Information

July 21, 2003

Red Sulphur Public Service District
Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

Red Sulphur Public Service District
Post Office Box 697
Peterstown, West Virginia 24963

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by Red Sulphur Public Service District in Monroe County, West Virginia (the "Issuer"), of its $1,800,000 Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A, dated the date hereof (the "Bonds"), pursuant to Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), and a resolution (the "Resolution") of the Issuer duly adopted July 15, 2003. We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the Resolution and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is duly created and validly existing as a public service district and as a public corporation and a political subdivision of the State of West Virginia with corporate power to adopt the Resolution, perform the agreements on its part contained therein and issue the Bonds.

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

3. Pursuant to the Act, the Resolution creates a valid lien on the funds pledged by the Resolution for the security of the Bonds on a parity with the Issuer's Waterworks Loan, evidenced by a promissory note dated May 3, 1967, issued in the original aggregate principal amount of $50,290; Waterworks Loan, evidenced by a promissory note dated November 10, 1977, issued in the original aggregate principal amount of $36,000; Combined Waterworks and Sewerage System Revenue Bonds,



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Series 1987 A, dated November 16, 1987, issued in the original aggregate principal amount of $738,647; Combined Waterworks and Sewerage System Revenue Bonds, Series 1992, dated July 14, 1992, issued in the original aggregate principal amount of $1,979,000; Combined Waterworks and Sewerage System Revenue Bonds, Series 1999, dated May 20, 1999, issued in the original aggregate principal amount of $156,500 and Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A, issued in the aggregate principal amount of $1,538,500 and senior and prior to the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, dated November 16, 1987, issued in the original aggregate principal amount of $181,173 (collectively, the 2002 A Bonds, the 1999 Bonds, the 1992 Bonds, the 1987 A Bonds, the 1977 Bonds and the 1967 Bonds are referred to as the "First Lien Bonds").

The Issuer currently has outstanding the Combined Waterworks and Sewerage System Design Note, Series 1998 (West Virginia Infrastructure Fund), (the "Prior Note") dated June 15, 1998, issued in the original aggregate principal amount of $180,600. The Prior Notes are not secured by the assets of the System or the Net Revenues thereof and are junior and subordinate to the First Lien Bonds and the 1987 B Bonds.

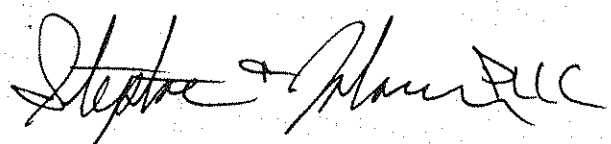
4. The Bonds have been duly authorized, executed and delivered by the Issuer and are valid and binding special obligations of the Issuer, payable solely from the sources provided therefor in the Resolution.

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

6. The Bonds are, under the Act, exempt from taxation by the State of West Virginia, and the other taxing bodies of said State, and interest on the Bonds is exempt from personal income taxes and corporate net income taxes imposed directly thereon by the State of West Virginia.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds, the Resolution and the liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,



STEPTOE & JOHNSON PLLC

07/12/03
742910.00001

CH478762.2

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WILLIAM S. WINFREY, II
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FILE NO.

July 21, 2003

20-128

Red Sulphur Public Service District
Waterworks and Sewerage System Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

Red Sulphur Public Service District
Peterstown, West Virginia

Steptoe & Johnson PLLC
Clarksburg, West Virginia

Ladies and Gentlemen:

I am counsel to Red Sulphur Public Service District, a public service district in Monroe County, West Virginia (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, a resolution of the Issuer duly adopted July 15, 2003 (the "Resolution"), other documents and papers relating to the Issuer and the above-captioned Bonds of the Issuer (the "Bonds") and documents and orders of The County Commission of Monroe County relating to the creation of the Issuer and the appointment of members of the Public Service Board of the Issuer. All capitalized terms used in the Resolution and not otherwise defined herein shall have the same meanings as defined in the Resolution when used herein.

I am of the opinion that:

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

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

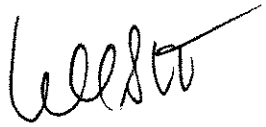
3. The Resolution has been duly adopted by the Issuer and is in full force and effect.

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

5. All permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations necessary for the due creation and valid existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges have been entered and/or received, including, without limitation, all requisite orders, certificates, consents and approvals from the Public Service Commission of West Virginia in Case No. 02-0617-PWD-CN by Final Order dated July 22, 2002, and the Issuer has taken any other action required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has duly published a notice of the acquisition and construction of the Project, the issuance of the Bonds and related matters, as required under Chapter 16, Article 13A, Section 25 of the West Virginia Code of 1931, as amended, and has duly complied with the provisions thereof.

6. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds or the Resolution, the acquisition and construction of the Project, the operation of the System, or the validity of the Bonds, or the collection or pledge of the Net Revenues therefor.

Very truly yours,



William S. Winfrey, II

cc: USDA RUS

07/07/03
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CH478783.1

RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

COMBINED CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. AUTHORIZATION AND AWARD OF BONDS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES, ETC.
6. CERTIFICATION OF COPIES OF DOCUMENTS
7. INCUMBENCY AND OFFICIAL NAME, ETC.
8. DELIVERY AND PAYMENT AND USE OF PROCEEDS
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.
11. CONTRACTORS' INSURANCE, ETC.
12. CONNECTIONS, ETC.
13. GRANTS
14. CONFLICT OF INTEREST

We, the undersigned CHAIRMAN and the undersigned SECRETARY of the Public Service Board of Red Sulphur Public Service District in Monroe County, West Virginia (the "Issuer"), and the undersigned ATTORNEY for the Issuer, acting for the Issuer and in its name, hereby state and certify in connection with the Red Sulphur Public Service District Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (United States Department of Agriculture), No. AR-1, dated the date hereof, fully registered, in the principal amount of $1,800,000 and bearing interest at the rate of 4.25% per annum (the "Bonds" or the "Series 2003 A Bonds"), as follows:

1. AUTHORIZATION AND AWARD OF BONDS: The undersigned are authorized to execute this certificate on behalf of the Issuer and are knowledgeable with respect to the matters set forth herein. The entire issue of the Bonds has been duly awarded to the United States of America, acting by the United States Department of Agriculture, Rural Utilities Service (the "Purchaser"), pursuant to a Letter of Conditions of the Purchaser, dated January 16, 2001, and all amendments thereto, and as appears in Section 7.03 of the Resolution of the Issuer duly adopted July 15, 2003, authorizing issuance of the Bonds (the "Resolution" or "Bond Resolution"). All capitalized terms used herein and not otherwise

defined herein shall have the same meaning as defined in the Resolution when used herein. The Bonds are being issued on this date to finance a portion of the cost of the acquisition and construction of the Project located within the boundaries of the Issuer.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the issuance and delivery of the Bonds or receipt of any grant moneys committed for the System; nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Bonds; nor in any way questioning or affecting the validity of the grants committed for the System or the Bonds, or any provisions made or authorized for the payment thereof, including, without limitation, the pledge or application of any moneys or security therefor; nor questioning the existence, powers or proceedings of the Issuer or its Public Service Board (the "Governing Body") or the title of the members and officers thereof to their respective offices; nor questioning the operation of the System or the acquisition and construction of the Project, a portion of the cost of which is being financed out of the proceeds of sale of the Bonds; nor questioning the rates and charges provided for services of the System.

3. GOVERNMENTAL APPROVALS: All applicable and necessary approvals, permits, authorizations, registrations, exemptions, consents and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Bonds, have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project were solicited in accordance with Chapter 5, Article 22, Section 1 of the West Virginia Code of 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval by the Purchaser of a loan to assist in acquisition and construction of the Project.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 2003 A Bonds as to liens, pledge and source of the security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (the "2002 A Bonds") dated July 11, 2002, and held by the Purchaser issued in the original aggregate principal amount of $1,538,500, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1999 (the "1999 Bonds") dated May 20, 1999, and held by the Purchaser, issued in the original aggregate principal amount of $156,500, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1992 (the "1992 Bonds"), dated July 14, 1992, issued in the original aggregate principal amount of $1,979,000, and held by the Purchaser, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A (the "1987 A Bonds"), dated November 16, 1987, issued in the original aggregate principal amount of $738,647, and held by the West Virginia Water Development Authority, an assumed

Waterworks Loan held by the Purchaser, dated November 10, 1977 (the "1977 Bonds"), issued in the original aggregate principal amount of $36,000, and an assumed Waterworks Loan held by the Purchaser, dated May 3, 1967 (the "1967 Bonds") (collectively, the 2002 A Bonds, the 1999 Bonds, the 1992 Bonds, the 1987 A Bonds, the 1977 Bonds and the 1967 Bonds are referred to as the "First Lien Bonds").

There is outstanding an obligation of the Issuer which will rank junior and subordinate to the Bond as to liens, pledge and source of security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B (the "1987 B Bonds"), dated November 16, 1987, issued in the original aggregate principal amount of $181,173, and held by West Virginia Water Development Authority. The 1967 Bonds, the 1977 Bonds, the 1987 A Bonds, the 1987 B Bonds, the 1992 Bonds, the 1999 Bonds and the 2002 A Bonds are hereinafter collectively referred to as the "Prior Bonds."

The Issuer currently has outstanding the Combined Waterworks and Sewerage System Design Note, Series 1998 (West Virginia Infrastructure Fund), (the "Prior Note") dated June 15, 1998, issued in the original aggregate principal amount of $180,600. The Prior Notes are not secured by the assets of the System or the Net Revenues thereof and are junior and subordinate to the First Lien Bonds and the 1987 B Bonds.

Other than the Prior Bonds and the Prior Notes, there are no outstanding bonds or obligations which will rank prior to, on a parity with or junior to the Series 2003 A Bonds as to liens, pledge and/or source of and security for payment.

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

5. SIGNATURES, ETC.: The undersigned Chairman and Secretary did, for the Issuer on the date of delivery of the Bonds on the date hereof, officially execute and seal the Bonds with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and said officers are the duly elected, appointed, qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer.

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

Bond Resolution

RUS Consent to Issuance of Parity Bonds

WDA Consent to Issuance of Parity Bonds

Public Service Commission Order

Rural Utilities Service Loan Resolution

County Commission Orders Regarding Creation and Enlargement of the District and Public Service Commission Order

County Commission Orders of Appointment of Current Boardmembers

Oaths of Office of Current Boardmembers

Rules of Procedure

Affidavit of Publication on Borrowing

Minutes of Current Year Organizational Meeting

Minutes on Adoption of Bond Resolution and Affidavit of Publication

Rural Utilities Service Letter of Conditions and Closing Instructions

Rural Utilities Service Grant Agreement

7. INCUMBENCY AND OFFICIAL NAME, ETC.: The proper corporate title of the Issuer is "Red Sulphur Public Service District" and its principal office and place of business are in Monroe County, West Virginia. The Issuer is a public service district and public corporation and political subdivision of the State of West Virginia. The governing body of the Issuer is its Public Service Board consisting of three duly appointed, qualified and acting members, whose names and dates of commencement and termination of current terms of office are as follows:

| Name | Date of Commencement of Office | Date of Termination of Office |
|---|---|---|
| Dennis Siebold | October 1, 2001 | October 1, 2007 |
| John S. Porterfield | _____ | September 7, 2005 |
| Robert M. Williams, Sr. | December 19, 1997 | December 19, 2003 |

The names of the duly elected, appointed, qualified and acting officers of said Public Service Board of said Issuer for the calendar year 2003 are as follows:

| | | |
|---|---|---|
| Chairman | - | Robert M. Williams, Sr. |
| Treasurer/Secretary | - | Dennis Siebold |

The duly appointed and acting Attorney for the Issuer is William S. Winfrey, II, Esquire, of Princeton, West Virginia.

8. DELIVERY AND PAYMENT AND USE OF PROCEEDS: On the date hereof, the Bonds were delivered to the Purchaser at Peterstown, West Virginia, by the undersigned Chairman for the purposes set forth herein, and at the time of such delivery the Bonds had been duly and fully executed and sealed on behalf of the Issuer in accordance with the Bond Resolution.

At the time of delivery of the Bonds, the amount of $186,160 was received by the undersigned Chairman, being a portion of the principal amount of Bonds. Further advances of the balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

The Bonds are dated the date hereof, and interest on advances of the principal thereof at the rate of 4.25% per annum is payable from the date of each such advance.

The Bonds and the entire proceeds thereof will be used for the purposes herein set forth and for no other purposes.

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

10. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.: All actions, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the acquisition, construction, operation and financing of the Project and the System were authorized or adopted at meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Rules of Procedure of the Governing Body and all applicable statutes, including particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly appointed, qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. CONTRACTORS' INSURANCE, ETC.: All contractors will be required to maintain Workers' Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Letter of Conditions of the Purchaser, as amended, and the Bond Resolution.

12. CONNECTIONS, ETC.: The Issuer will serve at least 1740 bona fide full-time users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

13. GRANTS: As of the date hereof, the grant from the Purchaser in the amount of $1,280,000 is committed and in full force and effect.

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

WITNESS our signatures and the official seal of RED SULPHUR PUBLIC SERVICE DISTRICT on this 21st day of July, 2003.

[CORPORATE SEAL]

| SIGNATURE | OFFICIAL TITLE |
| --- | --- |
| _____ | Chairman |
| _____ | Secretary |
| _____ | Attorney for Issuer |

07/15/03
742910.00001

CH478833.1

WITNESS our signatures and the official seal of RED SULPHUR PUBLIC SERVICE DISTRICT on this 21st day of July, 2003.

[CORPORATE SEAL]

| SIGNATURE | OFFICIAL TITLE |
| --- | --- |
| _____ | Chairman |
| _____ | Secretary |
| _____ | Attorney for Issuer |

07/15/03
742910.00001

CH478833.1

RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

I, Robert D. Hazelwood, Registered Professional Engineer, West Virginia License No. 8452, of Pentree, Inc., Princeton, West Virginia, hereby certify that my firm is the engineer for the acquisition and construction of certain additions, improvements and extensions (the "Project") to the existing public combined waterworks and sewerage system (the "System") of Red Sulphur Public Service District (the "Issuer"), to be acquired and constructed in Monroe County, West Virginia, which acquisition and construction are being financed in whole or in part by the above-captioned bonds of the Issuer.

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

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

WITNESS my signature on this 17th day of July, 2003.

[SEAL]

ROBERT D. HAZELWOOD REGISTERED 8452 STATE OF WEST VIRGINIA PROFESSIONAL ENGINEER

PENTREE, INC.

Robert D. Hazelwood

Robert D. Hazelwood, P.E.
West Virginia License No. 8452

01/25/02
742910.00001

**Jeffrey S. Feamster, CPA**

Jeffrey S. Feamster
Certified Public Accountant
P.O. Box 121
Lewisburg, West Virginia 24901

Phone: (304) 647-5980
Fax: (801) 640-8611
Cellular: (304) 667-5990
Email: jeff@mcswv.com

July 21, 2003

Red Sulphur Public Service District
Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

Red Sulphur Public Service District
Peterstown, West Virginia 24963

Steptoe & Johnson PLLC
Charleston, West Virginia 26302

West Virginia Water Development Authority
Charleston, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the Order of the Public Service Commission of West Virginia in Case No. 02-0617-PWD-CN, dated July 2, 2002, and projected operation and maintenance expenses and anticipated customer usage as furnished to me by Pentree, Incorporated, Consulting Engineer, it is my opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the combined waterworks and sewerage system (the "System") of Red Sulphur Public Service District (the "Issuer"), will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Issuer's Combined Waterworks and Sewerage System Revenue Bonds, Series 2003 A (United States Department of Agriculture), (the "Bonds") and all other obligations secured by or payable from the revenues of the System on a parity with or junior to the Bonds, including the Prior Bonds and Prior Notes.

It is my further opinion that (i) 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 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 Bonds, will not be 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 on the Prior Bonds, the Bonds and the Prior Notes, and (ii) the Net Revenues for the fiscal year following the year in which the Bonds are issued will be at least 115% of the average annual debt service requirements on the Prior Bonds, the Bonds, and the Prior Notes.

Capitalized terms not defined herein have the meanings set forth in the Bond Resolution adopted by the Issuer on July 15, 2003.

Very truly yours,

Jeffrey S. Feamster, CPA

J. E. [illegible]

Having been erroneously charged $2.00 capitation tax which had been [illegible] Assessor, as shown by Receipt No. 1151.

It is therefore ordered that the said applicant be refunded, [illegible] the amount of $2.00 capitation tax.

FIDUCIARY SETTLEMENTS AND BONDS [illegible] ALREADY APPROVED

| Decedent or Ward. | Fiduciary | Kind of Settl. |
|---|---|---|
| G. C. Shaver, Dec'd. | Pearl Shaver, Exec. | F. Settl. [illegible] |
| William Ashby Young, Dec'd. | Leighton Dransfield, Exec. | F. Settl. [illegible] |
| Sidney C. Skaggs, Dec'd. | Charles F. Skaggs, Admr. | F. Settl. [illegible] |
| E. H. Wiley, Dec'd. | Lorana E. Wiley, Exec. | F. Settl. [illegible] |
| Mary E. Nash, Dec'd. | J. Frank and Ralph Nash, Admr. | F. Settl. [illegible] |
| C. W. Thompson, Dec'd. | Pearl Pence, Admr. | F. Settl. [illegible] |
| Hattie B. Thompson, Inc. | Pearl Pence, Com. | " " [illegible] |

And the foregoing settlements having been examined and the Court hereby approves and confirms said settlements and orders the same recorded in the proper Fiduciary [illegible] of this Court.

And, upon the recommendation of [illegible] Bion, one of the Commissioners of Accounts of this Court, Pearl Shaver, Executrix of the estate of G. C. Shaver, Leighton Dransfield, Executor of the estate of William Ashby Young, deceased, and Charles F. Skaggs, Administrator of the estate of Sidney C. Skaggs, deceased, be relieved and the surety on their bonds be relieved from any further liability in connection with the settlements of the estates herein reported.

And, further upon the recommendation of Forrest Holes, one of the Commissioners of Accounts of this Court, Lorana E. Wiley, Executrix of the estate of E. H. Wiley, deceased, J. Frank and Ralph Nash, Administrators of the estate of Mary E. Nash, deceased, and Pearl Pence, Administratrix and Committee of C. W. Thompson, deceased and Hattie B. Thompson, Incompetent, be relieved and the surety on their bonds be relieved from any further liability in connection with the settlements of the estates herein reported.

[illegible]

CONSIDERING CREATION OF PUBLIC SERVICE DISTRICT

At a regular meeting of the County Court of Monroe County, West Virginia, [illegible] the courthouse on the 6th day of April, 1959, at 10:00 A. M., there were present [illegible] Cook, President, and H. L. Wallrup and Charles [illegible] Hines, Commissioners. [illegible] duced and caused to be read a proposed resolution and [illegible] entitled:

" A Resolution and Order Proposing the Creation of a Public Service District in Monroe County, West Virginia, and Providing for the Establishment of a Date of a Hearing Thereon and for Publication of a Notice of such Public Hearing".,

and moved the adoption of said proposed resolution and order. Commissioner Hines seconded said motion and, after due consideration, the President called for a vote upon said motion with the following result:

For the Motion: Hugh G. Cook, President, H. L. Wallrup, Commissioner, Charles Hines, Commissioner. Against the motion: None

"WHEREAS, the County Court of Monroe County, deeming it to be in the public [illegible] on its own motion proposes the creation of a public service district within Monroe [illegible] West Virginia; and

"WHEREAS, the Town Council of the Town of Peterstown, a municipal corporation located wholly within the proposed public service district, has given its consent to the creation of said public service district, which consent is evidenced by a resolution [illegible] ed by the said Town Council on the 10th day of March, 1959, at a regular adjourned meeting of said council, a certified copy of which has been filed with the Clerk of this [illegible] day, which said resolution is as follows:

BE IT RESOLVED, That the Town Council of the Town of Peterstown do [illegible] is necessary for the health and sanitation of the said Town and its [illegible] itants of areas adjacent to the Town that the sewer system of the Town be [illegible] making of certain additions thereto and extensions thereof, including the [illegible] primary sewage treatment plant or arrangement with some other municipality or [illegible] body operating a primary sewage treatment plant to [illegible] sewerage system of the said Town; and

BE IT FURTHER RESOLVED, That Dennis M. Leary, Jr., Civil Engineer of [illegible], Virginia, and W. H. Pile, Jr., Attorney at Law, Beckley, West Virginia, are hereby [illegible] by the Town of Peterstown as engineer and attorney respectively to render necessary engineering and legal services respectively to accomplish this end; and

BE IT FURTHER RESOLVED, that the Town Council finds that the most practical way of accomplishing this end is the formation of a Public Service District by the County Court of this County with the power to provide sewerage and water services if deemed necessary for the said area, the said Public Service District to include all of Red Sulphur District of said county, which includes all of the area of the Town of Peterstown; and

BE IT FURTHER RESOLVED, That the Town Council of the Town of Peterstown does hereby consent to the Town of Peterstown being included within the boundaries of such proposed district and does hereby request the County Court of Monroe County to form such district.

I, James F. Webb, Recorder of the Town of Peterstown, West Virginia, do hereby certify that the foregoing resolution was duly adopted by the Council of the Town of Peterstown at a regular adjourned meeting of said Council held on the 10th day of [illegible] 1959, at 7:30 o'clock P. M.

James F. Webb
Recorder
Town of Peterstown

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 the the County Court of Monroe County West Virginia, as follows:

"Section 1. That the County Court of Monroe County, West Virginia, deeming it to be in the public interest, hereby proposes the creation of a public service district [illegible] Monroe County, West Virginia, as provided by Article 13A of Chapter 16 of the Code of West Virginia.

"Section 2.

"a) The name and [illegible]

"b) The territory to be embraced in the public service district shall [illegible] All of Red Sulphur District, Monroe County, West Virginia.

"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 services within such territory.

"d) The territory described above does not include within its limits the territory of any other public service district organized under Article 13A of Chapter 16, Code of West Virginia, but does include the municipal corporation of the Town of Peterstown.

"Section 3. That on the 4th day of May, 1959, at the hour of 10:30 A. M. this County Court shall meet in the Circuit Courtroom in the courthouse at Union, 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 [illegible] notice of such hearing in substantially the form hereinafter set out to be published April 23 and April 30, 1959 in The Monroe Watchman, a newspaper of general circulation published in Monroe County.

"NOTICE OF PUBLIC HEARING ON CREATION OF RED SULPHUR PUBLIC SERVICE DISTRICT

"Notice is hereby given that, deeming it to be in the public interest, the County Court of Monroe County, West Virginia on its own motion, it having received the consent of the Town Council of the Town of Peterstown, a municipal corporation lying within the limits of said proposed district, as required by law, has proposed the creation of a public service district within Monroe County for the purpose of constructing or acquiring by purchase or otherwise and the maintenance, operation and extension of public service properties supplying sewerage services within the district hereinafter described to be named Red Sulphur Public Service District and having the following description:

All of Red Sulphur District in Monroe County, West Virginia.

All persons residing in or owning or having any interest in property in said proposed public service district are hereby notified that the County Court of Monroe County will conduct a public hearing on the 4th day of May, 1959, at 10:30 A. M. in the Circuit Courtroom in the courthouse at Union, 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 6th day of April, 1959.

ATTEST Harold C. McDonald
Clerk of the County Court of Monroe County, West Virginia

ADJOURNMENT ORDER:

It is ordered that this Court be and the same is hereby adjourned until May 4, 1959, at which time [illegible]

FIDUCIARY SETTLEMENTS AND REPORT OF CLAIMS, APPROVED.

| Decedent or Ward, | Fiduciary | Kind of Settl. | Date | Comm. of Accts. |
|---|---|---|---|---|
| Mickey S. Ball, Minor | J. L. Ingles, Guardian | Settl | 4-10-59 | Forrest Holes |
| Lewis F. Christie, Dec'd. | Maxine C. Beckett, Admr. | Settl. | 4-15-59 | Forrest Holes. |
| S. B. Leach, Dec'd. | J. Harvey Leach, Exec. | F. Settl. | 4-15-59 | Forrest Holes. |

And the foregoing settlements having been examined and the Court hereby approved and confirms said settlements and orders the same recorded in the proper Fiduciary Record of this Court.

And, upon the recommendation of Forrest Holes, one of the Commissioners of Accounts of this Court, J. Harvey Leach, Executor of the estate of S. B. Leach, deceased, be relieved and the surety on their bonds be relieved from any further liability in connection with the settlement of the estate herein reported.

ooooooooooooooooooo
ooooooooooo oooooo.

RED SULPHUR PUBLIC SERVICE DISTRICT:

At a regular meeting of the County Court of Monroe County, West Virginia, held at the courthouse at Union at 10:30 A. M., on Monday, May 4, 1959, there were present, Hugh G. Cook, President, presiding, and H. L. Walkup and Charles O. Hines, Commissioners.

This being the date fixed by prior action of the County Court for conducting the public hearing on the creation of the proposed Red Sulphur Public Service District as contemplated and provided for in an order heretofore passes by this court on the 6th day of April, 1959, 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.

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. L. Walkup moved the passage of the following resolution and order, which motion was duly seconded by Charles O. Hines and passed unanimously by said court.

"WHEREAS, the County Court of Monroe County, West Virginia, did heretofore, by an order passed on the 6th day of April, 1959, fix a date for a public hearing on the creation of the proposed Red Sulphur 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 [illegible]

"NOW, THEREFORE, Be It Resolved and Ordered by the County Court of Monroe County, West Virginia, as follows:

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

"All of Red Sulphur District in Monroe County, West Virginia.

"Section 2. That said public service district so created shall have the name and corporate title of "Red Sulphur 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 Monroe County, West Virginia has determined that the territory within said county, being all of Red Sulphur District, is so situated that the construction or acquisition by purchase or otherwise, and the maintenance, operation, improvement and extension of properties supplying sewerage service within such territory by said public service district will be conductive to the preservation of public health, comfort and convenience of such area."

The following resolution and order, the passage of which was duly moved by H. L. Walkup and seconded by Charles O. Hines, was passed unanimously by the County Court of Monroe County, West Virginia:

"A RESOLUTION AND ORDER APPOINTING MEMBERS TO PUBLIC SERVICE BOARD OF THE RED SULPHUR PUBLIC SERVICE DISTRICT".

"WHEREAS, the County Court of Monroe County, West Virginia, did heretofore, by resolution and order passed May 4, 1959, create Red Sulphur Public Service District: and

"WHEREAS, under the provisions 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; and

"WHEREAS, the Incorporated Town of Peterstown, having a population as shown by the census for the year 1950, of 571, is located within the boundaries of said public service district:

"NOW, THEREFORE, Be it Resolved and Ordered by the County Court of Monroe County, West Virginia, as follows:

"Section 1. That the said court hereby finds and determines that the following persons, who are residents of Red Sulphur 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: Frank R. Spencer for a term of six years from May, 1, 1959; Charles O. Hines for a term of four years from May 1, 1959; and E. E. Howe for a term of two years from May 1, 1959.

"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 Red Sulphur Public Service District shall meet and organize in compliance with the provisions of Article 13a of Chapter 16 of the Code of West Virginia."

ADJOURNMENT ORDER:

It is ordered that this Court be and the same is hereby adjourned until June 1, 1959, at which time it will convene in Regular Session.

PRESIDENT

STATE OF WEST VIRGINIA,

COUNTY OF MONROE, TO-WIT:

AT A REGULAR SESSION OF THE COUNTY COURT HELD IN AND FOR THE COUNTY OF MONROE, AT THE COURT HOUSE THEREOF ON MONDAY, JUNE 1,1959: PRESENT, HUGH G. COOK, PRESIDENT, H. V. WALKUP AND CHARLES O. HINES, ASSOCIATE COMMISSIONERS.

VACATION ORDERS APPROVED:

It is ordered that all orders and proceedings had before the Clerk of this Court in Vacation are approved and confirmed.

BILLS APPROVED FOR PAYMENT

It is ordered that all (orders) drafts payable out of the General County Fund be issued in payment of the following bills, which have this day been approved by this Court.

| PAYEE | PURPOSE | AMOUNT | No. |
|---|---|---|---|
| E. B. Duncan | Janitor , H. Y. A. | [illegible] | [illegible] |
| The C. & P. Tel. Co. | Tel. Services | 113.06 | [illegible] |
| Paul Thompson | Jail Expense | 136.00 | [illegible] |
| Roy Bowden | " " | 175.00 | [illegible] |
| The Monroe Watchman | Adv. | 57.35 | [illegible] |
| Casto & Harris, Inc. | Office Supplies | 8.21 | [illegible] |
| West Va. State Industries | " " | 31.25 | [illegible] |
| Donald S. Lavigne, Inc. | Uniforms | 40;18 | [illegible] |
| May Office Service | Office Supplies | 25.09 | [illegible] |
| Sinclair Manifold Products | " " | 11.00 | [illegible] |
| The Geo. D. Barnard Co. | " " | 24.83 | [illegible] |
| Greenbrier Laundry Co. | Health Dept. Laundry | 4.02 | [illegible] |
| Monroe Service Station | Service on Bookmobile | 6.50 | [illegible] |
| The Baker & Taylor Co. | Book for Bookmobile Library | 7.50 | 9612 |
| The Baker & Taylor Co. | Books for Bookmobile | 68.77 | [illegible] |
| Betty L. Grimmett | Work for Sheriff | 43.85 | [illegible] |
| Grace Wickline | " " " | 23.40 | [illegible] |
| Vernie C. Jervis | Mileage | 18.00 | 9616 |
| O. B. Grimmett | " | 42.00 | 9617 |
| Wade C. Neel | " | 23.45 | [illegible] |
| Mabel Ballard | Work for Assessor | 50.00 | [illegible] |
| V. O. Wickline | Commissions and Mileage | [illegible] | [illegible] |
| T. W. Broyles, Assessor | Mileage | 42.00 | [illegible] |
| Sue P. Nichols, Clerk | Postage--Health Dept. | 4.00 | [illegible] |
| H. C. McDonald, Clerk | Postage | 12.15 | [illegible] |
| T. W. Broyles | Farm Census | 180.00 | [illegible] |
| H. C. McDonald | Lunacy --Mileage | 3.50 | [illegible] |
| Dr. W. W. Kersey, Jr. | Lunacy | 5.00 | [illegible] |
| Dr. Marguerite, J. Kersey | " | [illegible] | [illegible] |
| Dr. H. H. Hancock | " | 5.00 | [illegible] |
| Wade H. Ballard, III | " | 12.50 | [illegible] |

EXONERATIONS APPROVED.

At a Regular Session of the County Court, held on the 1st. day of June, 1959, the Prosecuting Attorney being present and waiving notice of the application for relief from erroneous assessment of taxes as follows:

A. W. THOMPSON

Having been erroneously assessed with a 1954 Ford Automobile which is registered and licensed in the State of Ohio

IN THE COUNTY COMMISSION OF MONROE COUNTY, WEST VIRGINIA

IN RE: Powers of Red Sulphur Public Service District

On December 2, 1991, at a regularly scheduled meeting of the Monroe County Commission, at which time all County Commissioners were present, the said Commissioners did consider the matter of powers of Red Sulphur Public Service District, pursuant to a request for clarification of a prior order dated May 4, 1959, creating Red Sulphur Public Service Distict.

The undersigned Commissioners being asked to consider the matter of the authorized powers of Red Sulphur Public Service District, did review its records and files, and did determine that the aforesaid order does not clearly define the purposes for which the said public service district was created, as it purports to create a public service district with all lawful powers exercised by such districts, but also contains language which could conceiveably be construed as limiting the district to sewer services, and that some of the originial documentation pertaining to the creation of the public service district indicated it was to include providing water, and that the said district has operated as a water utility and has provided water to its customers for many years, and that all of the records and files within the control of the Monroe County Commission indicate that the intention of said Commission at the time of the creation of Red Sulphur Public Service District, was to create a public service district to provide both water and sewer, and that nothing in said files indicates that the said district is to be a sewer utility only, and upon a proper request for clarification of this point, it was

moved, seconded, and adopted by acclaimation that Section 3, of the previous order of the Monroe County Commission dated May 4, 1959 be amended to reflect the actual intent of the said commission at that time, as follows:

> Section 3: That the County Court of Monroe County, West Virginia has determined that the territory within said county, being all of Red Sulphur District, is so situated that the construction or acquisition by purchase or otherwise, and the maintenance, operation, improvement, and extension of properties supplying sewerage and water services within such territory by said public service district will be conductive to the preservation of public health comfort and convenience of such area.

Nothing further coming to the attention of the Commission at this time, concerning this matter, the Commission did move on to other business on its agenda.

Dated December 2, 1991.

Sara B. Wickline
Commissioner Wickline

Randall Wallace
Commissioner Wallace

W. C. Sibold
Commissioner Sibold

IN THE COUNTY COMMISSION OF MONROE COUNTY, WEST VIRGINIA

In Re: Proposed Merger of Red Sulphur Public Service District and Lindside Public Service District, and Expansion of Boundaries of Red Sulphur Public Service District

On December 3, 1990 at a regularly scheduled meeting of the Monroe County Commission, representatives from Lindside Public Service District and Red Sulphur Public Service District appeared before the Monroe County Commission pursuant to a previous request to merge the two districts, and to expand the territory of the remaining District.

At this time the Commission considered the matter and appearing proper to do so, and upon motion of Commissioner Wickline, duly second by Commissioner Sibold and unanimously passed by the Commission, it is ORDERED and ADJUDGED that the Monroe County Commission on its own motion take the necessary steps to merge the two districts, and to expand the territory to the boundaries described on Exhibit A, hereto, and as shown upon the plat filed herein; that it conduct a public hearing pursuant to West Virginia Code Section 16-13A-2 concerning the proposed merger of the two districts, and the enlargement of the territory of the remaining district; that this hearing take place at the Monroe County Courthouse, Union, West Virginia, on January 7, 1991, at 2:00 p.m.; that the Clerk of this Commission prepare a notice concerning this hearing and cause the same to be published

in the Monroe Watchman as a Class I legal advertisement at the first available publication date; that said notice be posted at five conspicious spots within the district by the said Clerk which shall be as follows: Peterstown Post Office, Lindside Post Office, Ballard Post Office, Red Sulphur Public Service District Office, Bob's Grocery, Lindside, West Virginia, and Rock Camp Store, Lindside, West Virginia, and nothing further coming to the Commissions attention, it is further ORDERED that the matter stand continued generally pending said hearing.

Dated December 3, 1991.

MONROE COUNTY COMMISSION

Sam B. Nickline
PRESIDENT

H.C. Libold
COMMISSIONER

Ronald W. [illegible]
COMMISSIONER

EXHIBIT A

BEGINNING at the intersection of latitude 37°28'36" and longitude 80°31'54" which is located on the top of Peters Mountain on the boundary line of the Springfield Tax District of Monroe County, WV with the State of Virginia, thence with said boundary line in a southwestern direction to the intersection of latitude 37°25'59" and longitude 80°37'23", a common point with the boundary of the Red Sulphur Tax District of Monroe County, WV, thence in a southwestern direction with the boundary of the Red Sulphur Tax District and the State of Virginia to the intersection of latitude 37°22'42" and longitude 80°46'12" on top of Peters Mountain, thence with said boundary line to the intersection of latitude 37°25'43" and longitude 80°51'31" to a common point at New River

with Mercer County, WV and Summers County, WV, thence leaving common boundary line with State of Virginia and with common boundary line with Summers County in a northeasterly direction to the intersection of latitude 37°31' 24" and longitude 80°47'50", a common point with Springfield Tax District of Monroe County, WV, thence with common boundary line of Springfield Tax District and Summers County in a northeasterly direction to the intersection of latitude 37°34'02" and longitude 80°45'53", thence leaving said boundary line and running through Springfield Tax District S 64°30' E 14.3 miles to to the BEGINNING and containing 119 square miles, more or less, as shown on a map prepared by Pentree, Incorporated, Princeton, WV.

**PUBLIC NOTICES**
**Your Right to Know...**

NOTICE OF PUBLIC HEARING

Notice of public hearing on proposed merger of Red Sulphur Public Service District and Lindside Valley Public Service District and expansion of boundaries of Red Sulphur Public Service District.

Notice is hereby given that the County Commission of Monroe County, West Virginia, on December 3, 1990, on its own motion, proposed the merging of the Red Sulphur Public Service District and the Lindside Valley Public Service District and the expansion of the boundaries of the Red Sulphur Public Service District to include areas of Springfield Tax District, all within Monroe County, West Virginia, for the purpose of constructing or acquiring by purchase or otherwise, and maintaining, operating, and providing and extending public water (and sewer) service by the Red Sulphur Public Service District to property within said boundaries and also outside said boundaries to the extent permitted by law, which proposed expanded boundaries of Red Sulphur Public Service District are described as follows, to-wit:

BEGINNING at the intersection of latitude 37°28'36" and longitude 80°31'54" which is located on the top of Peters Mountain on the boundary line of the Springfield Tax District of Monroe County, WV with the State of Virginia, thence with said boundary line in a southwestern direction to the intersection of latitude 37°25'59" and longitude 80°37'23", a common point with the boundary of the Red Sulphur Tax District of Monroe County, WV, thence in a southwestern direction with the boundary of the Red Sulphur Tax District and the State of Virginia to the intersection of latitude 37°22'42" and longitude 80°46'12" on top of Peters Mountain, thence with said boundary line to the intersection of latitude 37°25'43" and longitude 80°51'31" to a common point at New River with Mercer County, WV and Summers County, WV, thence leaving common boundary line with State of Virginia and with common boundary line with Summers County in a northeasterly direction to the intersection of latitude 37°31'24" and longitude 80°47'50", a common point with Springfield Tax District of Monroe County, WV, thence with common boundary line of Springfield Tax District and Summers County in a northeasterly direction to the intersection of latitude 37°34'02" and longitude 80°45'53", thence leaving said boundary line and running through Springfield Tax District S 64°30' E 14.3 miles to the BEGINNING and containing 119 square miles, more or less, as shown on a map prepared by Pentree, Incorporated, Princeton, WV.

All persons residing in or owning or having any interest in the property in the present Red Sulphur Public Service District service area or any person residing in or owning or having any interest in the property within the proposed expanded boundaries of the Red Sulphur Public Service District are hereby notified that the County Commission of Monroe County, West Virginia will conduct a public hearing on January 7, 1991 at 2:00 p.m. in its courtroom in the County Courthouse at Union, West Virginia, at which time and place all said interested parties may appear before the Commission and shall have an opportunity to be heard for and against the proposed merger of the Red Sulphur Public Service District and Lindside Valley Public Service District and the proposed expansion of the boundaries of Red Sulphur Public Service District in order to effect the proposed change in the boundaries of public service districts for the aforesaid purposes.

By Order of the County Commission of Monroe County, West Virginia, this 2nd day of December, 1990.

# Certificate Of Publication

STATE OF WEST VIRGINIA

COUNTY OF MONROE, S.S.:

I, H. H. Mohler, publisher of THE MONROE WATCHMAN, do certify that the annexed advertisement of Notice of Public Hearing

in the case (matter) of Red Sulphur Public Service Commission

Vs. Monroe County Commission

was published two (2) consecutive weeks in THE MONROE WATCHMAN, a newspaper published at Union, Monroe County, West Virginia, beginning the 20th day of December 1990

Given under my hand this 15th day of April 19 91

H. H. Mohler
Publisher

Given under my hand this 15th day of April 19 91

Paula A. Bridges
Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PAULA A. BRIDGES
P. O. Box 417, Union 24983
My Commission Expires Dec. 5, 1994

My commission expires on the 5th day of Dec. 19 94

IN THE COUNTY COMMISSION OF MONROE COUNTY, WEST VIRGINIA

IN RE: Proposed Merger, Red Sulphur Public Service District and Lindside Public Service District, in Expansion of boundaries of Red Sulphur Public Service District

ORDER

On February 4, 1991, the Monroe County Commission met at regularly scheduled meeting, and at that time further considered the proposed merger of Red Sulphur Public Service District, and Lindside Public Service District, as well an expansion of the boundaries of the same, the matter having previously come on for hearing on January 7, 1991, and having been continued from that date to allow further hearing and public discussion at a meeting held at Peterstown, West Virginia, on January 28, 1991, and the matter having been continued to this date for a decision, at which time only Commissioners Sarah Wickline and William Sibold were present, Commissioner Randall Wallace being unable to attend due to illness.

At this time the representatives from the two Public Service Districts in question appeared before the undersigned Commission and the Commission having considered the matter further, it is hereby ORDERED and ADJUDGED by the Monroe County Commission, that the public health, comfort and convenience of the areas in question will be promoted by consolidating the Lindside Valley Public Service District and the Red Sulphur Public Service

District, and by an expansion of its territory, and it is further ordered that Lindside Valley and Red Sulphur Public Service Districts be consolidated and that the boundary of the remaining District to be known as Red Sulphur Public Service District, shall be expanded to the boundaries shown on the exhibit A attached hereto and made a part hereof; that this order is subject to the review and approval of the Public Service Commission of this State and that the Clerk of the undersigned Commission shall cause a true copy of this order to be mailed to Howard Cunningham, Executive Secretary, West Virginia Public Service Commission, Charleston, West Virginia, to serve as notice of this action pursuant to Section 16-13A-2 of the West Virginia Code; that this order is further subject to the review of the State Public Service Commission of a contract between the Town of Peterstown and the Red Sulphur Public Service District dated January 25, 1964, a copy of which is attached hereto as exhibit B, and is further subject to the determination by the said Public Service Commission that said contract proporting to restrict and limit expansion of the service areas of Red Sulphur Public Service District to those areas served at the time of the execution of this contract in 1964, be null and void, and that said contract shall not prohibit in any way the consolidation of said Public Service Districts or the extension of water and sewer service to the Lindside Community.

Dated Feb 6, 1991.

MONROE COUNTY COMMISSION

Lynn B. Wilkins

COMMISSIONER

W.C. Sibold

COMMISSIONER

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: June 12, 1991

CASE NO. 91-110-PWD-PC

MONROE COUNTY COMMISSION
Petition for approval of merger
of Red Sulphur Public Service
District and Lindside Valley Public
Service District.

RECOMMENDED DECISION

On February 4, 1991, the Monroe County Commission, a public corporation, adopted an Order to merge Red Sulphur Public Service District and Lindside Valley Public Service District and expand the boundaries of the same, with the new territory to be known as the Red Sulphur Public Service District. On February 15, 1991, the Mayor of Peterstown requested a hearing in Peterstown, concerning the aforesaid mentioned merger.

On February 18, 1991, the Public Service Commission received the Monroe County Commission Order for review and approval pursuant to West Virginia Code §16-13A-2.

By Joint Staff Memorandum filed March 13, 1991, Staff Attorney Drexel M. Vealey advised that the Red Sulphur Public Service District currently owns and operates a water treatment plant and distribution system, but Lindside Valley Public Service District neither owns nor operates a water or sewer system. He further stated that the Red Sulphur Public Service District currently had a case pending before the Commission for upgrading its facility to serve the Lindside area. The City of Peterstown objected to the merger and the project because of an existing contract between the City of Peterstown and the Red Sulphur Public Service District, and because of the proposed rate increase needed to fund the project.

As required by West Virginia Code §16-13A-2 and in consideration of the protest by the Mayor of Peterstown, a municipality within the boundaries of Red Sulphur Public Service District, the Administrative Law Judge, by Order entered March 29, 1991, scheduled a hearing on this matter for April 15, 1991, at 1:00 p.m., in the Council Chambers, 125 Thomas Street, Peterstown, Monroe County, West Virginia, and ordered publication of notice of said hearing.

Notice was published and the hearing convened as scheduled. The Petitioner, Monroe County Commission, and the two (2) Districts, Red

Both Lindside Valley Public Service District and Red Sulphur Public Service District have systems or system modifications in the early stages of design and have active grant and loan applications pending with various public bodies. (Tr., pp. 23-26). In the spring of 1990, the Lindside Valley Public Service District submitted an application to the GOCID office for a Small Communities Block Grant of $750,000.00 and an application to Farmers Home Administration for $700,000.00 in grant/loan consideration. (Tr., p. 23). Since the Monroe County Commission could only submit one (1) Block Grant application, it submitted the application of Lindside Valley Public Service District. The Town of Peterstown submitted a Block grant application to the GOCID office on behalf of the Red Sulphur District in the amount of $750,000.00. (Tr., p. 24). The Farmer's Home Administration, in reviewing these applications, requested that the two pending systems be merged for one combined project and some of the approved funding is contingent on a combined project. (Tr., pp. 24, 25&28).

The Monroe County Commission received the funding requested in the amount of $750,000.00 for the Lindside Valley Public Service District. The Town of Peterstown did not receive any grant from its application on behalf of Red Sulphur Public Service District. (Tr., p. 25). The Farmers Home Administration verbally committed to add a $700,000.00 grant and a $1,979,000.00 loan to the project if the two (2) projects were combined. (Tr., p. 25).

Mr. Hazelwood testified that both Districts reviewed the engineering reports and responded favorably to combining the projects into one and submitted requests to the Monroe County Commission to merge the two (2) Districts in order to provide both Districts with the needed water system. (Tr., pp. 25&26). Finalization and obligations of funding were completed in January 1991. The loan is to be a five percent loan to be paid back over thirty-eight (38) years. (Tr., p. 26). The engineer further testified that the expected rate per 1,000 gallons of water would be significantly less for the combined project as opposed to the rate for either project constructed separately. (Tr., p. 27). Mr. Hazelwood explained the rates and stated that, without a combined project, there was no commitment from Farmer's Home for grant money and the Red Sulphur Public Service District project would cost 50 cents or 60 cents more per 1,000 gallons. (Tr., p. 28).

The area now encompassing the Lindside Public Service District was originally part of the Red Sulphur Public Service District. The area now sought for inclusion in the merger of the two Public Service Districts also includes a small additional portion of territory in order to encompass the vicinity known as Coalter's Chapel and the small water system located there. (Tr., p. 30). The engineer concurs in the FmHA prediction of more efficient operation and maintenance for the merged Public Service District, through use of the established and operational systems of the active Red Sulphur Public Service District, (Tr., pp. 31-33).

Under cross-examination by the Intervenor Jones, Mr. Hazelwood explained that the water would be obtained from the Red Sulphur Public Service District's existing source, and that alternate water sources would

(Tr., pp. 71, 73). Complaints still existed after Mr. Miller became a board member in 1989. (Tr., pp. 73-74).

Mr. Miller discussed the corrective measures mandated by the Department of Health. (Tr., pp. 76-77). Mr. Miller explained that his District hired Pentree, and made every effort to try to get as much grant money as possible. It applied for a grant from the Town Council, Farmers' Home Administration and the Monroe County Commission. (Tr., p. 75). He confirmed that it was the Farmers' Home Administration that suggested the unification of the two systems. (Tr., p. 75). He testified that he was not happy with the proposed merger, but Red Sulphur Public Service District had agreed to merge with Lindside Valley Public Service District and requested that the Monroe County Commission approve same and that the District is requesting approval of the consolidation by the Public Service Commission. (Tr., pp. 78-79).

Mr. Miller testified that, whether the systems are combined or not, the Red Sulphur Public Service District has to provide the Town of Peterstown and the surrounding area with water. (Tr., p. 84). He confirmed that publication was made concerning the meetings. (Tr., p. 86). He explained that Lindside Valley Public Service District was once part of Red Sulphur Public Service District and that the Red Sulphur Public Service District had expanded previously without protest or approval by the Town of Peterstown. (Tr., pp. 89-90).

William C. Sibold testified on behalf of the Petitioner. Mr. Sibold is a member of the Monroe County Commission and during the course of his official duties reviewed and considered a joint request from Lindside Valley Public Service District and Red Sulphur Public Service District for merger. He further stated that during a regular meeting on December 3, 1990, the Commission agreed to take the matter under consideration and to hold a public hearing thereon. A Class II Legal Notice of said meeting was published commencing on December 20, 1990, and the notice was also posted in five different places. (Tr., pp. 92-93).

The matter was discussed at the January 7, 1991 meeting. An additional hearing was held on January 28, 1991. (Tr., p. 94). Mr. Sibold testified that he felt the merger of the two Districts was in the best interests of the public, resulting in a lower overall water rate. (Tr., p. 97).

The final decision was made at the February 4, 1991 meeting. (Tr., p. 104). He also confirmed that, due to the issue raised concerning the effect of a 1964 contract between the Town of Peterstown and Red Sulphur Public Service District, the County Commission conditioned its decision on the Public Service Commission's determination in this regard. (Tr., p. 105). At the conclusion of Mr. Sibold's testimony, the County Commission rested its case.

The Public Service Commission Staff's case was presented through the testimony of Michael W. McNulty, who is a Staff Engineer for the Public Service Commission. Mr. McNulty sponsored Staff's exhibit and recommended approval of the merger and believes it to be in the public interest. (Tr., pp. 108 & 111).

result in higher bills for themselves and others. They offer no specific alternatives nor do they address the health challenge presented by the current public water source.

The impact of rates on the poor and elderly is always of concern to the Public Service Commission, but the Intervenors' attack on this merger does not well serve their neighbors and only results in a shift of attention from the real problem of unreliable and questionable drinking water and the proper forum in which to challenge any resulting construction project.

Mergers and consolidations of public service districts are controlled by West Virginia Code §16-13A-2. That section mandates that the Public Service Commission shall at all times attempt to bring about the expansion or merger of existing public service districts in order to provide increased services. Therefore, the burden of persuasion in this matter falls upon the parties seeking to stop or prevent the merger. This burden has not been met by the Intervenors in this case.

The Petitioner, Monroe County Commission, has presented the testimony of a duly-qualified and experienced engineer as to the efficiency and feasiblity of the merger and the challenges which underlie the need for enhanced efficiency and treatment in both regions encompassed by the two Public Service Districts. Mr. Hazelwood is a graduate of two engineering schools, possesses a master's degree in his field of endeavor, and is a State licensed Professional Engineer. The Intervenors did not offer the testimony of a qualified engineer or relevant lay evidence of acceptable, achievable and cheaper alternatives for the Districts' water problems. The Petitioner, Monroe County Commission, has proven that the public interest is well served by the merger of Lindside Valley Public Service District into the Red Sulphur Public Service District.

Procedurally, it appears of record that this matter first came to the agenda of the Monroe County Commission on December 3, 1990. The matter was set for public hearing on January 7, 1991, and a Class II Legal Notice of said hearing was published commencing December 20, 1990, and properly posted. The matter came on for public hearing before the Monroe County Commission on January 7, 1991, and, due to the public response, was set for additional public hearing in Peterstown on January 28, 1991. A final decision of the County Commission was rendered at its regular meeting of February 4, 1991, and reduced to a formal Order accordingly. That Order and a request for review and approval was submitted to the Public Service Commission on February 18, 1991.

It, therefore, appears that the hearing by the County Commission was properly set for a time not less that twenty (20) days nor more than forty (40) days after its initial action on the request for merger, and was properly given public notice, as required by West Virginia Code §16-13A-2. Said hearing was properly convened, continued from time-to-time, and consummated by the County Commission and reduced to a decision and order. Although said Order was not filed for approval with the Public Service Commission within ten (10) days, as directed by the Code, said filing was substantially in compliance with the directorial language of the Code and the late filing is therefore deemed to be harmless. Canyon Public Service

wider-ranging general authority, under West Virginia Code §24-2-2 to regulate the practices of any public utility, notwithstanding any preexisting contractural rights in conflict with the Commission's mandate. Mountain State Water Company v. Town of Kingwood, 121 W.Va. 66, 1 S.E.2d 395 (1939). The Town's contract is, in many respects, a direct usurpation of the Monroe County Commission's direct statutory authority as well as the general regulatory power of the Public Service Commission.

The action of the Monroe County Commission in authorizing the merger of the Lindside Valley Public Service District and the Red Sulphur Public Service District was procedurally correct and is in the public interest, as determined by the appropriate public officials of that county, and, therefore, should be approved, in accordance with the requirements of West Virginia Code §16-13A-2.

## FINDINGS OF FACT

1. On December 3, 1990, the Monroe County Commission accepted for its consideration the matter of the merger of the Lindside Valley Public Service District into the Red Sulphur Public Service District, and set a public hearing for January 7, 1991, which was published for public notice on December 20, 1990, and posted, as well. (See, Petition and Petitioner's Exhibit No. 9).

2. After a public hearing on January 7, 1991, which was convened and later continued until January 28, 1991, the Monroe County Commission voted to merge the two (2) Districts in question at its regular meeting of February 4, 1991, and an appropriate Order was entered by the County Commission. (See, Petition and Tr., pp. 92-93).

3. In accordance with the requirements of West Virginia Code §16-13A-2, said Order was submitted to the Public Service Commission for its review and approval, by correspondence received February 18, 1991. (See, Petition).

4. By letter received on February 15, 1991, Lawrence D. Munsey, Mayor, requested a public hearing to be held concerning this matter, and by Order entered March 29, 1991, the matter was set for hearing in Peterstown, on Monday, April 15, 1991, at 1:00 p.m., and publication was ordered as well. (See, correspondence and Order).

5. Mr. Hazelwood testified that both Districts reviewed the engineering reports and responded favorably to combining the projects into one and submitted requests to the Monroe County Commission to merge the two (2) Districts in order to provide both Districts with the needed water system. (Tr., pp. 25 & 26). Finalization and obligations of funding were completed in January 1991. The loan is to be a five percent loan to be paid back over thirty-eight (38) years. (Tr., p. 26).

6. Mr. Hazelwood testified that the expected rate per 1,000 gallons of water would be significantly less for the combined project as opposed to the rate for either project constructed separately. (Tr., p. 27).

writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

Susan A. Murensky

Susan A. Murensky
Administrative Law Judge

SAM:TNT:jas

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON
CASE NO. 90-110-PWD-PC
MONROE COUNTY COMMISSION
Petition for approval of merger of Red Sulphur Public Service District and Lindside Public Service District.

NOTICE OF HEARING

On February 4, 1991, the Monroe County Commission, a public corporation, Monroe County, adopted an order to merge Red Sulphur Public Service District and Lindside Public Service District as well as for the expansion of the boundaries of the same, and that the new territory be known as the Red Sulphur Public Service District. The Red Sulphur Public Service District currently has a case pending before the Commission to upgrade its facility serve the Lindside area.

On February 18, 1991, the Public Service Commission received the Monroe County Commission's Order for review and approval. Pursuant to West Virginia Code §16-13A-2, the Public Service Commission is required to conduct a public hearing in Monroe County, prior to approving, rejecting or modifying the adopted Monroe County Commission Order.

A public hearing in this matter has been scheduled to be heard in the Council Chambers, 125 Thomas Street, Peterstown, Monroe County, on April 15, 1991, 1:00 p.m. At that hearing, the Public Service Commission shall receive statements and evidence for the purpose of determining if the Order of the Monroe County Commission to merge Red Sulphur Public Service District and Lindside Public Service District and enlarge the new district to be known as the Red Sulphur Public Service District is in the public interest.

MONROE COUNTY COMMISSION

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PAULA A. BRIDGES
P.O. Box 417, Union 24983
My Commission Expires Dec. 5, 1994.

Total cost of advertisement

$.....11.25.....

# Certificate Of Publication

STATE OF WEST VIRGINIA

COUNTY OF MONROE, S.S.:

I, H. H. Mohler, publisher of THE MONROE WATCHMAN, do certify that the annexed advertisement of.....

.....Public Service Commission.....

.....

in the case (matter) of.....

..Red Sulphur Public Service Commission..

Vs. .....

....Case No. 90-110-PWD-Pc.....

was published ...1 (one).....consecutive weeks in THE MONROE WATCHMAN, a newspaper published at Union, Monroe County, West Virginia, beginning the..11th..day of....April.....19...91

.....

Given under my hand this.15th.day of...April.....
19..91.....

H. H. Mohler
Publisher

Given under my hand this..15th.....day of....April....
19..91....

Paula A. Bridges
Notary Public

My commission expires on the..5th...day of...Dec.....
19...94...

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 12th day of August, 1991.

CASE NO. 91-110-PWD-PC

MONROE COUNTY COMMISSION
Petition for approval of merger of Red Sulphur Public Service District and Lindside Valley Public Service District.

COMMISSION ORDER

On February 4, 1991, the Monroe County Commission, a public corporation, adopted an order to merge Red Sulphur District and Lindside Valley Public Service District and expand the boundaries of the same, with the new territory to be known as Red Sulphur Public Service District. On April 15, 1991, the mayor of Peterstown requested a hearing in Peterstown concerning the aforementioned merger.

On February 18, 1991, the Public Service Commission received the Monroe County Commission Order for review and approval pursuant to West Virginia Code §16-13a-2. Proper notice was given and a hearing was held on April 15, 1991. The Monroe County Commission and the two Public Service Districts were represented by Robert A. Irons, Esquire. The Staff was represented by Drexel M. Vealey, Esquire. Intervenor status was granted to Lawrence D. Munsey, Mayor of Peterstown, and Tad Jones. In a recommended decision entered on June 12, 1991, an Administrative Law Judge approved the order of the Monroe County Commission merging Lindside Valley Public Service District and the Red Sulphur Public Service District. Exceptions filed by Mayor Munsey were received on June 27, 1991.

DISCUSSION

The evidence has been presented in detail in the Administrative Law Judge's recommended decision and need not be repeated here. It establishes the need for a water system in the Lindside Valley Public Service District and the need for improvement of the existing water system in Red Sulphur Public Service District. It also indicates that need can be met better by a unified district than by two separate districts.

In his letter of exceptions Mayor Munsey maintained that the presentation of petitions signed by three hundred fifty-seven (357) persons opposing the merger of the two districts represented over thirty percent of their registered voters in Red Sulphur Public Service District and required that a vote must be called by the county commission before any further action was taken, citing Code §16-13a-2. He included a portion of this section with his exceptions.

Mayor Munsey's exception is incorrect on this point because §16-13a-2 was amended in 1986 and no longer contains the language on which he relies. The present statute does not require a referendum.

Mayor Munsey also referred to the contract in 1964 between the town of Peterstown and Red Sulphur Public Service District which transferred

operation and maintenance of the town's combined sewer and waterworks to the district. In that agreement Red Sulphur Public Service District agreed not to extend the system beyond the outside boundaries of the same as shown on the present plans without the consent of the Town of Peterstown unless required to do so by the Public Service Commission. His claim that this provision barred the merger in this case was adequately answered by the ALJ in the recommended decision. It should be emphasized, however, that this contract provision conflicts with the provisions of Code §16-13a-2, which provides that a district 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, set forth in that article, or conflicts with any provision of that article. It should also be added that the contract itself recognizes the power of the Public Service Commission to order additions to the Red Sulphur Public Service District system.

The Public Service Commission will not revise, modify or reverse an Administrative Law Judge's Decision unless the findings therein are arbitrary, unjust, contrary to the evidence or unsupported by the evidence, B&O Railroad v. Public Service Commission, 99 W.Va. 670, 130 S.E. 131 (1925); Weirton Ice and Coal Supply Company v. Public Service Commission, ___ W.Va. ___ 240 S.E.2d 686 (1977); Virginia Electric and Power Company, ___ W.Va. ___ 242 S.E.2d 698 (1978); or the decision is based on a mistake of law or a misapplication of legal principles, Preston County Light and Power Company v. Public Service Commission, 297 F.Supp. 759 (S.D. W.Va. 1969); Atlantic Greyhound Corporation v. PSC, 132 W.Va. 650, 54 S.E.2d 169 (1949); or the decision is contrary to Commission practice or policy, Mac's Wrecker Service, Inc., M.C. Case No. 3358 (1979); Washington Oil Company, Case No. 80-210-G-X, 68 ARPSCWV 1573 (1981). See Pauley, M.C. Case No. 21783-C (1984); Bartram, M.C. Case No. 21891 (1983).

Upon mature consideration of the matters raised by the exceptions, in review of the Administrative Law Judge's Decision and supporting record, we are of the opinion that the Administrative Law Judge's findings are supported by the record and the decision is rendered in accordance with the applicable law.

## FINDINGS OF FACT

1. The Lindside area of Monroe County is currently without modern public water utility service and a significant number of private wells in the region are contaminated with coliform bacteria from septic tanks (Tr., p.21).

2. The Red Sulphur Public Service District has been notified by the State Department of Health that quality problems from its spring water source must be solved by establishing a full treatment system (Tr., pp.28-30).

3. The problems of both systems can best be solved by a unified Public Service District (Tr., pp.26-33).

## CONCLUSION OF LAW

The recommended decision should be affirmed.

## ORDER

IT IS THEREFORE ORDERED that the recommended decision of June 12, 1991 be and it hereby is affirmed as a final order of the Commission.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission serve a copy of this order upon all parties of interest by United States Certified Mail return receipt requested and upon the Commission Staff by hand delivery.

A True Copy, Teste:

Howard M. Cunningham
Executive Secretary



PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Monroe County Commission
Regular Session
June 4, 2003

State of West Virginia:
County of Monroe:

At a regular meeting of the Monroe County Commission called after notice and posting on the front door of the Courthouse of Monroe County, more than 48 hours prior to said meeting, being held on the 4th day of June 2003 at 9:00 am, with Dr. Craig Mohler, President and Oliver Porterfield and Franklin Campbell, Associate Commissioners, present. Also present was Donald J. Evans, County Clerk.

Exotic Entertainment Public Hearing
Commissioners held their second of three public hearings on an ordinance restricting nudity or semi-nudity in the County. No one from the public attended this hearing. Commissioner Porterfield made a motion to approve the second reading of this ordinance. Commissioner Campbell second the motion. Vote was unanimous. Commissioners will hold their third and final hearing on this matter at their July 2, 2003 meeting.

Jeff Dillon-911 Director
Jeff Dillon, 911 Director, appeared before Commissioners concerning a couple of issues. Jeff told Commissioners that the 911 Center was in need of three generators to use in a power outage. Dillon explained that the present generator used to provide back-up power at the 911 Center no longer operable and wouldn't be cost effective to repair. In addition, Dillon said he needed a generator for the tower site at Bickett's Knob and the new site near Peterstown. Dillon provided Commissioners with cost estimates of the generators needed; Two 6kw generators for each of the tower sites and one 12kw generator for the 911 Center, for a total cost of $7,799.97. Jeff said he obtained this price from Northern Equipment in Salem, VA. Dillon said this was the cheapest price he found and he would go to Salem and pick the generators up to save freight. Commissioner Campbell made a motion to approve this request to purchase three generators and to pay for these out of the General County Fund. Commissioner Porterfield second this motion. Vote was unanimous.

Farmland Protection Program Public Hearing
Commissioners held a second public hearing on a proposed Farmland Protection Program for Monroe County. This program would voluntarily allow farm owners to place an easement on their property prohibiting any future subdivision of the property. The easement placed on the property would last forever and is a strictly volunteer program. The County Farmland Protection Board will decide which properties would be eligible for these easements by a point process. The County Commission also has an option to place up to an additional $2.20 per $1,000.00 transfer tax on real estate sold in the County. This tax can be used to purchase easements. Those in attendance were Jeffry

Pritt, Bill Shiflet, Rod Graves, Warren Ellison, Dewey V. Broyles, Clark Thacker from Greenbrier County, Frank and Ruth Talbott, Vernon Hayslette and Tad Jones. Pritt, Shiflet, Graves, Ellison, Broyles, and the Talbott's spoke in favor of the program. Tad Jones was not in favor of the program. Jones felt the implementation of the program would limit growth in the County. Thacker made no comment and Hayslette said Greenbrier County Commissioners were considering this program and he was not in favor of the plan. After providing everyone in attendance with an opportunity to speak, Commissioner Porterfield made a motion to adopt the Farmland Preservation Program for Monroe County and place an additional $2.20 per $1,000.00 of value transfer tax on real estate sold, and for the tax to go into effect September 1, 2003. Commissioner Campbell second the motion. Vote was unanimous.

WORK4WV

Bill Loop, Executive Director for WORK4WV, appeared before Commissioners. Loop said new legislation has realigned funding streams for the program. As part of these changes, Loop said WORK4WV was searching for new funding sources. Mr. Loop said WORK4WV needed a pool of money to focus on local businesses, especially for training. Loop said their goal was $250,000.00 for the counties in this region covered by WORK4WV. The request for Monroe County was $9,500.00. Commissioners had previously budgeted $2500.00 in the 2003-04 budget. The State Auditor recently told the County Clerk that the County should finish this fiscal year with about a $100,000.00 surplus. Commissioner Porterfield made a motion for the County to fund an additional $2,500.00 to WORK4WV for this program. Commissioner Campbell second the motion. Vote was unanimous. Loop personally assured Commissioners that Monroe County would get a great return on this investment. Commissioners thanked Mr. Loop for attending their meeting and thanked him for the job WORK4WV was doing in Monroe County.

US Forest Service

Cindy Shiffer and Frank Beum, District Forest Rangers for the US Forest Service in Blacksburg and New Castle, appeared before Commissioners. These individuals shared the revised forest plan with Commissioners that was presently out on public comment.

Monroe Health Center

The County Clerk notified Commissioners that the bank closing for the Monroe Health Center Satellite clinic near Peterstown is scheduled for Friday at 12:30 pm at the Health Center in Union. Health Center representatives requested Commissioners attend this closing.

Magistrate Court Audit Report

The County Clerk notified Commissioners that the annual audit report for the Magistrate Court for year ending June 30, 2000 is now on file if they wish to review it.

BF Goodrich

Commissioners were notified by Greenbrier Valley Economic Development officials that they were trying to secure funding to construct an access road at BF Goodrich.

Lightning Damage

The County Clerk notified Commissioners that the County has received a settlement from the WV Board of Risk and Management Insurance Company for the recent lightning damage at the Courthouse in the amount of $14, 411.50.

Gap Mills Public Service District

Commissioners discussed making an appointment to the Gap Mills PSD to replace William Hurt who recently resigned. Commissioners took no action as they plan to speak with current Gap Mills PSD members before making such appointment.

Red Sulphur Public Service District

Commissioners discussed appointing a replacement to the Red Sulphur PSD to replace Paul Ball, Jr., who recently passed away. The County Clerk told Commissioners that Charles Reed had called him advising that he would be interested in serving on the board. Commissioner Campbell said that John Porterfield is also interested in serving. Commissioner Campbell then made motion to appoint John Porterfield to the Red Sulphur PSD Board of Directors. Commissioner Mohler second the motion. Motion carried 2-0 with Commissioner Oliver Porterfield abstaining, since he is a brother to John Porterfield.

Juvenile Justice and Delinquency Grant

The County Clerk notified Commissioners that he has received notice that the County has been approved for a Juvenile Justice and Delinquency Grant for next year in the amount of $22,000.00. These funds are to pay the salary for the Prevention Resource Officer at James Monroe High School.

Auditor

The County Clerk notified Commissioners that the State Auditor has completed the audit for year ending June 30, 2002. The Auditor also told the Clerk that the County should finish this fiscal year with a $100,000.00 surplus.

Debra Dalton

At the request of Debra Dalton, Fiduciary Commissioner, Commissioner Campbell made a motion authorizing fiduciary commissioners to require estates post a bond in the event of an estate dispute when such estate is referred to a fiduciary commissioner. Commissioner Porterfield second the motion. Vote was unanimous. Dalton expressed concern that she was not receiving adequate compensation when she is involved in settling estate dispute.

Waiteville Roads
Commissioner Mohler stated that he had recently met with Department of Highway officials at the district office in Lewisburg. DOH officials told Mohler that County Route 17, located in Waiteville, was due to be put out for a re-paving bid this summer. Mohler said Waiteville residents seemed ok with this.

Peterstown Bridge
The County Clerk notified Commissioners that the WV Division of Highways will hold an informational public meeting on June 26 at Peterstown Elementary cafeteria on the proposed replacement of the Virginia Line Bridge on the WV/VA border at Peterstown. Scheduled in a workshop format, the meeting will allow citizens to ask questions and state their views an opinions on the proposals. Commissioners had previously asked the Division of Highways to replace this bridge.

Springfield Bonds
Commissioners took no action on a request from Springfield Care Center for the County to issue mortgage bonds. The Prosecuting Attorney had a couple of questions and was to have an opinion prepared by today but didn't have the information ready.

DOH Easement at Marie
Commissioners are waiting on an opinion from the Prosecuting Attorney before acting on a request from the Division of Highways for an easement located at Maire near the Summers/Monroe County line.

Fountain Springs Industrial Park
Commissioners announced that a new company called M-Stone will open in Fountain Springs Industrial Park near Peterstown. M-Stone is owned by Matt Mann of Peterstown and he plan to manufacture a rock type substance, used on homes, foundations, etc. Mann said he initially plans to employ 4 to 6 people.

Employee Pay Raises
With a projected surplus of $100,000.00 at the end of this fiscal year, Commissioner Campbell made a motion to give all non-elected employees, both part and full time a 3% pay increase, effective July 1, 2003. Commissioner Campbell second the motion. Vote was unanimous. County Commissioners did not originally fund a pay increase in the 2003-04 budget, as they were unsure if the County would actually have a surplus.

Health Insurance
As noted as last month's meeting, Public Employees Health Insurance premiums will increase effective July 1, 2003. The premium for a family plan will increase approximately $82.00 per month, per employee. Those with single coverage will see a $72.00 increase. Commissioner Porterfield made a motion, due to the fact the County should have a $100,000.00 surplus at the end of this year, for the County to pay the

increase in the insurance premiums for employees. Commissioner Campbell second the motion. Vote was unanimous. The County presently pays 50% of the total premium for family coverage and 70% of the premium for single coverage for full time non-elected employees.

Dental Insurance

The County Clerk notified Commissioner that the yearly dental insurance premium for county employees will increase by $528, for all employees, effective July 1, 2003. Commissioner Porterfield made a motion for the County to pay for this increase. Commissioner Campbell second the motion. Vote was unanimous.

Worker's Compensation

The County Clerk notified Commissioners that the County's Worker's Compensation premium percentage has increased from 0.251 to 3.0. Commissioner Campbell made a motion to do a budget revision after July 1, 2003, placing an additional $1700.00 in the Worker's Comp line item to cover this increase. Commissioner Porterfield second the motion. Vote was unanimous.

Heath Hyatt

Commissioners have received several complaints from residents in the Orchard Addition, near Peterstown, concerning barking dogs. Residents stated that Heath Hyatt owns several coon dogs and the dogs bark throughout the day and night, causing a public nuisance. Commissioners authorized the Dog Warden to go and speak with Mr. Hyatt and ask him to make other arrangements for the boarding of his dogs. Commissioners agreed that if Mr. Hyatt doesn't make other arrangements, they will proceed with the implementation of a public nuisance petition against him.

Retirement

The County Clerk notified Commissioners that the employers contribution for the Public Employees Retirement System has increase from 9.5% to 10.5%, per employee. Commissioner Campbell made a motion to place $6,200.00 in the retirement line item to fund this increase. Commissioner Porterfield second the motion. Vote was unanimous.

Budget 03-04

In addition to the above noted appropriations, Commissioner Campbell made a motion to revise the 2003-04 budget to fund the following:

$2500.00 to WORK4WV

$6,000.00 to hire a part time person to promote tourism in the County.

$8,000.00 to purchase three generators for the 911 Center

$2,000.00 for office furniture for the County Clerk's Office for his additional employee who will start July 1, 2003, and to replace the remaining $57,872.00 in the Contingency Fund. Commissioner Campbell second the motion. Vote was unanimous.

Greenville/Wikel Water Project
The County Clerk notified Commissioners that Region I Planning and Development Council has submitted the grant application to Small Cities Block Grant Program for the Greenville/Wikel Water Project.

Jennifer Dent
Jennifer Dent, Assistant Prosecuting Attorney for the County notified Commissioners that she was resigning her part time position to accept a full time position in Greenbrier County. Dent thanked Commissioners for their support and said she really enjoyed working in the County. Commissioners thanked Dent for the work she had done on behalf of the County and wished her well in her new job.

Exonerations Approved
James Mann
Brian Keith Carter
Beth A. Potter
David W. Waddell

Estates Approved
Estate of Effie Humphreys Sibold by June Nichols
Estate of Rosemary Cook by Paul D. Cook
Estate of Gladys Arthur by Arnold E. Arthur
Estate of George W. Mann by Patricia M. Pitzer
Estate of Onva T. Cantrell by Linda M. Crawford

Guardianship Approved
Guardianship of Logan Redman, now an adult, by Loretta Benham, guardian

Vacation Order
It is ORDERED that all orders and proceedings had before the Clerk of the Monroe County Commission for the month of May 2003 be approved and confirmed.

Adjournment Order
Commissioner Campbell made a motion to adjourn at 4:05 pm. Commissioner Porterfield second the motion. Vote was unanimous. It is ORDERED that the Court be the same is hereby adjourned until regular session on July 2, 2003.

_____
Dr. Craig Mohler, President

STATE OF WEST VIRGINIA,
COUNTY OF MONROE, TO WIT:

I, DONALD J. EVANS, Clerk of the County Commission of Monroe County, do hereby certify that the foregoing and hereto annexed writing to a true copy of a Minutes as found of record at this office in Order Book No. 24 at Page No. 356

Given under my hand and seal of said commission unto this 8 day of October, 2003

Donald J. Evans, CLERK
MONROE COUNTY COMMISSION
BY _____ Deputy

Monroe County Commission
Regular Session
October 1, 2001

State of West Virginia:
County of Monroe:

At a regular meeting of the Monroe County Commission called after notice and posting on the front door of the Courthouse of Monroe County, more than 48 hours prior to said meeting, being held on the 1st day of October 2001 at 9:00 a.m. with Oliver Porterfield, President, Dr. Craig Mohler and Franklin Campbell, Associate Commissioners, present. Also present was Donald J. Evans, County Clerk.

Brandon Mitchell

Clara Mitchell appeared before the Commission requesting that Valerie Comi be appointed as guardian for her minor son, Brandon Mitchell, age 15. Ms. Mitchell advised Commissioners that they lived in Summers County and her son Brandon wanted to live with her best friend, Valerie Comi, who resides in Monroe County. Commissioner Mohler made a motion to appoint Valarie Comi as guardian for Brandon Mitchell. Commissioner Campbell second the motion. Vote was unanimous. Brandon will attend James Monroe High School.

Sheriff's Deputies

Commissioners met with Sheriff Gerald Bland and all his deputies concerning the number of police cruisers that have been totaled in the last two or three months. Commissioners recently received a letter from William Guy, insurance agent for WV Board of Risk, the County's insurance carrier. Mr. Guy stated that "if the frequency of accidents of accidents continues, the County Commission is looking at a phenomenal increase in insurance premiums". Commissioners said they have had reports of deputies traveling at a high rate of speed. Sheriff Bland said they when they receive a call, they will get to the scene as soon as possible. Commissioners asked the deputies to drive responsible and to be careful, and asked the Sheriff to develop a policy in reference to deputies operating a police cruiser.

Rural Mountain Alliance

Reed VanDenberg, Marti Marshall and Judy Azualy appeared before the Commission providing an update of the Rural Mountain Alliance, formerly RUMCAB.

Lindside Sewer Project Funds

Commissioners recently advertised for interest bids on funds they have on deposit with BB&T. These funds are designated for the Lindside Sewer Project and total $1,039,000.00. Interest bids were received from the Bank of Monroe, First National Bank of Petestown and BB&T. The Bank of Greenville declined to place a bid. The Bank of Monroe's bid was 2.75% for the total of funds, First National Bank of Peterstown's bid

was 2.5% on $250,000.00, and BB&T's bid was Fed Funds target rate minus 15 basis points on the total of funds. Commissioner Campbell made a motion to deposit $250,000.00 with the First National Bank of Peterstown and the balance with the Bank of Monroe, with the stipulation that each bank pledges security for these funds. Commissioner Campbell second the motion. Vote was unanimous.

Gap Mills Post Office

At the request of Stephen Capaldo, Commissioner Campbell made a motion to adopt a resolution requesting that a plaque be placed in the Gap Mills Post Office dedicating the building in honor of Andrew S. Rowan. Commissioner Mohler second the motion. Vote was unanimous. Capaldo is working with Senator Rockefeller, Congressman Rahall and the US Postal Service on this project.

Lawrence Bradley

Commissioners reviewed a letter from the Monroe County Health Department concerning a trailer park owned by Lawrence Bradley, located near Peterstown. The Health Department advised Commissioners that the Health Department voted not to renew Mr. Bradley's trailer park permit, which expired September 30, 2001. Commissioner Mohler spoke with Sue Rosshirt from Greenbrier Housing Authority by phone this day. Ms. Rosshirt advised that the Housing Authority can provide housing vouchers to those individuals who live in this trailer park. Commissioners will speak with Prosecuting Attorney Rod Mohler to discuss this matter further.

Cellular Telephone Towers

Commissioner Mohler made motion stating that any new construction of a cellular phone tower or communication related tower, or any variance to an existing tower in Monroe County, must be approved by the County Commission. Commissioner Campbell second the motion. Vote was unanimous.

Stephen Capaldo

Commissioners reviewed a request from Stephen Capaldo asking the County Commission for $250.00 to go toward the purchase of a roadside marker. This roadside marker will have "Gap Mills" on one side and "William Jackson Humphreys" on the other side. The total cost is $1500.00. Capaldo received a grant from the State of West Virginia in the amount of $750.00. Commissioner Mohler made a motion to deny this request due to present budget restraints. Commissioner Campbell second the motion. Vote was unanimous. Commissioners appreciates all the work mr. Capaldo has done on this project.

Dennis Sibold/Red Sulphur Public Service District

Commissioner Campbell made a motion to re-appoint Dennis Sibold to the Board of Directors of the Red Sulphur Public Service District. Commissioner Mohler second the motion. Vote was unanimous. Commissioners asked the County Clerk to send Sibold a letter advising him that the Commission expects his cooperation on this board with other members.

Dorothy Richardson Estate

Commissioners discussed the Dorothy Richardson estate with Prosecuting Attorney Rod Mohler. A few months ago, the final settlement of Ms. Richardson was presented to the County Commission for approval. Commissioners did not approve this accounting until they consult with the Ethics Commission and inquire if the Sheriff can accept a fee for serving as an executor of an estate. Commissioners discussed this matter further on this day with Prosecuting Attorney Rod Mohler. Mohler will seek an opinion from Judge Irons and report back to the Commission.

Sheriff's Office Renovations

The County Clerk notified Commissioners that the renovations have been completed by Duane Miller Construction Services. The floor and ceiling were replaced and funding was provided through a grant from the State of West Virginia.

Division of Labor

County Clerk Donnie Evans advised Commissioners that he had spoken with Bob Allen, the Commission's attorney representing them in a lawsuit with the WV Division of Labor. Evans asked Allen if the County should proceed with this lawsuit or settle the matter. Allen said he would review the matter and get back with Evans.

Magistrate Office/Elizabeth Kountz

Elizabeth Kountz, Magistrate Court Clerk appeared before Commission requesting an air conditioner for the Magistrate Office. Kountz said the present air conditioner no longer works and is about 20 years old. Commissioner Mohler made a motion to approve this request. Commissioner Campbell second the motion. Vote was unanimous.

Red Sulphur Public Service District

Commissioner Campbell made a motion to authorizing the Red Sulphur Public Service District to extend their lines into Summers County, if necessary. Commissioner Mohler second the motion. Vote was unanimous.

Magistrate Office

Arthur Angus, Security Officer from the WV Supreme Court of Appeals recently advised Commissioner that "half doors" needed to be installed at the Magistrate Office. This would allow the bottom half of the door to remain closed and the top half to remain open. This measure would prohibit citizens from entering the office, but employees could still talk to these individuals. Magistrate Clerk Elizabeth Kountz told Commissioners on this day that they didn't want these doors installed. The County Clerk will speak to Mr. Angus and discuss this matter further.

Sinks Grove Property

Commissioners discussed the possibility of selling property in Sinks Grove that the County owns. Commissioners asked the County Clerk to send a letter to all registered voters in the Sinks Grove precinct and notify them that they will hold a public hearing on

this matter before making a final decision to sell the property. This hearing will be held on October 24, 2001 at 7:00 p.m. at the Courthouse. A notice will also be placed in the local newspaper notifying the public of this hearing.

Peterstown Bridge
The County Clerk said Danny Evans from the Department of Highways recently called the District Office to check the status of replacing the Peterstown Bridge. Evans said there was no new discussion on the matter.

Police Crusiers
Deputy Joe Galuszek notified Commissioners that the new police cruisers will arrive this Wednesday.

Lindside Sewer Project
Commissioner Mohler made a motion to approve drawdown #5 for the Lindside Sewer Project in the amount of $16,300.00 payable to Pentree Inc. for engineering services for the Lindside Sewer Project. Commissioner Campbell second the motion. Vote was unanimous.

Bicentennial Seal
Commissioner Campbell made a motion authorizing the County Tourism Bureau to use the County's Bicentennial Seal. Commissioner Mohler second the motion. Vote was unanimous.

County Bills
Commissioner Mohler made a motion authorizing the County Clerk to pay all of the County's delinquent bills, excluding Regional Jail bills, but further authorized him to pay the January Regional bill. Commissioner Campbell second the motion. Vote was unanimous.

Raymond Daugherty Estate
Commissioners reviewed an opinion from H.L. Sarver, Jr., fiduciary commissioner, in reference to the Raymond Daugherty estate. William Daugherty, son of Raymond Daugherty, objected to the final settlement of Raymond Daugherty. The County Commission referred the estate to Mr. Sarver. Mr. Sarver stated that he has reviewed the estate file and spoke with Betty Daugherty, executrix of the Raymond Daugherty estate. Mr. Sarver felt that in his opinion, Ms. Daugherty has done all that is required in the settlement of this estate. Based on Mr. Sarver's opinion, Commissioner Mohler made a motion to approve the final settlement of Raymond Daugherty. Commissioner Campbell second the motion. Vote was unanimous.

Exonerations approved

| | | |
|---|---|---|
| Verner Riffe | Emogene Allen | First Union National Bank |
| Marshall Vanscoy | Tasha Miller | Dewey Ashley |
| Tasha Miller | Dewey Ashley | Coy Burns |

ADJOURNMENT ORDER:

IT IS ORDERED THAT THE COURT BE AND THE SAME IS HEREBY ADJOURNED UNTIL SPECIAL SESSION SCHEDULED FOR DECEMBER 19, 1997.

DUANE MILLER, PRESIDENT

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

STATE OF WEST VIRGINIA,

COUNTY OF MONROE, TO WIT:

AT A SPECIAL SESSION OF THE MONROE COUNTY COMMISSION CALLED AFTER NOTICE AND POSTING ON THE FRONT DOOR OF THE COURTHOUSE OF MONROE COUNTY, MORE THAN 48 HOURS PRIOR TO SAID MEETING, BEING HELD ON THE 19TH DAY OF DECEMBER, 1997 AT 9:00 A. M. WITH DUANE MILLER, PRESIDENT, DR. CRAIG MOHLER AND OLIVER PORTERFIELD, ASSOCIATE COMMISSIONERS, PRESENT.

The purpose of this meeting was to reappoint Bob Williams of Lindside, to the Red Sulphur Public Service District, and to prepare a grant to the Federal Emergency Management agency (R.E.M.A.) in reference to flood damage that occured in the flood of 1996.

RED SULPHUR PUBLIC SERVICE DISTRICT - BOB WILLIAMS:

Oliver Porterfield made a motion to re-appoint Bob Williams of Lindside, as a member of the Red Sulphur Public Service District. Dr. Craig Mohler second the motion. Vote was unanimous.

FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.): DREAMA HIGHLANDER - JESSE ARTHUR:

The County Commission discussed two applications that had been filed with the County Clerk in reference to request a buyout of their property and an elevation of another residence. These two applicants were Dreama Coleman (Highlander) and Jesse Arthur, both of Glen Ray, near Alderson. Ms. Coleman applied to have her property bought by F.E.M.A. and Mr. Arthur had applied to have his property elevated. Commission traveled to Alderson and viewed Ms. Coleman's property and agreed to submit an application to F.E.M.A. on her behalf for a buyout price of $12,600.00. Commissioners adjourned and agreed to meet on Monday, December 22, 1997 at 9:00 a.m. and discuss Mr. Arthur application, and complete their application to F.E.M.A.

ADJOURNMENT ORDER:

IT IS ORDERED THAT THE COURT BE AND THE SAME IS HEREBY ADJOURNED UNTIL SPECIAL SESSION SCHEDULED FOR DECEMBER 22, 1997.

DUANE MILLER, PRESIDENT

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STATE OF WEST VIRGINIA,

COUNTY OF MONROE, TO WIT:

AT A SPECIAL SESSION OF THE MONROE COUNTY COMMISSION CALLED AFTER NOTICE AND POSTING ON THE FRONT DOOR OF THE COURTHOUSE OF MONROE COUNTY, MORE THAN 48 HOURS PRIOR TO SAID MEETING, BEING HELD ON THE 22ND DAY OF DECEMBER, 1997 AT 9:00 A.M. WITH DUANE MILLER, PRESIDENT, DR. CRAIG MOHLER AND OLIVER PORTERFIELD, ASSOCIATE COMMISSIONERS, PRESENT.

FEDERAL EMERGENCY MANAGEMENT AGENCY:

The purpose of this meeting was to prepare a grant application to the Federal Emergency Management Agency (F.E.M.A.) Two applicants from the Glen Ray area applied for F.E.M.A. funding. They were Dreama Highlander and Jesse Arthur. Ms. Highlander wants to have his house elevated. Commission worked on preparing this application and decided to get Mr. Al Lisko, from State Office of Emergency Services to assist them with the completion of this application. It is due in Charleston by December 31, 1997.

ADJOURNMENT ORDER:

IT IS ORDERED THAT THE COURT BE AND THE SAME IS HEREBY ADJOURNED UNTIL REGULAR SESSION SCHEDULED FOR JANUARY 5, 1998.

DUANE MILLER, PRESIDENT

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STATE OF WEST VIRGINIA,

COUNTY OF MONROE, TO WIT:

AT A REGULAR SESSION OF THE MONROE COUNTY COMMISSION HELD IN AND FOR THE COUNTY OF MONROE AT THE COURTHOUSE ON THE 5TH DAY OF JANUARY, 1998 AT 9:00 A.M. WITH DUANE MILLER, PRESIDENT, DR. CRAIG MOHLER AND OLIVER PORTERFIELD, ASSOCIATE COMMISSIONERS, PRESENT.

PRESIDENT - VICE-PRESIDENT:

Duane Miller made a motion to appoint Dr. Craig Mohler as President of the County Commission for the year 1998. Oliver Porterfield second the motion. Motion carried 2-0 with Commissioner Mohler

# OATH OF OFFICE AND CERTIFICATE

STATE OF WEST VIRGINIA,
COUNTY OF MONROE, TO WIT:

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of MEMBER RED SULPHUR PUBLIC SERVICE DISTRICT to the best of my skill and judgment SO HELP ME GOD.

Robert Williams

ROBERT WILLIAMS SR.

Subscribed and sworn before me, in said County and State, this 28 day of May, 19 98.

My Commission expires Jan. 6 2003.

Donna Evans

NOTARY PUBLIC

WEST VIRGINIA, IN MONROE COUNTY CLERK'S OFFICE
May 28 19 98, at 1:32 p.m.

This oath was this day presented in this office and together with the certificate thereto annexed is admitted to record.

Donald J. Evans

Donald J. Evans, Clerk of the Monroe County Commission

STATE OF WEST VIRGINIA
COUNTY OF MONROE, TO WIT:

I, DONALD J. EVANS Clerk of the County Commission of Monroe County, do hereby certify that the foregoing and hereto annexed writing is a true copy of a Oath as found of record in this office in Oath Book No. 2 at page No. 214

Given under my hand and seal of said Commission this the 28 day of May 1998.

Donald J. Evans, CLERK
MONROE COUNTY COMMISSION

By _____ Deputy

MONROE COUNTY COMMISSION
OATH Clerk 03
Date/Time: 06/12/2003 09:14
Inst #: 18826
Book/Page: 2- / 364-
Recd/Tax: .00 .00

# *OATH OF OFFICE AND CERTIFICATE*

*STATE OF WEST VIRGINIA,*
*COUNTY OF MONROE, TO WIT:*

*I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of* BOARD MEMBER OF THE RED SULPHUR PUBLIC SERVICE DISTRICT *to the best of my skill and judgment SO HELP ME GOD.*

JOHN S. PORTERFIELD

*Subscribed and sworn before me, in said County and State, this* 11 *day of* June, *20*03

*My Commission expires:* JAN. 6 2013

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
Donald J. Evans
Monroe County Clerk
P. O. Box 350
Union, WV 24983
My commission expires Jan. 6, 2013

Donald J. Evans
*NOTARY PUBLIC*

STATE OF WEST VIRGINIA,
COUNTY OF MONROE, TO WIT:
I, DONALD J. EVANS, Clerk of the County Commission of Monroe County, do hereby certify that the foregoing and hereto annexed writing to a true copy of an Oath as found of record at this office in Oath Book No. 2 at Page No. 364
Given under my hand and seal of said commission unto this 8 day of July, 2003.

CLERK
MONROE COUNTY COMMISSION
BY _____ Deputy

# OATH OF OFFICE AND CERTIFICATE

Volume:

STATE OF WEST VIRGINIA,
COUNTY OF MONROE, TO WIT:

I do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will faithfully discharge the duties of the office of Board Member, Red Sulphur Public Service District to the best of my skill and judgment SO HELP ME GOD.

Dennis Sibold

Subscribed and sworn before me, in said County and State, this 10 day of Oct., 19 2001.

My Commission expires 6-28-2010.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LYDIA S. HUFFMAN
MONROE CO. COMMISSION
P. O. BOX 950
UNION, WV 24983
My Commission Expires June 28, 2010

Lydia S. Huffman
NOTARY PUBLIC

WEST VIRGINIA, IN MONROE COUNTY CLERK'S OFFICE
October 10, 2001, at 1:25 p.m.

This oath was this day presented in this office and together with the certificate thereto annexed is admitted to record.

Donald J. Evans
Donald J. Evans, Clerk of the Monroe County Commission

STATE OF WEST VIRGINIA
COUNTY OF MONROE, TO WIT:
I, DONALD J. EVANS, Clerk of the County Commission of Monroe County, do hereby certify that the foregoing and hereto annexed writing is a true copy of a Oath as found of record in this office in Oath Book No. 2 at Page No. 326
Given under my hand and seal of said commission this the 29 day of July, 2002.
Donald J. Evans, CLERK
MONROE COUNTY COMMISSION
By _____ Deputy

RULES OF PROCEDURE

RED SULPHUR PUBLIC SERVICE DISTRICT

## ARTICLE I

## NAME AND PLACE OF BUSINESS

Section 1. Name: RED SULPHUR PUBLIC SERVICE DISTRICT.

Section 2. The principal office of this Public Service District will be located at Rt. 219, 200 Market Street, Peterstown, Monroe County, West Virginia.

Section 3. The Common Seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Red Sulphur Public Service District, and in the center "seal" as follows:

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

## ARTICLE II

## PURPOSE

This District is organized exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act").

## ARTICLE III

## MEMBERSHIP

Section 1. The members of the Public Service Board of this District shall be those persons appointed by The County Commission of Monroe County, West Virginia, or otherwise appointed pursuant to the Act, who shall serve for such terms as may be specified in the order of the County Commission or otherwise.

Section 2. Should any member of the Public Service Board resign or otherwise become legally disqualified to serve as a member of the Public Service Board, the Secretary shall immediately notify the County Commission or other entity provided under the Act and request the appointment of a qualified person to fill such vacancy. Prior to the end of the term of any member of the Public Service Board, the Secretary shall notify the County Commission or other entity provided under the Act of the pending termination and request the County Commission or other entity provided under the Act to enter an order of appointment or re-appointment to maintain a fully qualified membership of the Public Service Board.

## ARTICLE IV

## MEETINGS OF THE PUBLIC SERVICE BOARD

Section 1. The members of the Public Service Board of this District shall hold regular monthly meetings on the third Tuesday of each month, at such place and hour as the members shall determine from time to time. If the day stated shall fall on a legal holiday, the meeting shall be held on the following day. Special meetings of the Public Service Board may be called at any time by the Chairman or by a quorum of the Board.

Section 2. At any meeting of the Public Service Board of the District, 2 members shall constitute a quorum. Each member of the Public Service Board shall have one vote at any membership meeting and if a quorum is not present, those present may adjourn the meeting to a later date.

Section 3. Unless otherwise agreed, notice to members of regular meetings shall not be required. Unless otherwise waived, notice of each special meeting of the membership shall be given to all members by the Secretary by fax, telephone, mail or other satisfactory means at least 3 days before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted thereat, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting.

## PUBLIC NOTICE OF MEETINGS

Section 4. Pursuant to Section 3, Article 9A, Chapter 6 of the West Virginia Code of 1931, as amended (1999 Revision), notice of the date, time, place and agenda of all regularly scheduled meetings of such Public Service Board, and the date, time, place and purpose of all special meetings of such Public Service Board, shall be made available, in advance, to the public and news media (except in the event of an emergency requiring immediate action) as follows:

A. Regular Meetings. A notice shall be posted and maintained by the Secretary of the Public Service Board of the Public Service District at the front door or bulletin board of the Monroe County Courthouse and at the front door or bulletin board of the place fixed for regular meetings of the Public Service Board of the date, time and place fixed and entered of record by the Public Service Board for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same locations by the Secretary of the Public Service Board not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the same locations as soon as feasible after such cancellation or postponement has been determined.

B. Special Meetings. A notice shall be posted by the Secretary of the Public Service Board at the front door or bulletin board of the Monroe County Courthouse and at the front door or bulletin board of the place fixed for the regular meetings of the Public Service Board not less than 72 hours before a specially scheduled meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is cancelled, a notice of such cancellation shall be posted at the same locations as soon as feasible after such cancellation has been determined.

## ARTICLE V

## OFFICERS

Section 1. The officers of the Public Service Board shall be a Chairman, a Secretary and a Treasurer. The Chairman shall be elected from the members of the Public Service Board. The Secretary and Treasurer need not be members of the Public Service Board, and may be the same person.

Section 2. The officers of the Public Service Board shall be elected each year by the members at the first meeting held in such year. The officers so elected shall serve until the next annual election by the membership and until their successors are duly elected and qualified. Any vacancy occurring among the officers shall be filled by the members of the Public Service Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following January meeting of the Board when their successors shall be elected hereinabove provided.

## ARTICLE VI

## DUTIES OF OFFICERS

Section 1. When present, the Chairman shall preside as Chairman at all meetings of the Public Service Board. The Chairman shall, together with the Secretary, sign the minutes of all meetings at which he or she shall preside. The Chairman shall attend generally to the executive business of the Board and exercise such powers as may be conferred by the Board, by these Rules of Procedure, or as prescribed by law. The Chairman shall execute, and if necessary, acknowledge for record, any deeds, deeds of trust, contracts, notes, bonds, agreements or other papers necessary, requisite, proper or convenient to be executed by or on behalf of the Board when and if directed by the members of the Board.

Section 2. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. The Secretary shall, together with the Chairman, sign the minutes of the meetings at which he or she is present. The Secretary shall have charge of the minute book, be the custodian of the Common Seal of the District and all deeds and other writings and papers of the Board. The Secretary shall also perform such other duties as he or she may have under law by virtue of the office or as may be conferred from time to time by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 3. The Treasurer shall be the lawful custodian of all funds of the District and shall disburse funds of the District on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him and shall prepare and submit such reports and statements of the financial condition of the Board as the members may from time to time prescribe. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board, these Rules of Procedure or as prescribed by law.

Section 4. If the Chairman, Secretary or Treasurer is absent from any meeting, the remaining members of the Board shall select a temporary chairman, secretary

or treasurer, as necessary, who shall have all of the powers of the absent officer during such period of absence.

## ARTICLE VII

## AMENDMENTS TO RULES OF PROCEDURE

These Rules of Procedure may be altered, changed, amended, repealed or added to at any regular or special meeting of the Board by a majority vote of the entire Board, or at any regular or special meeting of the members when a quorum is present in person and a majority of those present vote for the amendment; but no such change, alteration, amendment, repeal or addition shall be made at any special meeting unless notice of the intention to propose such change, alteration, amendment, repeal or addition and a clear statement of the substance thereof be included in the written notice calling such meeting.

These Rules of Procedure shall replace any and all previous rules of procedure, bylaws or similar rules heretofore adopted by the District.

Adopted this 9th day of July, 2002.

OF WEST VIRGINIA
CHARLESTON

Entered by the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 8th day of May, 2002.

CASE NO. 02-0617-PWD-CN

RED SULPHUR PUBLIC SERVICE DISTRICT,
PO Box 697
Peterstown, West Virginia 24963.
Application for a certificate of convenience and necessity to construct water system upgrade facilities and water system extension facilities to provide water service to the District's existing water customers and to extend water service to an estimated 165 customers (206) potential) in Bozoo, Rock Camp, Cashmere, and Lindside Valley areas of the District of Monroe County.

NOTICE OF FILING

WHEREAS, on May 8, 2002 Red Sulphur Public Service District, a public utility, filed an application, duly verified, for a Certificate to construct certain additions and improvements to the District's existing water customers and to extend water service to Bozoo, Rock Camp, Cashmere and Lindside Valley areas of the District in Monroe County. The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

WHEREAS, Red Sulphur Public Service District estimates that construction will cost approximately $3,080,000.00. It is proposed that the construction will be financed as follows: a USDA Rural Utilities Service Grant in the amount of $1,280,000.00; and a USDA Rural Utilities Service Loan in the amount of $1,800,000.00

WHEREAS, the utility anticipates charging the following water rates for its customers:

APPLICABILITY
Entire District Service Area.

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

METERED WATER RATES

| | |
|---|---|
| First 3,000 gallons | $ 7.00 per 1,000 gallons |
| Next 4,000 gallons | $ 6.58 per 1,000 gallons |
| Next 95,000 gallons | $ 6.06 per 1,000 gallons |
| Over 100,000 gallons | $ 5.64 per 1,000 gallons |

MINIMUM CHARGE
No bill will be rendered for less than the following amounts, according to the size of the meter installed.

| | |
|---|---|
| 5/8 inch meter | $ 21.00 per month |
| 3/4 inch meter | $ 31.50 per month |
| 1 inch meter | $ 52.50 per month |
| 1 1/2 inch meter | $ 105.00 per month |
| 2 inch meter | $ 168.00 per month |
| 3 inch meter | $ 315.00 per month |
| 4 inch meter | $ 525.00 per month |
| 6 inch meter | $ 1,050.00 per month |

MINIMUM MONTHLY BILL for 3,000 gallons $21.00 per month.

DELAYED PAYMENT PENALTY
The above schedule is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the current net charge. This delayed-payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

CONNECTION CHARGE (if applicable)
For connection to water main with connection to be made by District - $300.00
For connection to water main on project prior to construction $100.00
For connection to water main on project after construction begins $300.00

SERVICE CONNECTION FEE
Whenever the supply of water is turned off for violation of rules and regulations, non-payment of bills of fraudulent use of water, the utility may make a charge of $20.00 for reconnection.

RETURNED CHECK CHARGE
The District may not collect any fee greater than that charged to it by a banking institute and under no circumstances shall the fee collected by the District exceed fifteen ($15.00) dollars.

LEAK ADJUSTMENT INCREMENT
$1.49 per 1,000 gallons. To be used where the bill reflects unusual consumption, which can be attributed to eligible leakage on the customer's side of the meter. This rate is used to calculate consumption above the customer's historic usage.

These rates represent the following project-related increases:

| | ($) INCREASE | (%) INCREASE |
|---|---|---|
| Residential | $ 3.85 | 17% |
| Commercial | $ 36.36 | 19% |

The proposed increased rates and charges will produce approximately $153,410 annually in additional revenue, an increase of 28%.

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing.

Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that Red Sulphur Public Service District give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Monroe County, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and interventions should be addressed to Sandra Squire, Executive Secretary, P.O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said thirty (30) day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

FOR THE COMMISSION

Sandra Squire
Executive Secretary

may30-1w

# Certificate Of Publication

OF WEST VIRGINIA

TY OF MONROE, S.S.:

Dale P. Mohler, publisher of THE MONROE WATCHMAN, do certify

annexed advertisement of "Notice of Public Service
ission Application to Upgrade and
nd Water System"

ase (matter) of # 02-0617-PWD-CN

Red Sulphur PSD

blished One (1) consecutive weeks in THE MONROE

HMAN, a newspaper published at Union, Monroe County, West

a, beginning the 30th day of May 2002

n under my hand this 7th day of June

02 .

Dale P. Mohler
Publisher

en under my hand this 7th day of June
2002

Robin L. Frazier
Notary Public

commission expires on the 14th day of February
2013

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. FRAZIER
30 WILLOW LANE
UNION, WV 24983
My commission expires February 11, 2012

Regular Meeting - March 18, 2003 at 4:30 P.M.

Present: Paul E Ball, Jr. Robert M. Williams Sr and Dennis Sibold -

Also present: Porter Robertson, Cousin Williams Curtis White, Mike White & LeAnn Gow. Bro Hazelwood, Pentree -

There were no guest Present.

First item of business was election of officers. This has been delayed due to the illness and hospitalization of Chairman Paul E Ball, Jr.

Paul E Ball, Jr. nominated Robert M. Williams Sr. as Chairman, Dennis Sibold second the nomination, unanimous.
Paul E Ball, Jr. nominated Dennis Sibold as Secretary / Treasurer - Robert M. Williams Sr. second, unanimous by board. Paul E Ball, Jr. will continue to serve as board member.

Minutes of Regular meeting held on February 18th was read and approved:
Motion: Paul Ball
Second: Dennis Sibold, unanimous

Minutes of Special Meeting March 3, was read and approved
Motion: Paul Ball
Second: Dennis Sibold, unanimous

Minute Book

AM

# Red Sulphur Public Service District
## A/P Register Short for 3/17/2003



| Date | Vendor | Description or Invoice Numbers | Check Amount |
|---|---|---|---|
| 03 | 5000 ALLEGHENY POWER | service 2/11 to /3/13 | 56.16 |
| 03 | 5001 AMERICAN ELECTRIC POWER COMPAN | Invoices , 02776859931, 02876859931, 224522341, 23808500, 82738430, 97798431 | 4,373.51 |
| 03 | 5003 ANALABS, INC. | EFFLUENT-SEWAGE | 60.00 |
| 03 | 5006 ARAMARK UNIFORM SERVICE | EMPLOYEES UNIFORMS | 299.72 |
| 03 | 5007 AT & T SERVICES | Long distance service-water plant | 35.18 |
| 03 | 403 BOGGESS HARDWARE | MISC. SUPPLIES | 121.45 |
| 03 | 1386 BUCK'S SERV. CNTR. | SERVICE/ROTATE TIRES | 113.90 |
| 03 | 5009 Baker Sanitary Supply Company | MOP HANDLE, DUST MOP TREATMENT | 24.75 |
| 03 | 5015 C.I. Thornburg Company | 1DEC RR2PU AC24 RELAY PIN RELAY BASE | 65.90 |
| 03 | 915 CODY, ERVIN | refund deposit & interest | 100.04 |
| 03 | 5017 CONTROL EQUIPMENT COMPANY | 2(55) GAL. DRUM DELPAC FREIGHT LESS CREDIT MEMO | 295.16 |
| 03 | 5025 Ferguson Enterprises, Inc. | Invoices 826901, 827043, 827278, 828826, 828826-1, 829009, 829301, 830385 | 803.59 |
| 03 | 5030 HACH COMPANY | FLUORIDE, CHLORINE, DPD COMPOUND, ETC. | 425.45 |
| 03 | 2046 HARRY, CHRIS | refund deposit less final bill | 32.43 |
| 03 | 902 HICKMAN, JASON | refund deposit less final bill | 29.08 |
| 03 | 5033 HUMPHREY'S TRASH DISPOSAL | TRASH DISPOSAL SERVICE MARCH | 22.00 |
| 03 | 5038 Jeffrey S. Feamster, CPA | RECONCILIATION OF ACCTS. THRU 01/3 | 1,425.00 |
| 03 | 387 LANE, DOROTHY | refund deposit less final bill | 18.20 |
| 03 | 5045 MCI | LONG DISTANCE SERVICE ALL LOCATIONS | 55.47 |
| 03 | 5049 MISS UTILITY OF WEST VIRGINIA, | FEBRUARY ONE CALL SERVICE | 10.00 |
| 03 | 5052 MONROE WATCHMAN | Phase II tap fee notice | 40.00 |
| 03 | 5046 McKenzie Lumber Company | Invoices 329, 02252003 | 307.96 |
| 03 | 5055 Municipal Bond Commission | bond payment | 5,811.00 |

# Red Sulphur Public Service District
## A/P Register Short for 3/17/2003



| Date | Vendor | Description or Invoice Numbers | Check Amount |
|---|---|---|---|
| )03 | 373 PETERSTOWN POSTMASTER | P.O. box rent | 66.00 |
| )03 | 5068 PITNEY BOWES, RESERVE ACCOUNT | POSTAGE FOR METER | 95.00 |
| )03 | 5072 QUILL CORPORATION | Invoices 9150683, 8759209 | 143.28 |
| )03 | 5073 R. T. ROGERS OIL COMPANY, INC. | GASOLINE | 1,185.30 |
| )03 | 5077 RED SULPHUR PUBLIC SERVICE DIS VOID | Invoices , , | VOID |
| )03 | 5081 RURAL DEVELOPMENT AUTHORITY | Invoices , , | 10,613.00 |
| )03 | 5079 Robert M. Williams, Sr. | Invoices 235747144, 235747144 | 180.84 |
| .03 | 5085 SERVICE PUMP & SUPPLY, INC. | 7.5HP PUMP, 460V WASTEWATER PLANT | 3,290.98 |
| )03 | 494 SIBOLD, DENNIS | Invoices 231148079, 231148079 | 206.75 |
| )03 | 5087 STATE ELECTRIC SUPPLY COMPANY, | 4-scotch pads | 11.70 |
| )03 | 5090 T & E TRUCKING | LOAD C-RUN STONE | 197.68 |
| )03 | 5094 TWO WAY RADIO | FEBRUARY AIR TIME | 60.00 |
| )03 | 278 VERIZON | Invoices 000047782496, 000018028267, 000131569895 | 272.25 |
| )03 | 5096 VIRGINIAN LEADER | 2nd wk. publication-tap fees phase 2 | 43.20 |
| )03 | 5100 WEBCO'S SUPERMARKET | VINEGAR | 7.32 |
| | | **Total for Run** | **37,048.10** |
| | | Less void | -1366.73 |
| | | | $35,681.37 |

Checks and Invoices approved as presented
Motion: Dennis Sibrel
Second Paul Ball, unanimous

Financial Statement / Check Register / Bank Balances
read and approved
Motion: Paul Ball
Second: Dennis Sibrel, unanimous

Curtis White reported on Bio-Terrorism
meeting in Union - discussed restrictions
on smallpox vaccine; preparing for terrorist
attacks. Bob Williams said that he had
offered his store for possible storage,
etc. There will be another meeting in
a couple of weeks.

Porter discussed some extensions that
we need to do, in particular, Fitz Run
Road where we will need 6000/7000'
of pipe. Ferguson's advise Porter to
order extra pipe now as they
anticipate a large increase in price of
pipe. Paul felt that we should go ahead
and get pipe now

Tape for Brian Mann & Timothy Sanderson
are in and almost ready for service

Porter, Bob Williams and Bob Hazelwood
met with A.E.P. to discuss conversion of
electric service for Phase I project to
3 phase line - after meeting the cost

for AEP to do this was too expensive and Bob Williams felt there was no alternative but to go with single phase converter.

Paul Ball made to motion to go with single phase. Second by Dennis Sitold and unanimous by board.

Paul Ball mentioned the contract between Red Sulphur PSD and the Town of Petersburg. Bob Williams will meet with Phil Shrewsbury

Paul Ball reported that Buddy Worrell wants what we paid per sq. ft for tank site for an easement for drain lines. Bob Wms asked Bob Hazelwood to calculate and get back to board.

Bob Williams reported that Tom Puckett will look about generator when he has time.

Porter discussed line extension in Lindside to Mr. Shockley and the possibility of getting 3-4 additional customers. Pressure could be a problem. District would have to do this extension and pressure waivers would be required.

Paul asked about contingency money from Phase I water project for use at the jail house. Bob Hazelwood said there would be no contingency money left.

Porter discussed radio reading problems. Badger wants program cleared up before they come in here and Mountaineer Computers won't communicate with Badger

Discussed was HAM Landfill request to accept Leachate - Bob Hazelwood presented Application to WV Dept. of Environmental Protection for WV/NPDES Permit Modification to include acceptance of Leachate. Motion to sign Permit modification: Paul Ball Second: Dennis Sibold, Unanimous by Board

Bob Hazelwood - Pay Pack # 9 - Phase I for the following payments.

| | | |
|---|---|---|
| 1.) | Diversified Enterprises - Contract #1 - | 11,007.73 |
| 2.) | " " Contract #2 - | 76,458.45 |
| 3.) | Pertree, Inc. | 14,318.02 |
| | Total | $ 101,784.02 |

Motion to sign Pay Pack: Paul Ball Second: Dennis Sibold, Unanimous by Board

Bob Hazelwood - Addendum Phase I - Engineering Services to Phase I Water System & Extension to adjust engineering service budget from $ 123,000.00 to $145,000.00

Motion to sign addendum: Paul Ball Second: Dennis Sibold, Unanimous by Board.

With no further business a motion by Paul Ball, second by Dennis Sibell to adjourn meeting - Motion unanimous

Meeting adjourned at 6:15 p.m.

Rondum Waller Chairman
Dennis Sibell Secretary

Addition to Minutes:

Discussion with Bob Hazelwood was letter from WV Infra Structure Council requesting payment or set up on monthly payment for the sewer design loan in the amount of $186,000.00. Monthly payment would be $487.00 month.

Bob Williams stated that he was with the understanding that we didn't have to make payment until project was complete? After a brief discussion it was the decision of the board to write Infra-Structure Council and set up monthly payments.

Motion by Paul Ball
Second: Dennis Sibell, unanimous by board.

cc: Co. Comm
5/14/03

RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

MINUTES ON ADOPTION OF BOND RESOLUTION

The undersigned Secretary of the Public Service Board of Red Sulphur Public Service District, hereby certifies that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

*** *** ***

The Public Service Board of Red Sulphur Public Service District met in special session, pursuant to notice duly given, on the 15th day of July, 2003, at Peterstown, West Virginia, at the hour of 10:30 a.m.

| | | |
|---|---|---|
| PRESENT: | Robert M. Williams, Sr. | - Chairman |
| | Dennis Siebold | - Secretary/Treasurer |
| | John S. Porterfield | - Member |
| | Ceresia Williams | |

ABSENT: None.

Robert M. Williams, Sr., Chairperson, presided, and Dennis Siebold, acted as Secretary.

The Chairman announced that a quorum of members was present and that the meeting was open for any business properly before it. Thereupon, the Chairman presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING COMBINED WATERWORKS AND SEWERAGE SYSTEM OF RED SULPHUR PUBLIC SERVICE DISTRICT, AND THE

FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $1,800,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 B (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

and caused the same to be read and there was discussion. Thereupon, on motion duly made and seconded, it was unanimously ordered that the said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

*** *** ***

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

CERTIFICATION

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

WITNESS my signature on this 21st day of July, 2003.

Dennis Siliold

Secretary

07/15/03
742910.00001

CH478861.1

**NOTICE OF PUBLIC HEARING OF THE PUBLIC SERVICE BOARD OF RED SULPHUR PUBLIC SERVICE DISTRICT TO ADOPT BOND RESOLUTION**

A special meeting of the Public Service Board of the Red Sulphur Public Service District (the "PSD") will be held to consider and adopt the following-entitled Resolution, and to take such other action as necessary in relation thereto, on Tuesday, July 15, 2003, at 10:30 a.m., prevailing time, at the District's offices at Rt. 219, 200 Market Street, Peterstown, Monroe County, West Virginia, and at such meeting the Board shall consider and adopt such Resolution entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITION, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING COMBINED WATERWORKS AND SEWERAGE SYSTEM OF RED SULPHUR PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $2,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2003 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS, PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT.

The above-quoted title of the Resolution describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The proceeds of the Bonds will be used to provide permanent financing of a portion of the costs of (i) acquisition and construction of certain additions, betterments, improvements and extensions to the existing public sewerage and waterworks system of the District and (ii) paying costs of issuance of the Bonds and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the sewerage and waterworks system of the District.

At the meeting the Board intends to adopt the Resolution and take such other actions as may be necessary in furtherance of the Project and the financing contemplated by the Resolution. Such meeting is open to the public.

DATED: June 27, 2003.

/s/ Bob Williams,
Secretary

july3-1w

# Certificate Of Publication

STATE OF WEST VIRGINIA

COUNTY OF MONROE, S.S.:

I, Dale P. Mohler, publisher of THE MONROE WATCHMAN, do certify that the annexed advertisement of "Notice of Public Hearing To Adopt Bond Resolution" in the case (matter) of Red Sulphur PSD

vs.

was published One (1) consecutive weeks in THE MONROE WATCHMAN, a newspaper published at Union, Monroe County, West Virginia, beginning the 3rd day of July 19 2003

Given under my hand this 31st day of July 19 2003.

Dale P. Mohler
Publisher

Given under my hand this 31st day of July 19 2003

Robin L. Frazier
Notary Public

My commission expires on the ____ day of February 19 2012

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ROBIN L. FRAZIER
30 WILLOW LANE
UNION, WV 24983
My commission expires February 11, 2012

Total cost of advertisement

$ 32.68

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

NEW ISSUE REPORT FORM

Date of Report: July 17, 2003

ISSUE: Red Sulphur Public Service District Combined Waterworks and Sewerage Revenue Bonds, Series 2003 A (United States Department of Agriculture)

ADDRESS: Post Office Box 697, Peterstown, West Virginia 24963 COUNTY: Monore

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

ISSUE DATE: July 17, 2003 CLOSING DATE: July 17, 2003

ISSUE AMOUNT: $1,800,000 RATE: 4.25%

1ST DEBT SERVICE DUE: N/A 1ST PRINCIPAL DUE: N/A

1ST DEBT SERVICE AMOUNT: N/A PAYING AGENT: Issuer

BOND COUNSEL: Steptoe & Johnson PLLC
Contact Person: John C. Stump, Esquire
Phone: (304) 353-8196

UNDERWRITERS COUNSEL: _____
Contact Person: _____
Phone: _____

CLOSING BANK: _____
Contact Person: _____
Phone: _____

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Ms. Carisa Williams
Position: Manager
Phone: (304)304.753.4003

OTHER: United States Department of Agriculture
Contact Person: Ms. Rosemary Christian
Function: Rural Development Specialist
Phone: (304)252-8644

DEPOSITS TO MBC AT CLOSE:
By: ____ Wire ____ Check

____ Accrued Interest: $_____
____ Capitalized Interest: $_____
____ Reserve Account: $_____
____ Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE
By: ____ Wire ____ Check ____ IGT

____ To Escrow Trustee: $_____
____ To Issuer $_____
____ To Cons. Invest. Fund $_____
____ To Other: _____ $_____

NOTES: Monthly debt service payments will be made by the District directly to the National Finance Office. The Municipal Bond Commission will hold the Series 2003 A Bonds Reserve Account. Payments to the Series 2003 A Bonds Reserve Account will commence upon completion of construction of the project.

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.

S.B. Bond Counsel

USDA

United States
Department of
Agriculture

Rural Development

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

January 16, 2001

Paul E. Ball, Jr., Chairman
Red Sulphur Public Service District
P. O. Box 697
Peterstown, WV 24963

Dear Mr. Ball:

This letter, with Attachments 1 through 12 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RUS loan in the amount of $1,800,000, an RUS grant in the amount of $1,280,000, for a total project cost of $3,080,000.

The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you. The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing.

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

Attachment No. 1 - Project Construction Budget (All Copies)
Attachment No. 2 - Water and Waste Processing Checklist for Red Sulphur Public Service District (All Copies)
Attachment No. 3 - RUS Instruction 1780, Subparts A and B (Applicant Copy)
Attachment No. 4 - RUS Instruction 1780, Subpart C (Engineer Copy)
Attachment No. 5 - RUS Instruction 1780, Subpart D (Attorney and Bond Counsel Copies)
Attachment No. 6 - Agreement (RUS Bulletin 1780-13) (Engineer Copy)

Rural Development is an Equal Opportunity Lender. Complaints of discrimination should be sent to: Secretary of Agriculture, Washington, DC 20250.

PRINTED WITH SOY INK

Attachment No. 7 - Supplemental General Conditions (RUS Bulletin 1780-14) (Engineer Copy)
Attachment No. 8 - Government Auditing Standards (Revision 1994) (Accountant Copy)
Attachment No. 9 - RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement "
Attachment No. 10 - Red Sulphur PSD Water Users Agreement (Applicant and Attorney Copies)
Attachment No. 11 - Declination Statement (Applicant and Attorney Copies)
Attachment No. 12 - Various other RD Forms as identified on Attachment No. 2

Your documents concerning the creation of your authority are administratively acceptable; however, they will be further reviewed by our Office of the General Counsel at the time your file is forwarded for closing instructions. Any changes required by our Office of the General Counsel will be included in the closing instructions.

The conditions referred to above are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 5% interest rate and a monthly amortization factor of .00491, which provides for a monthly payment of $8,838.00. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account and a depreciation reserve account, which together equal 10% of the annual debt service each year for the life of the loan. Five percent (5%) will be deposited into both accounts until an annual debt payment has been accumulated. Thereafter, the entire 10% will be deposited into the depreciation reserve account.

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

2. Security - The loan must be secured by a statutory lien of first priority, a pledge of the system's revenues and other agreements between you and RUS as set forth in the bond resolution which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.

3. Users - This conditional commitment is based upon you providing evidence that you will have at least 1740 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of 206 signed user agreements and a certification from you that identifies and attests to the number of users actually connected to and using the PSD's existing water system, which is to be partially replaced by the new system, at the time you request authorization to advertise the proposed project for construction bids.

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

   Before RUS can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and that all potential users have been offered the proposed service. Information and material evidencing compliance with this requirement must consist of (1) your certification (written) as to the number of users connected to and using the water service of the existing system (paying monthly bills), (2) signed user agreements, (3) signed service declination statements, (4) records evidencing user contributions having been paid, (5) a map locating each potential user's property in the new service area identifying it by number, (6) a list of all signed bona fide users numbered so as to be a cross-reference with the map, and (7) a list of all declination statements numbered so as to be a cross-reference with the map.

4. Bond Counsel - The services of a recognized bond counsel are required. The bond counsel will prepare the form of resolution to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.

5. Engineering Services - It will be necessary for you to obtain the services of an engineer. For your convenience, Form RD 1942-19, "Agreement for Engineering Services," or EJCDC No. 1910-1, "Standard Form of Agreement between Owner and Engineer for Professional Services" may be used to obtain the services of an engineer. A copy of Form RD 1942-19 is attached hereto. The EJCDC document is issued under copyright and cannot be provided by RUS.

6. Legal Services - You must obtain the services of a local attorney. For your convenience RUS Bulletin 1780-7, "Legal Services Agreement" is enclosed for your use.

7. Accounting Services - You must obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:

   a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).

   b. Prior to the advertisement of bids, your accountant must certify that the accounts and records as required by your bond resolution have been established and are operational.

   The Accountant's Agreement should be submitted to RUS for review. Compensation in the contract should include only those services identified above and not include payment for construction management services from the accountant unless RUS concurrence is obtained.

   RUS regulations (Attachment No. 3) outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements for your PSD. The attached booklets, "Government Auditing Standards (Revised 1994)" (Attachment No. 8) and RUS Bulletin 1780-30 (Attachment No. 9) outline audit requirements. You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends $300,000 or more in federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system operation.

8. Facility Control - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:

   a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.

   b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form

RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the PSD already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.

c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.

d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions.

e. On the day of loan closing, the PSD's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the PSD has already acquired real property(s) (land or facilities), the PSD's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.

9. Permits - Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:

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

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

a. A Certificate of Convenience and Necessity.

b. Approval of user charges that are acceptable to you and the Rural Utilities Service.

c. Approval of financing for the project's proposed financing arrangements.

The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1. A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.

11. Insurance and Bonding Requirements - Prior to preliminary loan closing, you must acquire the following insurance and bond coverage:

    a. Liability Insurance - Personal Liability - $500,000; Property Damage - $200,000 - $200,000. The limits of liability coverage noted herein should be considered as suggested amounts only. RUS recommends that you consider analyzing your actual needs in detail before you obtain coverage in a specific amount.

    b. Workers' Compensation - In accordance with appropriate State laws.

    c. Position Fidelity Bond(s) - All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. The minimum coverage acceptable to RUS will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).

    d. National Flood Insurance - In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:

        (1) If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.

        (2) Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.

    e. Real Property Insurance - Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

12. Contract Documents, Final Plans and Specifications -

a. The contract documents should consist of the following:

(1) "Agreement" (RUS Bulletin 1780-13) and Attachments 1 through 9, or other agreement approved by RUS. One copy of this item is attached hereto (Attachment No. 6).

(2) "Supplemental General Conditions" (RUS Bulletin 1780-14). One copy of this item is attached hereto (Attachment No. 7). Additional copies must be reproduced by the engineer.

b. The contract documents must provide, as a minimum, the following insurance:

(1) Liability Insurance - Personal Liability - $500,000; Property Damage - $200,000 - $200,000. This coverage must include indemnification of the PSD and its engineer. RUS Bulletin 1780-13, Attachment 9, suggests certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.

(2) Builder's Risk Insurance - On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.

(3) Workers' Compensation - In accordance with applicable State laws.

c. The contract documents and final plans and specifications must be submitted to RUS for approval.

d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.

No Problem

13. Interim Financing - Interim financing will be used for the RUS loan if it is available at reasonable rates and terms. You must provide RUS with a copy of the tentative agreement reached in connection with interim financing. A copy of the proposed agreement should be provided for RUS review.

14. Disbursement of Funds - The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of any disbursements required of your PSD, over 30 day periods. Any funds not disbursed immediately upon receipt must be deposited in an interest bearing account in accordance with OMB Circular A-133. Interest earned on these funds

must be remitted promptly, at least quarterly, to the Rural Utilities Service. The PSD must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RUS.

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

    Form RD 442-7 - "Operating Budget"
    Form RD 1940-1 - "Request for Obligation of Funds"
    RUS Bulletin 1780-12 - "Water or Waste System Grant Agreement"
    RUS Bulletin 1780-27 - "Loan Resolution (Public Bodies)"
    ~~RUS Bulletin 1780-28 - "Loan Resolution Security Agreement~~"
    ~~Form RD 1942-8 - "Resolution of Members or Stockholders" (This must be at a membership meeting.)~~
    RUS Bulletin 1780-22, "Eligibility Certification"
    Form RD 400-1 - "Equal Opportunity Agreement"
    Form RD 400-4 - "Assurance Agreement"
    Form AD 1047 - "Certification Regarding Debarment - Primary"
    Form AD 1049 - "Certification Regarding Drug-Free Workplace"
    Form RD 1910-11 - "Applicant Certification, Federal Collection Policies"
    FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans"
    Standard Form LLL - "Disclosure of Lobbying Activities" (If Applicable)

16. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan and grant docket when it is forwarded to the USDA - Rural Development State Office with a request for loan closing instructions to be issued.

17. Upon receipt of the loan and grant docket, which contains all the items required above, RUS may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed.

    When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

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

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

In accordance with the intent of Congress as expressed in the FY 1998 Appropriations Act, recipients of water and waste assistance provided by the Rural Utilities Service are encouraged, in expending the assistance, to purchase only American-made equipment and products.

Please complete and return the enclosed Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire further consideration be given your application.

If the conditions set forth in this letter are not met within six (6) months from the date hereof, RUS reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the six-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RUS reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely yours,

BOBBY LEWIS
State Director

Enclosures

cc: See Page 10

cc: Rose Mary Christian
Rural Development Specialist
Beckley, WV

Imre D. Pentek, CPA
P. O. Box 1390
Lewisburg, WV 24901

William Winfrey, II
Attorney at Law
P. O. Box 1159
Princeton, WV 24740

Bond Counsel

Robert Hazelwood
Consulting Engineer
Pentree, Inc.
P. O. Box 1309
Princeton, WV 24740

Attachment No. 1 to Letter of Conditions
For: Red Sulphur Public Service District (Phase II Water)
Date: January 16, 2001

## Project Construction Budget

| Project Cost | RUS Grant | RUS Loan | Total |
|---|---|---|---|
| Construction | $ 1,012,000 | $ 1,280,700 | $ 2,292,700 |
| Construction Contg. | 81,000 | 102,500 | 183,500 |
| Land and Rights | 4,400 | 5,600 | 10,000 |
| Legal Fees | 7,600 | 9,600 | 17,200 |
| Accounting Fees | 1,500 | 2,000 | 3,500 |
| Bond Counsel | 6,600 | 8,400 | 15,000 |
| Engineering Fees | 141,700 | 179,300 | 321,000 |
| Basic $160,500 | | | |
| Inspection $137,600 | | | |
| Special $22,900 | | | |
| Equipment | 9,700 | 12,300 | 22,000 |
| Interest | | 180,000 | 180,000 |
| Project Contg. | 15,500 | 19,600 | 35,100 |
| Total | $ 1,280,000 | $ 1,800,000 | $ 3,080,000 |

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

| | | |
|---|---|---|
| First | 3,000 gals. @ | $6.26 per M gals. |
| Next | 4,000 gals. @ | $5.84 per M gals. |
| Next | 95,000 gals. @ | $5.32 per M gals. |
| Over | 102,000 gals. @ | $ 4.90 per M gals. |

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

| | |
|---|---|
| 5/8" x 3/4" meter - | $18.78 per month |
| 3/4" meter - | $28.17 per month |
| 1" meter - | $46.95 per month |
| 1 1/2" meter - | $93.90 per month |
| 2" meter - | $150.24 per month |
| 3" meter - | $281.70 per month |
| 4" meter - | $469.50 per month |
| 6" meter - | $939.00 per month |

(Minimum Monthly Bill - $18.78 for 3,000 gallons)

Delayed Payment Penalty

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

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

Connection Charge

Prior to Construction - $100.00

After the start of construction, there shall be a charge of $250.00 for connection to the system.

Reconnection Charge

$20.00

Use and Income Analysis - See Page 3

RED SULPHUR PSD
BILL ANALYSIS
WATER

PROPOSED UNIFORM RATES

| BLOCKING | SERVICE AREA | USERS | M/GALS. | 3,000 GAL. MIN/BILL | FIRST 3000 | NEXT 4000 | NEXT 95000 | OVER 102,000 |
|---|---|---|---|---|---|---|---|---|
| 0-3000 | Peterstown Area | 534 | 365.52 | 534 | | | | |
| | Ballard Area | 104 | 172.30 | 104 | | | | |
| 3001-7000 | Peterstown Area | 565 | 3,089.40 | | 1695 | 1394.4 | | |
| 3001-7000 | Ballard Area | 100 | 453.70 | | 300 | 153.7 | | |
| 3001-7000 | Ph-1 New Users | 152 | 684.00 | | 456 | 228 | | |
| 3001-7000 | Ph-2 New Users | 165 | 742.00 | | 495 | 247.5 | | |
| 7001-95000 | Peterstown Area | 102 | 1,013.30 | | 306 | 408 | 299.3 | |
| 7001-95000 | Peterstown Area | 5 | 350.20 | | 15 | 20 | 315.2 | |
| 7001-95000 | Ballard Area | 11 | 120.76 | | 33 | 44 | 43.8 | |
| >102000 | Peterstown Area | 1 | 151.50 | | 3 | 4 | 95 | 49.5 |
| >102000 | Peterstown Area | 1 | 208.80 | | 3 | 4 | 95 | 106.8 |
| MONTHLY TOTAL | | 1,740 | 7,351.5 | 638 | 3306 | 2503.6 | 848.3 | 156.3 |
| RATES | | | | $ 18.78 | $ 6.26 | $ 5.84 | $ 5.32 | $ 4.90 |
| PROJ. REVENUES | | | | $ 11,982 | $ 20,696 | $ 14,621 | $ 4,513.0 | $ 765.9 |

| | |
|---|---|
| MONTHLY REVENUE | $ 52,577 |
| ANNUAL REVENUE | $ 630,925 |
| ANN. FACTOR | 1.009156 |
| ADJ. ANN. REVENUE | $ 636,701 |

Budget

| | | |
|---|---|---|
| Income | | |
| Water Sales | $636,701 | |
| Penalties | 10,574 | |
| Other | 6,456 | |
| | | $653,731 |
| Expenses | | |
| O & M | $249,238 | |
| Taxes | 12,301 | |
| *Debt Service | 328,503 | |
| **Debt Service Reserve | 24,852 | |
| ***Depreciation Reserve | 20,537 | |
| | | $635,431 |
| Balance and Depreciation | | $ 18,300 |

Operating and Maintenance Expenses

| | |
|---|---|
| Source of Supply | $ 3,244 |
| Pumping Expense | 20,749 |
| Treatment Expense | 58,095 |
| Transmission and Distribution | 46,655 |
| Billing and Collection | 23,720 |
| Administration | 96,775 |
| Taxes | 12,301 |
| TOTAL | $261,539 |

| | | |
|---|---|---|
| *Existing Debt Service - | $222,447 | *PSD 1973 - $19,116 |
| Proposed Debt Service - | 106,056 | (Not included in D/S) |
| | | (To be retired) |
| Total Debt Service - | $328,503 | |
| | | RUS 91-01 - $116,604 |
| | | RUS 91-06 - 2,955 |
| ** Existing Debt Service Reserve | $ 19,550 | RUS 91-07 - 2,124 |
| Proposed Debt Service Reserve | 5,302 | RUS 91-04 - 8,628 |
| | | RUS Unclosed - 92,136 D/S |
| Total Debt Service Reserve | $ 24,852 | |

| | | |
|---|---|---|
| *** Existing Depreciation Reserve | $ 15,235 | |
| Proposed Depreciation Reserve | 5,302 | RUS at 5% of D/S |
| Total Depreciation Reserve | $ 20,537 | |

Attachment No. 2 to Letter of Conditions
For: Red Sulphur Public Service District
Date: January 16, 2001

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

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| SF 424.2 | Application for Federal Assistance | 3 | 1780.31(b) | App. | | HAVE | 3 |
| | Public Notice of Intent to File App. / Environ. Notice | 1 | 1780.19(a) 1940-G | App. | | HAVE | 3 |
| | Regional Planning & Development Council Review | 2 | 1780.33(b) | App. | | HAVE | 3 |
| | State Clearing-house Review or IJDC Review | 2 | 1780.33(b) | App. | | HAVE | 3 |
| Bulletins 1780-2 1780-3 | Preliminary Engineering Report | 2 | 1780.33(c) | Eng. | | HAVE | 6 |
| | Bond Ordn. or Resol. on Outstanding Debts | 1 | 1780.33(e) | App./Att. | | | 2 |
| | Bonds or Notes Outstanding Debts | 1 | 1780.33(e) | App./Att. | | | 2 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| | Audit for last year of operation | 1 | 1780.33(e) | App./Acct. | | | 1 |
| AD 1049 | Certification Regarding Drug-Free Workplace | 1 | 1780.33(h) | App. | | HAVE | 5 |
| | Minutes Adopting Drug-Free Workplace Program | 1 | LOC | App. | | | 5 |
| RD 1940-20 | Request for Env. Info/ Attachments | 2 | 1780.33(f) | App./Eng. | | Have | 3 |
| Bulletin 1780-22 | Applicant Eligibility Certification/ Other Credit Certification | 1 | 1780.33(d) | App. | | Have | 3 |
| Exhibit A / A-1 | Certifications Regarding Lobbying | 2 | 1780.33(h) | App. | | HAVE | 2 |
| 1940-22 | Env. Checklist for Categorical Exclusions | 2 | 1940-G | RUS/Eng. | | HAVE | 3 |
| | Env. Assessment for Class II Actions (Exhibit H, 1940-G) | 2 | 1940-G | RUS/Eng. | | HAVE | 3 |
| | Site Visit | | S.I. 1780-2 | RUS | | Have | 3 |
| | Statement from Historical Preservation Office | 2 | Exhibit H 1940-G | App. | | Have | 3 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| | Comments from Dept. of Commerce, Labor & Environ. Resources (DEP) | 2 | Exhibit H 1940-G | App. | | HAVE | 3 |
| | Comments from U.S. Fish and Wildlife Service (Endangered Species) | 2 | Exhibit H 1940-G | App. | | HAVE | 3 |
| | Comments from U.S. Forest Service (Wild & Scenic Rivers) | 2 | Exhibit H 1940-G | App. | | HAVE | 3 |
| | Comments from Advisory Council on Historic Preservation | 2 | Exhibit H 1940-G | App. | | HAVE | 3 |
| | Farmland Conversion Impact Rating | 1 | Exhibit H 1940-G | RUS/ NRCS | | HAVE | 3 |
| | FEMA Standard Flood Hazard Determination | 2 | 1940-G | RUS/Eng. | | HAVE | 3 |
| | Civil Rights Impact Analysis Certification | 2 | 1940-G | RUS/Eng. | | HAVE | 3 |
| | FONSI / Evidence of Publication | 1 | Exhibit 1 RD 1940-G News Ad | RUS/App. | | | 3 |
| | Copy of Existing Rate Tariff | 2 | 1780.33 | App. | | HAVE | 8 |
| | Applicant's IRS Tax Number (TIN) | 1 | 1780.33(g) | App. | | HAVE | 3 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| | Agency Determination on the Availability of "Other Credit" with Documentation | 1 | 1780.7(d) | RUS | | HAVE | 3 |
| | Agency Determination on Procurement | 1 | 1780.70(d) | RUS | | | 6 |
| | Review for Outstanding Judgment | 1 | 1780.7(g) | RUS/Atty | | | 3 |
| | Processing Conference | 1 | 1780.39(a) | RUS | | | 3 |
| | Staff Engineer PER Review | 1 | 1780.33(c) | RUS | | | 6 |
| | Staff Review Financial Statements | 1 | S.I. 1780.2 | RUS | | | 1 |
| | Bill Analysis for existing system(s) | 2 | 1780.33(c) | App./Eng. | | HAVE | 8 |
| | Projected Bill Analysis for New Users | 2 | 1780.33(c) | App./Eng. | | HAVE | 8 |
| | Statement reporting the total number of potential users | | 1780.33(c) | App./Eng. | | | 8 |
| RD 1942-19 or other approved | Agreement between Owner & Engineer | 3 | 1780.39(b) | App./Eng. | | HAVE | 6 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| Bulletin 1780-7 or other approved | Legal Services Agreement with Local Attorney | 3 | 1780.39 (b)(2) | App./Atty. | | HAVE | 5 |
| | Legal Services Agreement with Bond Counsel | 1 | 1780.39 (b)(3) | App./ Bond Counsel | | | 5 |
| | Agreement for Accounting Services | 1 | 1780.39 (b)(2) | App./Acct. | | | 5 |
| | Operation and Maintenance Agreement | 1 | 1780.39 (b)(4) | App. | | | 5 |
| | Survey conducted by uninterested party to determine MHI | 1 | 1780.1 | App./RUS | | | 3 |
| | S/O concurrence in results of survey to determine MHI | 1 | 1780.1 | RUS-S/O | | | |
| | Documentation on Service Area | 1 | 1780.11 | RUS | | HAVE | 3 |
| | Relationships/ Associations with Agency Employees | 1 | 1780.1(f) | | | HAVE | 3 |
| Auto. Form | Grant Determination | 3 | 1780.35(b) | RUS | | HAVE | |
| RD 1942-45 | Project Summary | 3 | 1780.41(a) | RUS | | HAVE | 1 |
| RD 442-7 | Operating Budget | 3 | 1780.33(h) | App. | | HAVE | 3 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| RD 1942-14 | Project Fund Analysis | 3 | 1780.41(a) | RUS | | HAVE | 2 |
| RD 442-10 | Appprais al Report | 1 | 1780.35(b) | RUS | | | 8 |
| Bulletin 1780-1 | Project Selection Criteria | 2 | 1780.17 | RUS | | HAVE | 1 |
| | Letter of Conditions | 7 | 1780.41 (a)(5) | RUS | | HAVE | 3 |
| RD 1942-46 | Letter of Intent to Meet Conditions | 2 | 1780.41 (a)(6) | App. | | HAVE | 3 |
| RD 1940-1 | Request for Obligation of Funds | 4 | 1780.41(a) | RUS/App. | | HAVE | 2 |
| Bulletin 1780-12 | Association Water or Sewer System Grant Agreement | 2 | 1780.45(c) | RUS/App. | | HAVE | 2 |
| | Evidence of "Other Funds" | 1 | 1780.44(f) | App. | | | 2 |
| | Water Users Agreement (Copy) | 1 | 1780.39(c) | App. | | | 5 |
| AD 1047 | Certification Regarding Debarment (Primary) | 1 | 1780.33(h) | App. | | HAVE | 5 |
| AD 1048 | Certification Regarding Debarment (Contractor) | 1 ea. | 1780.33(h) | All Appropriate Vendors | | HAVE | 5 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| RD 1910-11 | Applicant Certification, Federal Collection Policies | 1 | | | | HAVE | 3 |
| | Evidence of Users: | | | | | | |
| | 1. Map of Users with each identified by number | 1 | LOC | App. | | | Sep. File |
| | 2. List of Signed Users Numbered to Map | 1 | LOC | App. | | | 5 |
| | 3. List of Declination Statements Numbered to Map | 1 | LOC | App. | | | 5 |
| | 4. Evidence of Tap Fees Being Paid | 1 | LOC | App. | | | 5 |
| | 5. Having Users Agreements and Declination Statements Available | | LOC | App. | | | |
| | 6. Certification Relative to Existing Users | 1 | LOC | App. | | | 5 |
| | Positive Program to Encourage Connections when Completed | 1 | 1780.39 (c)(5) | App. | | | 5 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| | Verification of Users | 1 | 1780.44(b) | RUS | | | 3 |
| | Preliminary Bond Transcript Documents w/o Defeasance Provisions | 2 | 1780.83 | Bond Counsel | | | 2 |
| | Right-of-Way Map | 1 | 1780.44(g) | Eng. | | | Sep. File |
| | Deeds and/or Options | | 1780.44(g) | App./Atty. | | | |
| RD 1927-9 | Preliminary Title Opinion | 1 | 1780.44 (g)(2) | App./Atty. | | | 5 |
| RD 1927-10 | Final Title Opinion | 1 | 1780.44 (g)(2) | App./Atty. | | | 5 |
| | Narrative Opinion from Attorney | 1 | 1780.44(g) | Atty. | | | 5 |
| | Waiver of Title Defects Letter | 1 | 1780.44 (g)(2)(ii) | RUS | | | |
| | Exception for Metering Devices | 1 | 1780.57(m) | App./RUS | | | |
| RD 442-22 | Opinion of Counsel Relative to R/Ways | | 1780.44 (g)(1) | Atty. | | | 5 |
| Bulletin 1780-27 | Loan Resolution | 1 | 1780.45 (a)(2) | App. | | HAVE | 5 |
| | Copy of PSC Rule 42 Exhibit | 1 | State | Atty./Acct. | | | 3 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| | Agreement with Accountant | 1 | 1780.39 (b)(2) | App./Acct. | | | 6 |
| Lender Agrmnt/ Bulletin 1780-10/ 1780-10a | Interim Financing Documentation | 1 | 1780.39(d) | App./RUS | | | 1 |
| RD 400-1 | Equal Opportunity Agreement | 1 | 1901-E | App. | | HAVE | 6 |
| RD 400-4 | Assurance Agreement | 1 | 1901-E | App. | | HAVE | 3 |
| | Bond Transcript Documents w/o Defeasance Provisions | 3 | 1780.83 | Bond Counsel | | | Sep. File |
| | OGC Closing Instructions | 1 | 1780.44(h) | RUS | | | 5 |
| | S/O Closing Instructions | 1 | 1780.44(h) | RUS | | | 5 |
| | DOH Permit | 1 | 1780.15(d) | App. | | | 6 |
| | Railroad Permits | 1 | 1780.15(d) | App. | | | 6 |
| | Public Land Corp. Permit | 1 | 1780.15(d) | App. | | | 6 |
| | Corps of Engineers Permit | 1 | 1780.15(d) | App. | | | 6 |
| | Contract Documents, Plans and Specifications | 2 | | Eng. | | | Sep. File |
| | Dept. of Health Approval | 1 | 1780.15(d) | Eng. | | | 6 |

| Form No. | Document or Action | No. Needed | Proced. Ref. | Provided by | Target Date | Date Rec'd | File Pos. |
|---|---|---|---|---|---|---|---|
| | Dept. of Environmental Protection | 1 | | Eng. | | | 6 |
| 400-8 | Comp. Review | 1 | 1901.204 | RUS | | | 5 |
| 1924-16 | Record of PreConstruction Conference | 1 | 1780.76(a) | RUS/Eng. | | | 6 |
| | Bid Tabulation | 1 | 1780.61(b) | Eng. | | | 6 |
| | Resume' of Inspector | 1 | 1780.76(c) | Eng. | | | 6 |
| | Liability Insurance | | 1780.39(g) | App. | | | 7 |
| | Workers' Compensation Certificate | 1 | 1780.39(g) | App. | | | 7 |
| | Flood Insurance Policy | 1 | 1780.39(g) | App. | | | 7 |
| 440-24 | Fidelity Bond | 1 | 1780.39(g) | App. | | | 7 |
| | OGC Final Opinion | 1 | 1780.45(g) | RUS | | | 5 |

Subpart D - Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants

§1780.80 General.

This subpart includes information for use by public body applicants in the preparation and issuance of evidence of debt (bonds, notes, or debt instruments, referred to as bonds in this subpart) and other necessary loan documents.

§1780.81 Policies related to use of bond counsel.

The applicant is responsible for preparation of bonds and bond transcript documents. The applicant will obtain the services and opinion of recognized bond counsel experienced in municipal financing with respect to the validity of a bond issue, except for issues of $100,000 or less. With prior approval of the approval official, the applicant may elect not to use bond counsel. Such issues will be closed in accordance with the following:

(a) The applicant must recognize and accept the fact that application processing may require additional legal and administrative time;

(b) It must be established that not using bond counsel will produce significant savings in total legal costs;

(c) The local attorney must be able and experienced in handling this type of legal work;

(d) The applicant must understand that it will likely have to obtain an opinion from bond counsel at its expense should the Agency require refinancing of the debt;

(e) Bonds will be prepared in accordance with this regulation and conform as closely as possible to the preferred methods of preparation stated in §1780.94; and

(f) Closing instructions must be issued by OGC.

§1780.82 [Reserved]

§1780.83 Bond transcript documents

Any questions relating to Agency requirements should be discussed with Agency representatives. Bond counsel or local counsel, as appropriate, must furnish at least two complete sets of the following to the applicant, who will furnish one complete set to the Agency:

(a) Copies of all organizational documents;

(b) Copies of general incumbency certificate;

(c) Certified copies of minutes or excerpts from all meetings of the governing body at which action was taken in connection with the authorizing and issuing of the bonds;

(d) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding a favorable bond election, if one is necessary;

(e) Certified copies of the resolutions, ordinances, or other documents such as the bond authorizing resolutions or ordinances and any resolution establishing rates and regulating use of facility, if such documents are not included in the minutes furnished;

(f) Copies of the official Notice of Sale and the affidavit of publication of the Notice of Sale when State statute requires a public sale;

(g) Specimen bond, with any attached coupons;

(h) Attorney's no-litigation certificate;

(i) Certified copies of resolutions or other documents pertaining to the bond award;

(j) Any additional or supporting documents required by bond counsel;

(k) For loans involving multiple advances of Agency loan funds, a preliminary approving opinion of bond counsel (or local counsel if no bond counsel is involved) if a final unqualified opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered at or before the time of the first advance of funds. It will state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan, subject only to changes occurring during the advance of funds, such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates;

(l) Final unqualified approving opinion of bond counsel, (and preliminary approving opinion, if required) or local counsel if no bond counsel is involved, including an opinion as to whether interest on bonds will be exempt from Federal and State income taxes. With approval of the State program official, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation. It is permissible for such opinion to contain language referring to the last sentence of Section 306 (a)(1) or to Section 309A (h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 (a)(1) or 1929a (h)).

§§1780.84 and 1780.86 [Reserved]

§1780.87 Permanent instruments for Agency loans.

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

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

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

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

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

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

(c) Third preference - single instruments with installments of principal plus interest. If a single instrument with amortized installments is not legally permissible, use a single instrument providing for installments of principal plus interest accrued on the principal balance. For bonds with semiannual interest and annual principal, the interest is calculated by multiplying the principal balance times the interest rate and dividing this figure by two. Principal installments are to be scheduled so that total combined interest and principal payments closely approximate amortized payments.

(1) The repayment terms concerning interest only installments described in paragraph (b) of this section apply.

(2) The instrument shall contain in substance provisions indicating:

(i) Principal maturities and due dates;

(ii) Regular payments shall be applied first to interest due through the next principal and interest installment due date and then to principal due in chronological order stipulated in the bond; and

(iii) Payments on delinquent accounts will be applied in the following sequence:

(A) billed delinquent interest;

(B) past due interest installments;

(C) past due principal installments;

(D) interest installment due; and

(E) principal installment due.

(d) Fourth preference - serial bonds with installments of principal plus interest. If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be numbered consecutively and delivered in chronological order. Such bonds will conform to the minimum requirements of §1780.94. Provisions for application of payments will be the same as those set forth in paragraph (c)(2)(ii) of this section.

(e) Coupon bonds. Coupon bonds will not be used unless required by State statute. Such bonds will conform to the minimum requirements of §1780.94.

§1780.88 [Reserved]

§1780.89 Multiple advances of Agency funds using permanent instruments.

Where interim financing from commercial sources is not used, Agency loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed the amount needed during 30-day periods.

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

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

(a) The date from which each advance will bear interest;

(b) The interest rate as determined by §1780.13;

(c) A payment schedule providing for interest on outstanding principal at least annually; and

(d) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instruments and no longer than the 40-year statutory limit.

§§1780.91 - 1780.93 [Reserved]

§1780.94 Minimum bond specifications.

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

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

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

(c) Size and quality. Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(d) Date of bond. Bonds will normally be dated as of the day of delivery. However, the borrower may use another date if approved by the Agency. Loan closing is the date of delivery of the bonds or the date of delivery of the first bond when utilizing serial bonds, regardless of the date of delivery of the funds. The date of delivery will be stated in the bond if different from the date of the bond. In all cases, interest will accrue from the date of delivery of the funds.

(e) Payment date. Loan payments will be scheduled to coincide with income availability and be in accordance with State law.

(1) If income is available monthly, monthly payments are recommended unless precluded by State law. If income is available quarterly or otherwise more frequently than annually, payments must be scheduled on such basis. However, if State law only permits principal plus interest (P&I) type bonds, annual or semiannual payments will be used.

(2) The payment schedule will be enumerated in the evidence of debt, or if that is not feasible, in a supplemental agreement.

(3) If feasible, the first payment will be scheduled one full month, or other period, as appropriate, from the date of loan closing or any deferment period. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided. When principal payments are deferred, interest-only payments will be scheduled at least annually.

(f) Extra payments. Extra payments are derived from the sale of basic chattel or real estate security, refund of unused loan funds, cash proceeds of property insurance and similar actions which reduce the value of basic security. At the option of the borrower, regular facility revenue may also be used as extra payments when regular payments are current. Unless otherwise established in the note or bond, extra payments will be applied as follows:

(1) For loans with amortized debt instruments, extra payments will be applied first to interest accrued to the date of receipt of the payment and second to principal.

(2) For loans with debt instruments with P&I installments, the extra payment will be applied to the final unpaid principal installment.

(3) For borrowers with more than one loan, the extra payment will be applied to the account secured by the lowest priority of lien on the property from which the extra payments was obtained. Any balance will be applied to other Agency loans secured by the property from which the extra payment was obtained.

(4) For assessment bonds, see paragraph (k) of this section.

(g) The place of payments on bonds purchased by the Agency will be determined by the Agency.

(h) Redemptions. Bonds will normally contain customary redemption provisions. However, no premium will be charged for early redemption on any bonds held by the Government.

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

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

(1) Provisions for the holder to manually post each payment to the instrument.

(2) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than the Agency, may post the date and amount of each advance or repayment on the instrument.

(3) Provisions that amend covenants contained in RUS Bulletins 1780-27 or 1780-28. ***[Revision 2, 06/04/99]***

(4) Defeasance provisions in loan or bond resolutions. When a bond issue is defeased, a new issue is sold which supersedes the contractual provisions of the prior issue, including the refinancing requirement and any lien on revenues. Since defeasance in effect precludes the Agency from requiring refinancing before the final maturity date, it represents a violation of the statutory refinancing requirement; therefore, it is disallowed. No loan documents shall include a provision of defeasance.

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

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

(1) When more than one loan type is used in financing a project, each type of loan will be evidenced by a separate debt instrument or series of debt instruments;

(2) Loans obligated in different fiscal years and those obligated with different terms in the same fiscal year will be evidenced by separate debt instruments;

(3) Loans obligated for the same loan type in the same fiscal year with the same term may be combined in the same debt instrument;

(4) Loans obligated in the same fiscal year with different interest rates that will be closed at the same interest rate may be combined in the same debt instrument.

§1780.95 Public bidding on bonds.

Bonds offered for public sale shall be offered in accordance with State law and in such a manner to encourage public bidding. The Agency will not submit a bid at the advertised sale unless required by State law, nor will reference to Agency's rates and terms be included. If no acceptable bid is received, the Agency will negotiate the purchase of the bonds.

§§1780.96 - 1780.100 [Reserved]

UNITED STATES
DEPARTMENT OF
AGRICULTURE

RURAL
DEVELOPMENT

481 RAGLAND ROAD
BECKLEY, WV 25801
PHONE (304) 252-8644
FAX (304) 252-5809
TTY/TDD (304) 284-4836

June 23, 2003

Robert M. Williams, Sr., Chairman
Red Sulphur Public Service District
P. O. Box 697
Peterstown, WV 24963

Dear Mr. Williams:

The pre-closing date for the PSD's water project has been established as July 15, 2003. The pre-closing will begin at 10:30 a.m. at the PSD office followed by the pre-construction conference at 12:00 p.m.

Reference is made to our Letter of Conditions dated January 16, 2001 and Amendment #1 to the Letter of Conditions dated March 6, 2001. All of the requirements of those letters must be met.

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

1. The PSD's attorney must furnish Form RD 442-22, "Opinion of Counsel Relative to Rights of Way," showing no exceptions. This form should be dated July 17, 2003.

2. The PSD's attorney must furnish Form RD 1927-10, "Final Title Opinion," on all land(s) being acquired. In addition, the attorney must provide a separate Final Title Opinion(s) covering all existing property owned by the PSD. The opinion(s) should be dated July 17, 2003.

3. A narrative opinion from the attorney should be provided addressing all permits, certifications, and other items necessary to show that all legal requirements can be met and stating how they will be met. The narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.

4. The permit from the West Virginia Department of Highways must be on hand at the closing. The PSD should proceed to obtain necessary bond and forward same to the WVDOH requesting the permit be issued.

**USDA, Rural Development is an Equal Opportunity Lender, Provider and Employer. Complaints of discrimination should be sent to: USDA, Director, Office of Civil Rights, Washington, D.C. 20250-9410**

5. A certificate from the PSD's accountant that the accounts and records required by the bond resolution and the PSC have been established and are operational. The chart of accounts and record keeping books must be available for review at loan closing.

6. The PSD must provide evidence that it has acquired insurance and bond coverage in accordance with item 11 of the Letter of Conditions.

7. The PSD must furnish evidence that it provides State Workman's Compensation Insurance.

If you have any questions regarding these or any other matters pertaining to your loan, please contact this office.

Sincerely,

Rose Mary Christian
Rural Development Specialist

Enclosures

cc: State Director, Rural Development, Morgantown, WV
William S. Winfrey, II, Attorney at Law, Princeton, WV
John Stump, Steptoe & Johnson Bond Counsel, Charleston, WV
Jeffrey S. Feamster, CPA, Lewisburg, WV
Robert Hazelwood, Pentree, Inc., Princeton, WV

# WATER OR WASTE SYSTEM GRANT AGREEMENT

## UNITED STATES DEPARTMENT OF AGRICULTURE

## RURAL UTILITIES SERVICE

THIS AGREEMENT dated January 16, 2001 between Red Sulphur PSD

a public corporation organized and operating under Chapter 16, Article 13A, West Virginia Code
*(Authorizing Statute)*

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (sewer) system to serve the area under jurisdiction at an estimated cost of $ 3,080,000.00 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than $ 1,800,000.00 of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of $ 1,800,000.00 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed $ 1,280,000.00 or 45% percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306 (a) of the Consolidated Farm and Rural Development Act the purpose only of defraying a part not to exceed 41.6% percent of the development costs, as defined by applicable Rural Utilities Service Instructions.

GRANTEE AGREES THAT GRANTEE WILL:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, adopted by resolution dated _____, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.
**[Revision 1, 04/17/1998]**

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

**This Grant Agreement covers the following described real property (use continuation sheets as necessary).**
**Red Sulphur PSD water treatment and distribution system in its entirety including all appurtenances therein. Specifically, the utilization of this grant involved the construction of 6", 8" and 10" PVC distribution line, one 150,000 gallon water storage tank, one booster station, development of an emergency water supply and various improvements to the PSD's existing system.**

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

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than $5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of $5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds, for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need need for the equipment.

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

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

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

**This Grant Agreement covers the following described equipment (use continuation sheets as necessary).**
**All equipment owned or obtained in the future by Red Sulphur PSD for the operation and maintenance of its combined water and sewerage facilities.**

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

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

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

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

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

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

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

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

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award. **[Revision 1, 11/20/97]**

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

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

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed **$ 1,280,000.00** which it will advance to Grantee to meet not to exceed **41.6%** percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

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

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

Termination of This Agreement

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

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

_____

and attested and its corporate seal affixed by its duly authorized

_____

Attest:

_____

By Dennis Sibold
~~ROBERT M. WILLIAMS, SR.~~ Dennis Sibold
(Title) Secretary

By Robert M Williams Sr
~~PAUL E. BALL, JR.~~ Robert M. Williams, Sr.
(Title) Chairman

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By Rose Mary Christian 7/21/03
ROSE MARY CHRISTIAN (Title) Rural Development Specialist

RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage Revenue Bonds, Series 2003 A
(United States Department of Agriculture)

RECEIPT OF DEPOSITORY BANK

I, the undersigned duly authorized representative of First Community Bank, Lindside, West Virginia (the "Bank"), hereby certify that on July 21, 2003, the Bank received an automated transfer in the amount of $186,160 to the credit of the Project Construction Account, Account Number 3410589 for the Series 2003 A Bonds.

WITNESS my signature on this 21st day of July, 2003.

FIRST COMMUNITY BANK

By: _____
Its: Authorized Officer

07/08/03
742910.00001

CHS00367.1

# RED SULPHUR PUBLIC SERVICE DISTRICT

## Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (United States Department of Agriculture)

## BOND RESOLUTION

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RED SULPHUR PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING COMBINED WATERWORKS AND SEWERAGE SYSTEM OF RED SULPHUR PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $1,538,500 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF RED SULPHUR PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

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

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, improvements and extensions to the existing combined waterworks and sewerage facilities of the Issuer, consisting of constructing approximately 65,000 linear feet of water mains, ranging from 2 inch to 10 inch, with appurtenances, a 200,000 gallon water storage tank, the upgrading of the Mill Hill booster station, developing an additional raw water source, constructing a 700 GPM raw water booster station with 4,400 linear feet of raw water line to connect to the Issuer's treatment plant, and all necessary appurtenant facilities (collectively, the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The existing combined waterworks and sewerage facilities of the Issuer, together with the Project and any further additions, improvements or extensions thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

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

D. The estimated maximum cost of the acquisition and construction of the Project is $2,762,500, of which $1,538,500 will be obtained from the proceeds of sale of the Series 2002 A Bonds herein authorized, $1,174,000 will be obtained from a grant from the Purchaser and $50,000 will be obtained from a grant from the Governor's Partnership Program.

E. It is necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (United States Department of Agriculture), in the aggregate principal amount of $1,538,500 (the "Bond" or "Series 2002 A Bonds"), to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2002 A Bonds prior to, during

and for six months after completion of such acquisition and construction of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the Project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the acquisition and construction of the properties and the placement of same in operation; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for costs of the Project by the Issuer shall be deemed costs of the Project.

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

G. There are outstanding obligations of the Issuer which will rank on a parity with the Series 2002 A Bonds as to liens, pledge and source of the security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 1999 (the "1999 Bonds") dated May 20, 1999, and held by the Purchaser, issued in the original aggregate principal amount of $156,500, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1992 (the "1992 Bonds"), dated July 14, 1992, issued in the original aggregate principal amount of $1,979,000, and held by the Purchaser, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A (the "1987 A Bonds"), dated November 16, 1987, issued in the original aggregate principal amount of $738,647, and held by the West Virginia Water Development Authority, an assumed Waterworks Loan held by the Purchaser, dated November 10, 1977 (the "1977 Bonds"), issued in the original aggregate principal amount of $36,000, and an assumed Waterworks Loan held by the Purchaser, dated May 3, 1967 (the "1967 Bonds") (collectively, the 1999 Bonds, the 1992 Bonds, the 1987 A Bonds, the 1977 Bonds, the 1967 Bonds are referred to as the "First Lien Bonds").

There is outstanding an obligation of the Issuer which will rank junior and subordinate to the Bond as to liens, pledge and source of security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B (the "1987 B Bonds"), dated November 16, 1987, issued in the original aggregate principal amount of $181,173, and held by West Virginia Water Development Authority. The 1967 Bonds, the 1977 Bonds, the 1987 A Bonds, the 1987 B Bonds, the 1992 Bonds and the 1999 Bonds are hereinafter collectively referred to as the "Prior Bonds."

The Issuer has paid in full and discharged its Combined Waterworks and Sewerage System Revenue Refunding Bonds, Series 1973, dated July 1, 1973 on or about January 1, 2000. Therefore, the lien position of the 1967 Bonds, the 1977 Bonds, the 1987 A Bonds and the 1992 Bonds has been upgraded from a second lien position to a first lien position, all on a parity with each other.

Other than the Prior Bonds, there are no outstanding bonds or obligations which will rank prior to, on a parity with or junior to the Series 2002 A Bonds as to liens, pledge and/or source of and security for payment.

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

H. It is in the best interest of the Issuer that the Series 2002 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions, dated April 18, 2000, and any and all amendments thereto (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, the issuance of the Series 2002 A Bonds, or will have so complied prior to issuance of the Series 2002 A Bonds, including, among other things and without limitation, obtaining a certificate of public convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2002 A Bonds by those who shall be the Registered Owner of the same from time to time, this Resolution (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2002 A Bonds.

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

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

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

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

"Bonds" means, collectively, the Series 2002 A Bonds and the Prior Bonds.

"1967 Bonds" means the outstanding loan of the Issuer described in Section 1.02G hereof.

"1977 Bonds" means the outstanding loan of the Issuer described in Section 1.02G hereof.

"1987 A Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A, of the Issuer described in Section 1.02G hereof.

"1987 B Bonds" means the outstanding Combined Waterworks and Sewerage Revenue Bonds, Series 1987 B, of the Issuer described in Section 1.02G hereof.

"1992 Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1992, of the Issuer described in Section 1.02G hereof.

"1999 Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1999, of the Issuer described in Section 1.02G hereof.

"Chairman" means the Chairman of the Governing Body.

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

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

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

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

"FDIC" means the Federal Deposit Insurance Corporation.

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

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

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

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

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

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

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated April 18, 2000, and any and all amendments thereto.

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

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

"Prior Bonds" means, collectively, the 1967 Bonds, the 1977 Bonds, the 1987 A Bonds, the 1987 B Bonds, the 1992 Bonds and the 1999 Bonds.

"Prior Resolutions" means, collectively, the 1967 Resolution, the 1977 Resolution, the 1987 Resolution, the 1992 Resolution and the 1999 Resolution.

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

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

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

(a) Government Obligations;

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

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

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

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

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must

mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

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

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

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

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

"Resolutions" means, collectively, the 1967 Resolution, the 1977 Resolution, the 1987 Resolution, the 1992 Resolution, the 1999 Resolution and the Bond Legislation.

"1967 Resolution" means the resolution of the Association adopted April 25, 1967, authorizing the 1967 Bonds.

"1977 Resolution" means the resolution of the Association adopted October 27, 1977, authorizing the 1977 Bonds.

"1987 Resolution" means the resolution of the Issuer adopted November 12, 1987 authorizing the 1987 A Bonds and the 1987 B Bonds.

"1992 Resolution" means the resolution of the Issuer adopted July 14, 1992, authorizing the 1992 Bonds.

"1999 Resolution" means the resolution of the Issuer adopted May 20, 1999, authorizing the 1999 Bonds.

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

"Secretary" means the Secretary of the Governing Body.

"Series 2002 A Bonds" means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

"Series 2002 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2002 A Bonds in the then current or any succeeding year.

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

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

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

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of $2,762,500, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2002 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

## ARTICLE III

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

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of the Bond Legislation, the Series 2002 A Bonds of the Issuer, to be known as "Combined Waterworks and Sewerage System Revenue Bonds, Series 2002 A (United States Department of Agriculture)", are hereby authorized to be issued in the principal amount of $1,538,500, for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2002 A Bonds shall be issued in single form, numbered AR-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Series 2002 A Bonds shall bear interest from the date of delivery, payable monthly at the interest rate of 4.75% per annum, and shall be sold for the par value thereof.

The Series 2002 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2002 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2002 A Bonds, and the right to principal of and stated interest on the Series 2002 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2002 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2002 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2002 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2002 A Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, sufficient books for the registration and transfer of the Series 2002 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Series 2002 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2002 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2002 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Series 2002 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2002 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 2002 A Bonds shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2002 A Bonds shall cease to be such officer of the Issuer before the Series 2002 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. The Series 2002 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2002 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2002 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2002 A Bonds shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2002 A Bonds shall be secured forthwith by a lien on the Net Revenues derived from the System, on a parity with the liens and pledge of the First Lien Bonds and senior and prior to the liens and pledge of the 1987 B Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 2002 A Bonds and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2002 A Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bond. Subject to the provisions hereof, the text of the Series 2002 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any resolution adopted after the date of adoption hereof and prior to the issuance thereof:

(FORM OF BOND)

RED SULPHUR PUBLIC SERVICE DISTRICT

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 2002 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$1,538,500

No. AR-1 Date: _____

FOR VALUE RECEIVED, RED SULPHUR PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE MILLION FIVE HUNDRED THIRTY EIGHT THOUSAND FIVE HUNDRED DOLLARS ($1,538,500), plus interest on the unpaid principal balance at the rate of 4.75% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $7,308, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

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

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

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

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

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

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

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

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted July 9, 2002, authorizing issuance of this Bond (the "Resolution").

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

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

THIS BOND IS ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES WITH THE 1967 BONDS, THE 1977 BONDS, THE 1987 A BONDS, THE 1992 BONDS AND THE 1999 BONDS (THE "FIRST LIEN BONDS"), AS FURTHER DEFINED AND DESCRIBED IN THE RESOLUTION. THIS BOND IS SENIOR AND PRIOR, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES, AND IN ALL OTHER RESPECTS, TO THE 1987 B BONDS, AS FURTHER DEFINED AND DESCRIBED IN THE RESOLUTION.

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

RED SULPHUR PUBLIC SERVICE DISTRICT

By:_____
Its: Chairman
Public Service Board
Post Office Box 697
Peterstown, West Virginia 24963

[CORPORATE SEAL]

ATTEST:

By:_____
Its: Secretary

(Form of)

RECORD OF ADVANCES

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

TOTAL $_____

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

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

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

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

(2) Renewal and Replacement Fund (established by the 1987 Resolution and resulting from the combination with the Depreciation Reserve established by the Prior Resolutions); and

(3) Project Construction Account.

Section 4.02. Creation of Funds and Accounts with Commission. The following special funds or accounts are hereby created with the Commission:

(1) Series 2002 A Bonds Reserve Fund.

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 2002 A Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

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

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installments on the Series 2002 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.03, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

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

Section 4.04. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Series 2002 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2002 A Bonds Reserve Account, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2002 A Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 2002 A Bonds as follows:

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

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

(1) The Issuer shall first, each month, transfer from the Revenue Fund the amount necessary and sufficient to pay the Operating Expenses of the System.

(2) The Issuer shall next, each month, on or before the due date of payment of each installment, transfer from the Revenue Fund and simultaneously (i) remit to the National Finance Office, the amounts required by the Prior Resolutions to pay the interest on and the principal of the 1967 Bonds, the 1977 Bonds, the 1992 Bonds and the 1999 Bonds; (ii) remit to the Commission the amounts required by the Prior Resolutions to pay the interest on and principal of the 1987 A Bonds; and (iii) beginning on the 12th monthly anniversary of the Closing Date, transfer from the Revenue Fund and remit to the National Finance Office, the amounts required to pay the interest on the Series

2002 A Bonds. Beginning on the 24th monthly anniversary of the Closing Date and continuing on each monthly anniversary of the Closing Date thereafter, the Issuer shall transfer from the Revenue Fund and remit to the National Finance Office the amounts required to amortize the interest on and principal of the Series 2002 A Bonds over the life of the Bond issue.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) to the Depository Bank for deposit into the 1967 Bonds, the 1977 Bonds, the 1992 Bonds and the 1999 Bonds Reserve Accounts, the amounts required by the Prior Resolutions; (ii) to the Commission for deposit into the 1987 A Bonds Reserve Account, the amount required by the Prior Resolutions; and (iii) beginning on the date specified by the Purchaser, but in any event not later than the 24th monthly anniversary of the Closing Date, and continuing on each monthly anniversary of the Closing Date thereafter, transfer from the Revenue Fund and remit to the Commission for deposit into the Series 2002 A Bonds Reserve Account, an amount equal to 0.4167% of the Minimum Reserve, until the amount in the Series 2002 A Bonds Reserve Account equals the Minimum Reserve; provided that, no further payments shall be made into the Series 2002 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 Minimum Reserve. Monies in the Series 2002 A Bonds Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 2002 A Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 2002 A Bonds, or for mandatory prepayment of the Series 2002 A Bonds as hereinafter provided, and for no other purpose; provided, however, earnings from monies in the Series 2002 A Bond Reserve Account, so long as the Series 2002 A Bonds Reserve Requirement is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer, to be deposited in the Revenue Fund.

(4) The Issuer shall next on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for the deposit in the Renewal and Replacement Fund (i) the amounts required by the Prior Resolutions; (ii) beginning on the date specified by the Purchaser, but in any event not later than the 12th monthly anniversary of the Closing Date,

and continuing on each monthly anniversary of the Closing Date thereafter, an amount equal to 0.4167% of the Minimum Reserve, until the amount in the Series 2002 A Bonds Reserve Account equals the Minimum Reserve, and thereafter, 0.8334% of the Minimum Reserve, so long as the Series 2002 A Bonds are outstanding; provided, however, that in the event Revenues are insufficient to fund the Series 2002 A Bonds Reserve Account in accordance with Section 4.04B above, or a withdrawal of funds from the Series 2002 A Bonds Reserve Account is made, payment of Revenues into the Renewal and Replacement Fund as provided in this Section 4.04B shall not be made, but instead Revenues shall be applied to the replenishment of the Series 2002 A Bonds Reserve Account until such deficiency is cured, at which time payments into the Renewal and Replacement Fund as provided in this Section 4.04B shall resume. Monies in the Renewal and Replacement Fund shall be used first to make up any deficiencies for monthly payments of interest on and principal of the Series 2002 A Bonds as the same become due, and next to restore to the Series 2002 A Bonds Reserve Account any sum or sums transferred therefrom. Thereafter, and provided that payments are current and in accordance with the foregoing provisions, monies in the Renewal and Replacement Fund may be withdrawn by the Issuer and used for replacements, repairs, improvements or extensions to the System.

(5) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, the Issuer shall next, on the first day of each month, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Sinking Fund, the amounts required by the 1987 Resolution for the payment of principal and interest on the 1987 B Bonds.

(6) The Issuer shall next, on the first day of each month, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Reserve Account, the amount required by the 1987 Resolution to be deposited therein.

(7) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to prepay installments of the First Lien Bonds and the Bond

outstanding and, thereafter, the 1987 B Bonds, or for any lawful purpose.

Whenever the money in the Series 2002 A Bonds Reserve Account shall be sufficient to prepay the Series 2002 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2002 A Bonds at the earliest practical date and in accordance with applicable provisions hereof.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2002 A Bonds Reserve Account and the Renewal and Replacement Fund as herein provided, and all amounts required for the Series 2002 A Bonds Reserve Account, and the Renewal and Replacement Fund will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written advice stating the amount remitted for deposit into each such fund.

The Revenue Fund and the Series 2002 A Bonds Reserve Account shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a parity with the liens of the holders of the First Lien Bonds, for further securing payment of the Series 2002 A Bonds and the interest thereon.

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

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2002 A Bonds and the First Lien Bonds, in accordance with the respective principal amounts then Outstanding.

Subject to the Prior Resolutions, the Commission, at the direction of the Issuer, shall keep the moneys in the Series 2002 A Bonds Reserve Account invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund

or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Investment Management Board. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from moneys in the Series 2002 A Bonds Reserve Account, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually into the Revenue Fund by the Commission.

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

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2002 A Bonds, provide evidence that there will be at least 1,575 bona fide users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

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

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

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

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

Section 4.05. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Grants, if any, and advances of principal of the Series 2002 A Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed $100,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into the credit agreement with such commercial bank or other lender. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 2002 A Bonds or the Grants. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Series 2002 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2002 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2002 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 2002 A Bonds. The covenants contained in the Bond Legislation are in addition to the covenants contained in the Prior Resolutions which shall remain in full force and effect as long as the Prior Bonds are outstanding.

Section 5.02. Rates. So long as the Series 2002 A Bonds are outstanding, the Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Series 2002 A Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes. Provided, however, that any rate covenants contained in the Prior Resolutions shall remain in full force and effect so long as the Prior Bonds are outstanding and, to the extent any such rate covenants require higher rates, such covenants shall be controlling.

Section 5.03. Sale of the System. The System will not be sold without the prior written consent of the Purchaser so long as the Series 2002 A Bonds are outstanding. Such consent will provide for disposition of the proceeds of any such sale.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

(1) The Bonds Outstanding;

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

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

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. Additionally, no additional parity bonds or obligations payable out of any of the Revenues of the System shall be issued after the issuance of the Series 2002 A Bonds pursuant to this Bond Legislation, except with the prior written consent of the Purchaser. The foregoing limitation may be waived or modified by the written consent of the Holders of the Prior Bonds.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2002 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(b) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2002 A Bonds.

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

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

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

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

(g) Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2002 A Bonds

are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2002 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2002 A Bonds. The statutory mortgage lien of the Bond is on a parity with the statutory mortgage lien in favor of the holders of the First Lien Bonds and senior and prior to the statutory mortgage lien in favor of the holders of the 1987 B Bonds.

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

(a) Failure to make payment of any monthly amortization installment upon the Series 2002 A Bonds at the date specified for payment thereof; and

(b) Failure to duly and punctually observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2002 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law.

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

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

Section 5.09. Fiscal Year; Budget. While the Series 2002 A Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the next year preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

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

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

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

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

Section 5.13. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2002 A Bonds are outstanding.

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

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on July 12, 2001, Case No. 01-0221-PWD-CN, which Final Order is incorporated herein by reference as a part hereof.

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

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

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

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

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

## ARTICLE VII

## MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid, to the Holder of the Series 2002 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 2002 A Bonds, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2002 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

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

Section 7.03. Delivery of Bonds. The Chairman, Secretary and Treasurer of the Governing Body are hereby authorized and directed to cause the Series 2002 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed severable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2002 A Bonds.

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

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

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

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

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted: July 9, 2002.

RED SULPHUR PUBLIC SERVICE DISTRICT

Paul E Ballh

Chairman

CH500140.1

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of RED SULPHUR PUBLIC SERVICE DISTRICT on the 9th day of July, 2002.

Dated: July 11, 2002.

[SEAL]

Robert Williams Sr.
Secretary

07/03/02
742910.99001

CH500140.1

# RED SULPHUR PUBLIC SERVICE DISTRICT

## Combined Waterworks and Sewerage System Revenue Bonds, Series 1999
## (United States Department of Agriculture)

## BOND RESOLUTION

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RED SULPHUR PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF ADDITIONS, IMPROVEMENTS AND EXTENSIONS TO THE EXISTING COMBINED WATERWORKS AND SEWERAGE SYSTEM OF RED SULPHUR PUBLIC SERVICE DISTRICT, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $156,500 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 (UNITED STATES DEPARTMENT OF AGRICULTURE); DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF RED SULPHUR PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

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

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, improvements and extensions to the existing combined waterworks and sewerage facilities of the Issuer, consisting of 14,000 feet of 8" watermains, 100 feet of 6" watermains, 2,500 feet of 2" watermains, a 90,000 gallon water storage tank and upgrades to a water booster station to serve the Ballard area of Monroe County, and the acquisition of the existing waterworks system of Ballard Water Works Association, and all necessary appurtenant facilities (collectively, the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The existing combined waterworks and sewerage facilities of the Issuer, together with the Project and any further additions, improvements or extensions thereto, are herein called the "System." The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

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

D. The estimated maximum cost of the acquisition and construction of the Project is $566,500, of which $156,500 will be obtained from the proceeds of sale of the Series 1999 Bonds herein authorized and $410,000 will be obtained from a grant from the Purchaser.

E. It is necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds, Series 1999 (United States Department of Agriculture), in the aggregate principal amount of $156,500 (the "Bond" or "Series 1999 Bonds"), to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the

improvements and extensions thereto; interest on the Series 1999 Bonds prior to, during and for six months after completion of such acquisition and construction of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the Project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the acquisition and construction of the properties and the placement of same in operation; provided that, reimbursement to the Issuer for any amounts expended by it for the repayment of indebtedness incurred for costs of the Project by the Issuer shall be deemed costs of the Project.

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

G. There is outstanding an obligation of the Issuer which will rank senior and prior to the Bond as to liens, pledge and source of the security for payment, being the Combined Waterworks and Sewerage System Revenue Refunding Bonds, dated July 1, 1973 (the "1973 Bonds"), issued in the original aggregate principal amount of $540,000, and presumed to be held by various members of the public.

There are outstanding obligations of the Issuer which will rank on a parity with the Series 1999 Bonds as to liens, pledge and source of the security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A (the "1987 A Bonds"), dated November 16, 1987, issued in the original aggregate principal amount of $738,647, and held by the West Virginia Water Development Authority, the Combined Waterworks and Sewerage System Revenue Bonds, Series 1992 (the "1992 Bonds"), dated July 14, 1992, issued in the original aggregate principal amount of $1,979,000, and held by the Purchaser, a loan from the Purchaser to the Ballard Water Works Association, evidenced by a promissory note dated May 3, 1967 (the "1967 Bonds"), issued in the original aggregate principal amount of $50,290, of which $11,807.04 principal amount remains outstanding, and to be assumed by the Issuer simultaneously with the issuance of the Series 1999 Bonds, and a loan from the Purchaser to the Ballard Water Works Association, evidenced by a promissory note dated November 10, 1977 (the "1977 Bonds"), issued in the original aggregate principal amount of $36,000, of which $9,632.80 principal amount remains outstanding, and to be assumed by the Issuer simultaneously with the issuance of the Series 1999 Bonds, (collectively, the 1987 A Bonds, the 1992 Bonds, the 1967 Bonds and the 1977 Bonds are referred to as the "Second Lien Bonds").

There is outstanding an obligation of the Issuer which will rank junior and subordinate to the Bond as to liens, pledge and source of security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B (the "1987 B Bonds"), dated November 16, 1987, issued in the original aggregate principal amount of $181,173, and held by West Virginia Water Development Authority. The 1967 Bonds, the

1973 Bonds, the 1977 Bonds, the 1987 A Bonds, the 1987 B Bonds and the 1992 Bonds are hereinafter collectively referred to as the "Prior Bonds".

Other than the Prior Bonds, there are no outstanding bonds or obligations which will rank prior to, on a parity with as junior to the Series 1999 Bonds as to liens, pledge and/or source of and security for payment.

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

H. It is in the best interest of the Issuer that the Series 1999 Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions, dated May 10, 1996, as amended by Amendment No. 1 to Letter of Conditions, dated July 10, 1996, and all further amendments thereto, if any (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, the issuance of the Series 1999 Bonds and the assumption of the 1967 Bonds and the 1977 Bonds, or will have so complied prior to issuance of the Series 1999 Bonds and assumption of the 1967 Bonds and the 1977 Bonds, including, among other things and without limitation, obtaining a certificate of public convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

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

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

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

"Association" means Ballard Water Works Association.

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

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

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

"1967 Bonds" means the outstanding loan of the Issuer described in Section 1.02G hereof.

"1973 Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Refunding Bonds of the Issuer described in Section 1.02G hereof.

"1977 Bonds" means the outstanding loan of the Issuer described in Section 1.02G hereof.

"1987 A Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A, of the Issuer described in Section 1.02G hereof.

"1987 B Bonds" means the outstanding Combined Waterworks and Sewerage Revenue Bonds, Series 1987 B, of the Issuer described in Section 1.02G hereof.

"1992 Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1992, of the Issuer described in Section 1.02G hereof.

"Chairman" means the Chairman of the Governing Body.

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

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

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

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

"FDIC" means the Federal Deposit Insurance Corporation.

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

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

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

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

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

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

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated May 10, 1996, as amended by Amendment No. 1 to Letter of Conditions, dated July 10, 1996, and all further amendments thereto, if any.

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

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

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

"Prior Bonds" means, collectively, the 1967 Bonds, the 1973 Bonds, the 1977 Bonds, the 1987 A Bonds, the 1987 B Bonds and the 1992 Bonds.

"Prior Resolutions" means, collectively, the 1967 Resolution, the 1973 Resolution, the 1977 Resolution, the 1987 Resolution and the 1992 Resolution.

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

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

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

(a) Government Obligations;

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

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

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

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC (hereinbefore defined) or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased

so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

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

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

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

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

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

"Resolutions" means, collectively, the 1967 Resolution, the 1973 Resolution, the 1977 Resolution, the 1987 Resolution, the 1992 Resolution and the Bond Legislation.

"1967 Resolution" means the resolution of the Association adopted April 25, 1967, authorizing the 1967 Bonds.

"1973 Resolution" means the resolution of the Issuer adopted July 14, 1973, authorizing the 1973 Bonds.

"1977 Resolution" means the resolution of the Association adopted October 27, 1977, authorizing the 1977 Bonds.

"1987 Resolution" means the resolution of the Issuer adopted November 12, 1987, authorizing the 1987 A Bonds and the 1987 B Bonds.

"1992 Resolution" means the resolution of the Issuer adopted July 14, 1992, authorizing the 1992 Bonds.

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

"Second Lien Bonds" means, collectively, the 1967 Bonds, the 1977 Bonds, the 1987 A Bonds and the 1992 Bonds.

"Secretary" means the Secretary of the Governing Body.

"Series 1999 Bonds" means the Combined Waterworks and Sewerage System Revenue Bonds, Series 1999 (United States Department of Agriculture), authorized hereby to be issued pursuant to this Bond Legislation.

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

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

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neuter gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by

the Chairman or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT; AUTHORIZATION OF ASSUMPTION OF LOANS

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of $566,500, 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 IV hereof.

Section 2.02. Authorization of Assumption of Loans. There is also hereby authorized the assumption by the Issuer of two outstanding loans of the Association in exchange for all of the assets of the Association. The first loan, evidenced by a promissory note of the Association dated May 3, 1967 (herein defined as the "1967 Bond"), was issued in the original aggregate principal amount of $50,290, of which $11,807.04 principal amount remains outstanding, and the second loan, evidenced by a promissory note of the Association dated November 10, 1977 (herein defined as the "1977 Bond"), was issued in the original aggregate principal amount of $36,000, of which $9,632.80 principal amount remains outstanding.

## ARTICLE III

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

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of the Bond Legislation, the Series 1999 Bonds of the Issuer, to be known as "Combined Waterworks and Sewerage System Revenue Bonds, Series 1999 (United States Department of Agriculture)", are hereby authorized to be issued in the principal amount of $156,500, for the purpose of financing a portion of the cost of the acquisition and construction of the Project.

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

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

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 1999 Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 1999 Bonds, and the right to principal of and stated interest on the Series 1999 Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 1999 Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 1999 Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

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

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

The Bond Registrar shall accept the Series 1999 Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Series 1999 Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 1999 Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 1999 Bonds shall be executed in the name of the Issuer by the Chairman and its corporate seal shall be affixed thereto and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed 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. The 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 Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 1999 Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bonds or in lieu of and substitution for the Bonds destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 1999 Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 1999 Bonds shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1999 Bonds shall be secured forthwith by a lien on the Net Revenues derived from the System, junior and subordinate to the liens and pledge of the 1973 Bonds, on a parity with the liens and pledge of the Second Lien Bonds and senior and prior to the liens and pledge of the 1987 B Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Series 1999 Bonds and the Prior Bonds, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 1999 Bonds and the Prior Bonds as the same become due.

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

(FORM OF BOND)

RED SULPHUR PUBLIC SERVICE DISTRICT

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 1999
(UNITED STATES DEPARTMENT OF AGRICULTURE)

$156,500

No. R-1 Date: _____

FOR VALUE RECEIVED, RED SULPHUR PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE HUNDRED FIFTY-SIX THOUSAND FIVE HUNDRED DOLLARS ($156,500), plus interest on the unpaid principal balance at the rate of 4.5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $719.00, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

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

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

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

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

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

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

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

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13A of the West Virginia Code, as amended (the "Act"), and a Resolution of the Borrower duly adopted _____, 199__, authorizing issuance of this Bond (the "Resolution").

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

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

THIS BOND IS JUNIOR AND SUBORDINATE, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES, AND IN ALL OTHER RESPECTS, TO THE 1973 BONDS, DEFINED AND DESCRIBED IN THE RESOLUTION. THIS BOND IS ON A PARITY, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES, AND IN ALL OTHER RESPECTS, WITH THE SECOND LIEN BONDS, DEFINED AND DESCRIBED IN THE RESOLUTION. THIS BOND IS SENIOR AND PRIOR, AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT FROM SUCH REVENUES, AND IN ALL OTHER RESPECTS, TO THE 1987 B BONDS, DEFINED AND DESCRIBED IN THE RESOLUTION.

(Form of)

RECORD OF ADVANCES

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

TOTAL $_____

(Form of Assignment)

ASSIGNMENT

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

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

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

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

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

(2) Depreciation Account (established by the Prior Resolutions);

(3) Renewal and Replacement Fund (established by the Prior Resolutions);

(4) 1967 Bonds Debt Service Account (established by the Prior Resolutions);

(5) 1967 Bonds Reserve Account (established by the Prior Resolutions);

(6) 1977 Bonds Reserve Account (established by the Prior Resolutions);

(7) 1992 Bonds Reserve Account;

(8) Series 1999 Bonds Reserve Account; and

(9) Project Construction Account.

Section 4.02. Continuation of Funds and Accounts with Commission. The following special funds or accounts previously established by the Prior Resolutions are hereby continued with the Commission:

(1) The Sinking Fund established for the 1973 Bonds (herin called the "1973 Bonds Sinking Fund");

(a) Within the 1973 Bonds Sinking Fund, the Reserve Account established for the 1973 Bonds (the "1973 Bonds Reserve Account");

(2) Series 1987 A Bonds Sinking Fund established for the 1987 A Bonds;

(3) Series 1987 B Bonds Sinking Fund established for the 1987 B Bonds;

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of the sale of the Series 1999 Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The moneys in the Project Construction Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Moneys in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

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

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

Pending application as provided in this Section 4.03, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

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

Section 4.04. Covenants of the Issuer as to System Revenues and Funds. So long as any of the Series 1999 Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 1999 Bonds Reserve Account, a sum sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 1999 Bonds remaining unpaid, together with interest accrued and to accrue thereon, the Issuer further covenants with the Holders of the Series 1999 Bonds as follows:

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

the Depository Bank and used only for the purposes and in the manner provided in the Resolutions.

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

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

(2) The Issuer shall next, before the end of each month, transfer from the Revenue Fund and remit to the Commission for deposit into the 1973 Bonds Sinking Fund, the amounts required by the 1973 Resolution for the payment of principal and interest on the 1973 Bonds.

The Issuer shall also, from the Revenue Fund, remit to the Commission, at such times as the Commission shall require, such additional sums, if any, as shall be necessary to pay the fiscal charges due for paying the 1973 Bonds and the interest thereon.

(3) The Issuer shall next, each month, transfer from the Revenue fund and remit to the Commission, for deposit into the 1973 Bonds Reserve Account, the amount required by the 1973 Resolution to be deposited into the 1973 Bonds Reserve Account.

(4) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Depreciation Account the amount required by the 1973 Resolution to be deposited into the Depreciation Account. Moneys in the Depreciation Account shall be used only for replacement or addition of capital assets of the System, except that such moneys may be transferred to the 1973 Bonds Sinking Fund

Sinking Fund under the circumstances prescribed by Section 3.02(B)(5) of the 1973 Resolution.

(5) The Issuer shall next, each month, on or before the due date of payment of each installment on the Second Lien Bonds and the Series 1999 Bonds, transfer from the Revenue Fund and remit (a) to the Depository Bank for deposit in the 1967 Bonds Debt Service Account the amounts required by the 1967 Resolution for the payment of principal and interest on the 1967 Bonds; (b) to the National Finance Office the amounts required by the 1977 Resolution for the payment of principal and interest on the 1977 Bonds; (c) to the Commission for deposit in the Series 1987 A Bonds Sinking Fund the amounts required by the 1987 A Resolution for the payment of principal and interest on the 1987 A Bonds; (d) to the National Finance Office the amounts required by the 1992 Resolution for the payment of principal and interest on the 1992 Bonds; and (e) to the National Finance Office the amounts required to pay the interest on the Series 1999 Bonds and to amortize the principal of the Series 1999 Bonds over the life of the Bond issue. All payments with respect to principal of and interest on the Second Lien Bonds and the Series 1999 Bonds shall be made on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other, with all such pro rata payments to be made first for interest, both accrued and currently due, and second to principal, both accrued and currently due.

(6) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit (a) to the Depository Bank the amount required by the 1967 Resolution to be deposited into the 1967 Bonds Reserve Account; (b) to the Depository Bank the amount required by the 1977 Resolution to be deposited into the 1977 Bonds Reserve Account; (c) to the Commission the amount required by the 1987 Resolution to be deposited

into the Series 1987 A Bonds Reserve Account; (d) to the Depository Bank the amount required by the 1992 Resolution to be deposited into the 1992 Bonds Reserve Account; and (e) to the Depository Bank for deposit into the Series 1999 Bonds Reserve Account, 0.4167% of the Minimum Reserve, until the amount in the Series 1999 Bonds Reserve Account equals the Minimum Reserve. Provided, that all payment into the various reserve accounts in this paragraph (6) shall be made only until the reserve requirement for each respective bond is satisfied. Payments into the various reserve accounts in this paragraph (6) shall be pro rata. Moneys in the Series 1999 Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Series 1999 Bonds to the National Finance Office as the same shall become due or for prepayment of installments on the Series 1999 Bonds, or for mandatory prepayment of the Series 1999 Bonds as hereinafter provided, and for no other purpose.

(7) 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) the amount required by the Prior Resolutions; and (b) 0.4167% of the Minimum Reserve, until the amount in the Series 1999 Bonds Reserve Account equals the Minimum Reserve, and thereafter, 0.8334% of the Minimum Reserve, so long as the Series 1999 Bonds are outstanding; provided, however, that in the event Revenues are insufficient to fund the Series 1999 Bonds Reserve Account in accordance with Section 4.03B(6)(e) above, or a withdrawal of funds from the Series 1999 Bonds Reserve Account is made, payment of Revenues into the Renewal and Replacement Fund as provided in this Section 4.03B(7)(b) shall not be made, but instead Revenues shall be applied to the replenishment of the Series 1999 Bonds Reserve Account until such deficiency is cured, at which time payments into the

Replacement Fund invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided herein or required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Investment Management. Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from moneys in the Series 1999 Bonds Reserve Account, so long as the Minimum Reserve is on deposit and maintained therein, shall be paid annually into the Revenue Fund by the Depository Bank.

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

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 1999 Bonds, provide evidence that there will be at least 185 bona fide users upon the Project on completion, in full compliance with the requirements and conditions of the Purchaser.

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

F. INVESTMENT OF EXCESS BALANCES. The moneys in excess of the sum insured by FDIC in any of such

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

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

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

Section 4.05. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the Grants and advances of principal of the Series 1999 Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed $100,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into the credit agreement with such commercial bank or other lender. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

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

## ARTICLE V

## GENERAL COVENANTS, ETC.

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

Section 5.02. Rates. So long as the Series 1999 Bonds are outstanding, the Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the annual debt service on the Series 1999 Bonds and the Prior Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes. Provided, however, that any rate covenants contained in the Prior Resolutions shall remain in full force and effect so long as the Prior Bonds are outstanding and, to the extent any such rate covenants require higher rates, such covenants shall be controlling.

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

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

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

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

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

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

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

coverage shall be maintained as required by the laws of the State of West Virginia.

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

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

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

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 1999 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 1999 Bonds. The statutory mortgage lien of the Bond is junior and subordinate to the statutory mortgage lien in favor of the holders of the 1973 Bonds, on a parity with the statutory mortgage lien in favor of the holders of the Second Lien Bonds and senior and prior to the statutory mortgage lien in favor of the holders of the 1987 B Bonds.

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

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

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

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

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

Section 5.09. Fiscal Year; Budget. While the Series 1999 Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than 30 days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the 1st day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the next year preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

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

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

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

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

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

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

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the Final Order of the Public Service Commission of West Virginia, entered on February 5, 1998, Case No. 97-0033-PWD-CN, which Final Order is incorporated herein by reference as a part hereof.

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

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

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

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

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

## ARTICLE VII

## MISCELLANEOUS

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

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

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

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

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

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

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

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted: May 20, 1999.

RED SULPHUR PUBLIC SERVICE DISTRICT

Dennis Sibold
Chairman

Paul E. Ballard
Member

Robert Williams
Member

CH269380.3

RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Revenue Bond, Series 1992

BOND RESOLUTION

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RED SULPHUR PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ISSUANCE OF $1,979,000 COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND, SERIES 1992, OF RED SULPHUR PUBLIC SERVICE DISTRICT, THE BOND BEING JUNIOR AND SUBORDINATE TO THE OUTSTANDING 1973 BONDS, ON A PARITY WITH THE OUTSTANDING 1987 A BONDS AND SENIOR AND PRIOR TO THE OUTSTANDING 1987 B BONDS OF THE DISTRICT, TO FINANCE THE COST, NOT OTHERWISE PROVIDED, OF ACQUISITION AND CONSTRUCTION OF CERTAIN PUBLIC SERVICE PROPERTIES CONSISTING OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING COMBINED WATERWORKS AND SEWERAGE SYSTEM OF THE DISTRICT AND APPURTENANT FACILITIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BOND; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES AND SECURITIES OF THE HOLDER OF THE BOND; AND PROVIDING WHEN THIS RESOLUTION SHALL TAKE EFFECT

BE IT RESOLVED AND ORDERED BY THE PUBLIC SERVICE BOARD OF RED SULPHUR PUBLIC SERVICE DISTRICT:

## ARTICLE I

## STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

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

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

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

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer, and, accordingly, it is hereby ordered, that there be acquired and constructed certain improvements and extensions to the existing waterworks facilities of the Issuer, consisting of a water treatment plant, two water storage tanks, water distribution lines and the development of supplemental raw water sources in Peterstown and Lindside, and all necessary appurtenant facilities (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Secretary of the Public Service Board (the "Governing Body") of the Issuer. The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

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

D. The estimated maximum cost of the acquisition and construction of the Project will not exceed $3,679,000, of which $1,979,000 will be obtained from the proceeds of sale of the Bond herein authorized, $950,000 will be obtained from a grant by the Farmers Home Administration, and $750,000 will be obtained from a grant by the Department of Housing and Urban Development (Small Cities Block Grant).

E. It is necessary for the Issuer to issue its revenue bond in the principal amount of $1,979,000 to finance a portion of the cost of such acquisition and construction in the manner hereinafter provided. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the acquisition of any necessary property, real or personal, or interest therein; interest on the Bond prior to, during and for six months after completion of such construction to the extent that revenues of the System are not sufficient therefor; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided that, reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bond or for the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project.

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

G. There is outstanding an obligation of the Issuer which will rank senior and prior to the Bond as to liens, pledge and source of and security for payment, being the Combined Waterworks and Sewerage System Revenue Refunding Bonds, dated July 1, 1973 (the "1973 Bonds"), issued in the original principal amount of $540,000, and presumed to be held by various members of the public.

There is outstanding an obligation of the Issuer which will rank on a parity with the Bond as to liens, pledge and source of and security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A (the "1987 A Bonds"), dated November 16, 1987, issued in the original principal amount of $738,647, and held by West Virginia Water Development Authority.

There is outstanding an obligation of the Issuer which will rank junior and subordinate to the Bond as to liens, pledge and source of and security for payment, being the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B (the "1987 B Bonds"), dated November 16, 1987, issued in the original principal amount of $181,173, and held by West Virginia Water Development Authority. The 1973 Bonds, the 1987 A Bonds and the 1987 B Bonds are hereinafter collectively referred to as the "Prior Bonds".

Other than the Prior Bonds, there are no outstanding bonds or obligations which will rank prior to or on a parity with the Bond as to liens, pledge and/or source of and security for payment.

H. It is in the best interest of the Issuer that the Bond be sold to the United States Department of Agriculture, Farmers Home Administration (the "Purchaser"), pursuant to the terms and provisions of a Letter of Conditions dated December 18, 1990, and all amendments thereto (collectively, the "Letter of Conditions").

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

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

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

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

"Bond" means the Combined Waterworks and Sewerage System Revenue Bond, Series 1992, authorized hereby.

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

"Bonds" means, collectively, the Bond, the 1973 Bonds, the 1987 A Bonds and the 1987 B Bonds.

"1973 Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Refunding Bonds, of the Issuer described in Section 1.02G hereof.

"1987 A Bonds" or "Series 1987 A Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A, of the Issuer described in Section 1.02G hereof.

"1987 B Bonds" or "Series 1987 B Bonds" means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, of the Issuer described in Section 1.02G hereof.

"Chairman" means the Chairman of the Governing Body.

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

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

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

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

"FDIC" means the Federal Deposit Insurance Corporation.

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

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

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

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

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

"Letter of Conditions" means the Letter of Conditions of the Purchaser dated December 18, 1990, and all amendments thereto.

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

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

retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Bonds and into the reserve accounts of the Bonds, the Depreciation Account and the Renewal and Replacement Fund have been made to the last monthly payment date prior to the date of such retention.

"Prior Bonds" means, collectively, the 1973 Bonds, the 1987 A Bonds and the 1987 B Bonds.

"Prior Resolutions" means, collectively, the 1973 Resolution and the 1987 Resolution.

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

"Purchaser" or "Government" means United States Department of Agriculture, Farmers Home Administration, and any successor thereof.

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

(a) Government Obligations;

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

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

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any

which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

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

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

"Resolutions" means, collectively, the 1973 Resolution, the 1987 Resolution and the Bond Legislation.

"1973 Resolution" means the resolution of the Issuer adopted July 14, 1973, authorizing the 1973 Bonds.

"1987 Resolution" means the resolution of the Issuer adopted November 12, 1987, authorizing the 1987 A Bonds and the 1987 B Bonds.

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

"Secretary" means the Secretary of the Governing Body.

"System" means the existing combined public waterworks and sewerage system of the Issuer as improved, enlarged and expanded by the Project, and includes the complete combined waterworks and sewerage system of the Issuer and all 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 combined waterworks and sewerage system; and shall also include any and all additions, extensions, improvements, properties or other facilities at any time acquired or constructed for the combined waterworks and sewerage system of the Issuer.

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

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neuter gender shall include any other gender.

Section 1.05. Compliance with Requirements of Prior Bonds and Prior Resolutions. The issuance of the Bond junior and subordinate to the 1973 Bonds is permitted under the terms of the 1973 Bonds and the 1973 Resolution, and the Issuer has complied with the terms of the 1973 Bonds and the 1973 Resolution with respect to the issuance of the Bond or obtained a waiver thereof. The Issuer is not in default under the terms of the 1973 Bonds, the 1973 Resolution or any document or agreement in connection therewith and has complied with all requirements of all the foregoing with respect to the issuance of the Bond.

The issuance of the Bond on a parity with the 1987 A Bonds is permitted under the terms of the 1987 A Bonds and the 1987 Resolution, and the Issuer has complied with the terms of the 1987 A Bonds and the 1987 Resolution with respect to the issuance of the Bond or obtained a waiver thereof. The Issuer is not in default under the terms of the 1987 A Bonds, the 1987 Resolution or any document or agreement in connection therewith and has complied with all requirements of all the foregoing with respect to the issuance of the Bond.

## ARTICLE II

## AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost of $3,679,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Bond hereby authorized shall be applied as provided in Article IV hereof.

other federal agency and backed by the full faith and credit of the United States of America;

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

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

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

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

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

## ARTICLE III

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

Section 3.01. Authorization of Bond. Subject and pursuant to the provisions of the Bond Legislation, the Bond of the Issuer, to be known as "Combined Waterworks and Sewerage System Revenue Bond, Series 1992," is hereby authorized to be issued in the aggregate principal amount of not exceeding $1,979,000 for the purpose of permanently financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bond. The Bond shall be issued in single form, numbered R-1, only as a fully registered Bond, and shall be dated the date of delivery thereof. The Bond shall bear interest from the date of delivery, payable monthly at the rate of 5% per annum, and shall be sold for the par value thereof.

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

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

Whenever the Bond shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Registrar with respect to such transfer.

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

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

The Registrar shall accept the Bond for registration or transfer only if ownership thereof is to be registered in the name of the Government, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as may be required by law. The Bond shall initially be fully registered as to both principal and interest in the name of the United States of America, Farmers Home Administration. So long as the Bond shall be registered in the name of the United States of America, Farmers Home Administration, the address of the United States of America, Farmers Home Administration, for registration purposes shall be Post Office Box 678, Morgantown, West Virginia 26505, or such other address as shall be stated in writing to the Issuer by the United States of America, Farmers Home Administration.

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

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may in its discretion issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and

substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Bond so surrendered shall be canceled and held for the account of the Issuer. If the Bond shall have matured or be about to mature, instead of issuing a substitute Bond the Issuer may pay the same, and, if such Bond be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bond Secured by Pledge of Net Revenues. The payment of the debt service of the Bond shall be secured forthwith by a lien on the Net Revenues derived from the System in addition to the statutory mortgage lien on the System hereinafter provided for, but such liens and pledge are junior and subordinate to the liens and pledge of the 1973 Bonds, on a parity with the liens and pledge of the 1987 A Bonds and senior and prior to the liens and pledge of the 1987 B Bonds. The Net Revenues derived from the System in an amount sufficient to pay the principal of and interest on the Bond, and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Bond as the same become due as herein provided.

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

(Form of Bond)

RED SULPHUR PUBLIC SERVICE DISTRICT

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND,
SERIES 19____

$1,979,000

No. R-1

Date: _____

FOR VALUE RECEIVED, RED SULPHUR PUBLIC SERVICE DISTRICT (herein called "Borrower") promises to pay to the order of the United States of America, Farmers Home Administration (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of ONE MILLION NINE HUNDRED SEVENTY-NINE THOUSAND DOLLARS ($1,979,000), plus interest on the unpaid principal balance at the rate of 5% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of the Bond and continuing on the corresponding day of each month for the first 24 months after the date hereof, and $9,717, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided hereinbelow. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Farmers Home Administration according to the source of funds involved, shall, after

payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

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

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

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

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

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

constitute an indebtedness of Borrower within the meaning of any constitutional or statutory provision or limitation.

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

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Registrar.

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

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

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

This Bond is junior and subordinate, as to liens, pledge and source of and security for payment from such revenues, and in all other respects, to the 1973 Bonds, defined and described in the Resolution. This Bond is on a parity, as to liens, pledge and source of and security for payment from such revenues, and in all other respects, with the 1987 A Bonds, defined and described in the Resolution. This Bond is senior and prior, as to liens, pledge and source of and security for payment from such revenues, and in all other respects, to the 1987 B Bonds, defined and described in the Resolution.

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

RED SULPHUR PUBLIC SERVICE DISTRICT
(Name of Borrower)

[CORPORATE SEAL]

_____
(Signature of Executive Official)

Chairman, Public Service Board
(Title of Executive Official)

P. O. Box 697
(P. O. Box No. or Street Address)

Peterstown, West Virginia 24963
(City, State and Zip Code)

ATTEST:

_____
(Signature of Attesting Official)

Secretary, Public Service Board
(Title of Executive Official)

(Form of)

RECORD OF ADVANCES

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

TOTAL $_____

[Form of Assignment]

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

## ARTICLE IV

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

Section 4.01. Establishment and Continuation of Funds and Accounts with Depository Bank and Commission. A. The following special funds or accounts are hereby created and established with (or continued if previously established by the 1976 Resolution or the 1987 Resolution), and shall be held by, the Depository Bank separate, distinct and apart from all other funds or accounts of the Depository Bank and from each other:

(1) Revenue Fund (established by 1973 Resolution);

(2) Depreciation Account (established by the 1973 Resolution);

(3) Renewal and Replacement Fund (established by the 1987 Resolution);

(4) 1992 Reserve Account; and

(5) Project Construction Account.

B. The following special funds or accounts previously established by the 1973 Resolution and the 1987 Resolution are hereby continued with the Commission:

(1) The Sinking Fund established for the 1973 Bonds (herein called the "1973 Bonds Sinking Fund");

(a) Within the 1973 Bonds Sinking Fund, the Reserve Account established for the 1973 Bonds (the "1973 Bonds Reserve Account");

(2) Series 1987 A Bonds Sinking Fund established for the 1987 A Bonds;

(a) Within the Series 1987 A Bonds Sinking Fund, the Series 1987 A Bonds Reserve Account established for the 1987 A Bonds; and

(3) Series 1987 B Bonds Sinking Fund established for the 1987 B Bonds;

(a) Within the Series 1987 B Bonds Sinking Fund, the Series 1987 B Bonds Reserve Account established for the 1987 B Bonds.

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

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

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

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

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

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

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by

the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Resolutions and shall be kept separate and distinct from all other funds of the Issuer and used only for the purposes and in the manner provided in the Resolutions.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to and in accordance with the terms of the Prior Resolutions and this Bond Legislation:

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

(2) The Issuer shall next, before the end of each month, transfer from the Revenue Fund and remit to the Commission for deposit into the 1973 Bonds Sinking Fund, 1/6th of the amount required to pay the interest on the 1973 Bonds which will mature and become due on the next interest payment date; and shall also monthly transfer from the Revenue Fund and remit to the Commission, for deposit into the 1973 Bonds Sinking Fund, 1/12th of the amount required to pay the principal of the 1973 Bonds which will mature and become due on the next succeeding January 1, which payments for principal and interest required to be remitted to the Commission in each June and December shall be so remitted not later than each June 15 and December 15.

The Issuer shall also, from the Revenue Fund, remit to the Commission, at such times as the Commission shall require, such additional sums, if any, as shall be necessary to pay the fiscal charges due for paying the 1973 Bonds and the interest thereon.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Commission, for deposit into the 1973 Bonds Reserve Account, in the 1973 Bonds Sinking Fund, the sum of $300, until the amount in the 1973 Bonds Reserve Account equals $36,000. After such amount has been accumulated in the

1973 Bonds Reserve Account, the Issuer shall monthly remit to the Commission such part of the moneys remaining in the Revenue Fund, after such provision for payment of maturing principal of and interest on the 1973 Bonds, as shall be required to maintain such amount in the 1973 Bonds Reserve Account. Moneys in the 1973 Bonds Reserve Account shall be used solely to make up any deficiency in the 1973 Bonds Sinking Fund for payment of the principal of and interest on the 1973 Bonds as the same shall mature hereinafter provided and for no other purpose.

(4) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Depreciation Account heretofore established by the 1973 Resolution a sum equal to not less than 5% of the Gross Revenues derived from the operation of the System during the preceding month; provided however, that no further payments shall be made into the Depreciation Account when there shall have been deposited therein, and so long as these shall remain on deposit therein, the sum of $30,000. Moneys in the Depreciation Account shall be used only for replacement or addition of capital assets of the System, except that such moneys may be transferred to the 1973 Bonds Sinking Fund under the circumstances prescribed by Section 3.02(B)(5) of the 1973 Resolution.

(5) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, (a) on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1987 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1987 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1987 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1987 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then

such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date; (b) on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1987 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1987 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1987 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date; and (c) on or before the due date of each installment on the Bond, transfer from the Revenue Fund and pay to the National Finance Office designated in the Bond (or such other place as may be subsequently designated pursuant to the Bond), the amounts required to pay the interest on the Bond, and to amortize the principal of the Bond over the life of the Bond issue. All payments on the Series 1987 A Bonds and the Bond shall be made on an equal pro rata basis in accordance with the respective aggregate principal amounts thereof outstanding and on a parity with each other.

(6) The Issuer shall also, on the first day of each month, (a) commencing 13 months prior to the first date of payment of principal of the Series 1987 A Bonds, if not fully funded upon issuance of the Series 1987 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1987 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1987 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 1987 A Bonds Reserve Requirement as defined in the 1987 Resolution and (b) transfer from the Revenue Fund and deposit in the 1992 Reserve Account, 1/12th of 1/10th of the amount equal to the maximum amount of principal and interest becoming due on the Bond in any year, until the amount in the 1992 Reserve Account equals such maximum amount (the "1992 Minimum Reserve"). After the 1992 Minimum Reserve has been accumulated in the 1992 Reserve Account, the Issuer shall monthly deposit into the 1992 Reserve Account such part of the moneys remaining in the Revenue Fund, after such provision for the payments hereinabove provided, as shall be required to maintain the 1992 Minimum Reserve in the 1992 Reserve Account. Moneys in the 1992 Reserve Account shall be used solely to make up any deficiency for monthly payments of the principal of and interest on the Bond to said National Finance Office (or other place provided) as the same shall become due or for prepayment of installments on the Bond, or for mandatory prepayment of the Bond as hereinafter provided, and for no other purpose; provided, however, that when the 1992 Minimum Reserve has been accumulated in the 1992 Reserve Account, all earnings of investments of moneys therein shall at least annually be transferred to and deposited in the Revenue Fund and used for prepayment of the principal of the Bond.

(7) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the System, 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 the Series 1987 A Bonds 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 of the 1987 Resolution. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements

Series 1987 B Bonds Reserve Requirement as defined in the 1987 Resolution.

(10) After all the foregoing provisions for use of moneys in the Revenue Fund have been fully complied with, any moneys remaining therein and not permitted to be retained therein may be used to prepay installments of the 1973 Bonds outstanding and, thereafter, to prepay installments of the 1987 A Bonds and the Bond outstanding and, thereafter the 1987 B Bonds or for any lawful purpose.

Whenever the moneys in the 1992 Reserve Account shall be sufficient to prepay the Bond in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Bond at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank is hereby and by the Prior Resolutions designated as the Fiscal Agent for the administration of the 1992 Reserve Account, the Depreciation Account and the Renewal and Replacement Fund as herein and therein provided, and all amounts required for the 1992 Reserve Account, the Depreciation Account and the Renewal and Replacement Fund will be deposited by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein and in the Prior Resolutions, together with written advice stating the amount remitted for deposit into each such fund.

All funds and accounts provided for in this Article (excluding the Project Construction Account) shall constitute trust funds and shall be used only for the purposes and in the order provided herein and in the Prior Resolutions, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Bond and the interest thereon, which lien shall be junior and subordinate to the liens of the holders of the 1973 Bonds, but the Depository Bank shall not be a trustee as to such funds.

If on any payment date the Revenues are insufficient to make the payments and transfers and to deposit the required amount in any of the funds or accounts as hereinabove and in the Prior Resolutions provided, the deficiency shall be made up in the subsequent payments and transfers in addition to

those which would otherwise be required to be made on the subsequent payment dates.

The Depository Bank, at the direction of the Issuer, shall keep the moneys in the Depreciation Account invested and reinvested to the fullest extent practicable in direct obligations of the United States of America, as provided in the 1973 Resolution. The Depository Bank, at the direction of the Issuer, shall keep the moneys in the Renewal and Replacement Fund invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments, as provided in the 1987 Resolution. The Depository Bank, at the direction of the Issuer, shall keep the moneys in the 1992 Reserve Account invested and reinvested to the fullest extent possible in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise provided in the Prior Resolutions or herein, or unless otherwise required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia State Board of Investments. Except as otherwise required in the Prior Resolutions, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account.

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

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Bond, provide evidence that there will be at

## ARTICLE V

## GENERAL COVENANTS, ETC.

Section 5.01. General Statement. So long as the Bond shall be outstanding and unpaid, or until there shall have been set apart in the 1992 Reserve Account a sum sufficient to prepay the entire principal of the Bond remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Purchaser.

Section 5.02. Rates. The Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and facilities of the System, and revise the same from time to time whenever necessary, as will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to the payment and deposits on account of the 1973 Bonds, the 1987 A Bonds, the 1987 B Bonds, the Depreciation Account and the Renewal and Replacement Fund, plus Net Revenues equal to not less than 110% of the annual debt service on the Bond and sufficient to make the payments required herein into the 1992 Reserve Account and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes.

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

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

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

(a) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon

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

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

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

(d) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County

Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

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

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

Section 5.06. Statutory Mortgage. For the further protection of the Holder of the Bond, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Bond. The statutory mortgage lien of the Bond is junior and subordinate to the statutory mortgage lien in favor of the holders of the 1973 Bonds, on a parity with the statutory mortgage lien in favor of the holders of the 1987 A Bonds and senior and prior to the statutory mortgage lien in favor of the holders of the 1987 B Bonds.

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

preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

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

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

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

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

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

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

public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

## RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules. A. The initial schedule of rates and charges for the services and facilities of the System, subject to change consonant with the provisions hereof, shall be as set forth in the order of the Public Service Commission of West Virginia, entered on December 30, 1991, Case No. 90-825-PWD-CN, which order is incorporated herein by reference as a part hereof.

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

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

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

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

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

## ARTICLE VII

## MISCELLANEOUS

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

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

Section 7.03. Delivery of Bond No. R-1. The Chairman, Secretary and Treasurer of the Governing Body are hereby authorized and directed to cause Bond No. R-1, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

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

Section 7.05. Conflicting Provisions Repealed. All other resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this Section shall not be applicable to the Loan Resolution (Form FmHA 442-47) or the Prior Resolutions.

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

Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to

exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State applicable thereto; and that the Chairman, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 7.08. Effective Time. This Resolution shall take effect immediately upon its adoption.

Adopted: July 14, 1992.

Dennis Sibold
Chairman of Public Service Board

Robert M. Williamson
Member

E. S. Wharley
Member

07/10/92
REDB.A5
74291/90001

RED SULPHUR PUBLIC SERVICE DISTRICT

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS,
SERIES 1987 A AND SERIES 1987 B
and
INTERIM CONSTRUCTION FINANCING

BOND AND NOTES RESOLUTION

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11/16/87
RSPSD2-B

RED SULPHUR PUBLIC SERVICE DISTRICT

RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF RED SULPHUR PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987 A, NOT MORE THAN $400,000 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987 B, AND NOT MORE THAN $1,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES OR BOTH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF RED SULPHUR 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 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

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

A. Red Sulphur Public Service District (the "Issuer") is a public service district and political subdivision of the State of West Virginia in Monroe County of said State.

B. The Issuer presently owns and operates a combined public waterworks and sewage treatment, collection and transportation system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain additions, betterments and improvements for such existing sewerage facilities of the Issuer (the "Project") which constitute properties for the treatment and collection of liquid or solid wastes, sewage or industrial wastes (the Issuer's existing waterworks and sewerage system, together with the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of $2,693,860, 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 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 Bonds (as hereinafter defined) and all Sinking Fund, Reserve Account and other payments provided for herein.

D. It is deemed necessary for the Issuer to issue its Combined Waterworks and Sewerage System Revenue Bonds in the total aggregate principal amount of not more than $1,400,000 in two series, being the Series 1987 A Bonds in the aggregate principal amount of not more than $1,000,000, and the Series 1987 B Bonds in the aggregate principal amount of not more than $400,000 (collectively, the "Bonds"), and (at the option of the Issuer) to issue contemporaneously therewith, or as soon as practicable thereafter, its combined waterworks and sewerage system grant anticipation notes, or a note or notes evidencing a line of credit, or both (collectively, the "Notes") in the aggregate principal amount of not more than $1,000,000 to temporarily finance costs of construction and acquisition 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 Notes during the term thereof and upon the Bonds prior to and during construction or acquisition and for 6 months after completion of construction of the Project; amounts which may be deposited in the Reserve Accounts; 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 (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 Bonds and Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition 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, including, with respect to the Notes, any fees for the providing of a letter of credit, as hereinafter defined, and any costs of obtaining insurance thereon; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or Notes or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

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

F. It is in the best interests of the Issuer that its Original Bonds (as hereinafter defined) be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement and a supplemental loan agreement (collectively, the "Loan Agreement") both dated August 21, 1987, entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, and attached hereto as "Exhibit A," and made a part hereof.

G. There are outstanding obligations of the Issuer which will rank senior and prior to the Bonds as to lien and source of and security for payment being the Issuer's Combined Waterworks and Sewerage System Revenue Refunding Bonds, dated July 1, 1973, and issued in the original aggregate principal amount of $540,000 (the "1973 [illegible]". The Series 1987 B Bonds shall be junior and subordinate to both the 1973 Bonds and the Series 1987 A Bonds as set forth herein. The Notes, if issued, will not be payable from the Net Revenues, but shall be payable from Grant Receipts, Surplus Revenues and proceeds of a letter of credit, if any, all as shall be set forth in the Indenture or the Supplemental Resolution authorizing the Notes, if any.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of 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.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bonds and the Notes 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 such Noteholders, 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 and Notes, respectively, 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 and between any one Note and any other Note, 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 Chapter 16, Article 13A of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"ARC Grant" means the grant from Appalachian Regional Commission pursuant to the commitment therefor.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any temporary 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 and Notes Resolution" or "Local Act" means this Bond and Notes 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.

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

"Bonds" means the Original Bonds, and any bonds on a parity therewith authorized to be issued hereunder.

"1973 Bonds" means the Issuer's Combined Waterworks and Sewerage System Revenue Refunding Bonds, dated July 1, 1973, issued in the original aggregate principal amount of $540,000.

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

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and regulations promulgated pursuant thereto.

"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 G. A. Tice, Incorporated, Beckley, West Virginia, or any engineer or firm of engineers 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 construction and acquisition of the Project.

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

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns.

"Eligible Costs" means Costs of the Project which are reimbursable in full on a dollar-for-dollar basis from EPA Grant Receipts, the total of which are equal in amount to the EPA Grant.

"EPA" means the United States Environmental Protection Agency and any successor to the functions of the EPA.

"EPA Grant" means the grant from the EPA pursuant to the commitment therefor.

"Excess Investment Earnings" means an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Bond, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

"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 may 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.

"Grant Agreement" means a written commitment for the payment of the EPA Grant or any of the Other Grants, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which Grant is to be paid to the Issuer; provided that, "EPA Grant Agreement" means only the Grant Agreement relating to the EPA Grant and "Other Grant

Agreements" means only those Grant Agreements relating to the Other Grants.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant after the date of issuance of the Notes; provided that "EPA Grant Receipts" means only Grant Receipts on account of the EPA Grant, and "Other Grant Receipts" means only Grant Receipts on account of any or all of the Other Grants.

"Grants" means, collectively, the EPA Grant and the Other Grants, as hereinafter defined.

"Gross Proceeds" means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior bonds and which are deemed to become proceeds of the Bonds ratably as original proceeds of the Bonds, and interest earnings and profits resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of

any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds (as referenced in clauses (i) through (iii) above) of the Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Reserve Accounts and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

"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.

"Indenture" or "Trust Indenture" means the Trust Indenture which may be entered into between the Issuer and the Trustee relating to the Notes and all supplements or amendments thereto.

"Independent Certified Public Accountants" shall mean any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of

the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Investment Property" means 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, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes.

"Issuer" means Red Sulphur Public Service District, in Monroe County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean, collectively, the Loan Agreement and the Supplemental Loan Agreement, both dated August 21, 1987, heretofore entered into between the Authority and the Issuer providing for the purchase of the Original Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer ratified and confirmed by, this Resolution or a resolution adopted by the Issuer prior to the adoption of this Resolution.

"Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Reserve Accounts.

"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 of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Noteholder," "Holder of the Notes" or any similar term means the person, whenever used herein with respect to an outstanding Note or Notes, in whose name such Note is registered.

"Notes" or "GAN" means collectively, the not more than $1,000,000 in aggregate principal amount of Sewerage System Grant Anticipation Notes, originally authorized hereby, or the not more than $1,000,000 in aggregate principal amount of a note or notes evidencing a line of credit originally authorized hereby, and unless the context clearly indicates otherwise, the terms "Notes" or "GAN" includes any refunding Notes or GAN of the Issuer.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund which may be established by Section 4.02 of the Indenture.

"Notes Debt Service Fund" means the Notes Debt Service Fund which may be established by Section 4.01 of the Indenture.

"Notes Registrar" means the bank to be designated as such in the Indenture or the Supplemental Resolution and its successors and assigns.

"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, fiscal agents, the Depository Bank, Registrar, Paying Agent and the Trustee (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 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.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the Series 1987 A Bonds and the Series 1987 B Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Original Notes Purchaser" means, in the event grant anticipation notes are issued, such original purchaser of the Notes as shall be named in a resolution supplemental hereto, and, in the event a note or notes evidencing a line of credit are issued, such bank or banks as shall be named in a resolution supplemental hereto.

"Other Grants" means collectively, the ARC Grant and any other grant hereafter received by the Issuer to aid in financing any Costs.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund which may be established by Section 4.02 of the Indenture.

"Notes Debt Service Fund" means the Notes Debt Service Fund which may be established by Section 4.01 of the Indenture.

"Notes Registrar" means the bank to be designated as such in the Indenture or the Supplemental Resolution and its successors and assigns.

"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, fiscal agents, the Depository Bank, Registrar, Paying Agent and the Trustee (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 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.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the Series 1987 A Bonds and the Series 1987 B Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Original Notes Purchaser" means, in the event grant anticipation notes are issued, such original purchaser of the Notes as shall be named in a resolution supplemental hereto, and, in the event a note or notes evidencing a line of credit are issued, such bank or banks as shall be named in a resolution supplemental hereto.

"Other Grants" means collectively, the ARC Grant and any other grant hereafter received by the Issuer to aid in financing any Costs.

"Outstanding," when used with reference to the 1973 Bonds, Bonds or Notes and as of any particular date, describes all 1973 Bonds, Bonds theretofore and thereupon being authenticated and delivered or all Notes theretofore and thereupon being authenticated and delivered except (i) any Bond or Note cancelled by the Bond Registrar, or Notes Registrar, at or prior to said date; (ii) any 1973 Bonds, Bond or Note for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be in trust hereunder or under the Indenture, as applicable, and set aside for such payment (whether upon or prior to maturity); (iii) any 1973 Bonds, Bond or Note deemed to have been paid as provided in the 1973 Resolution, Article X hereof or Article VIII of the Indenture, as applicable; and (iv) for purposes of consents or other action by a specified percentage of holders of 1973 Bonds, Bondholders or Noteholders, any 1973 Bonds, Bonds or Notes 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 bank or banks or other entity designated as such for the Bonds and/or the Notes in the Indenture or in the Supplemental Resolution or such entity or authority as may be designated by the Issuer.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

"Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority.

"Project" means the acquisition and construction of certain improvements for the existing sewage treatment plant of the Issuer, together with extensions, additions and improvements for the existing sewage collection and transportation lines to serve the Peterstown area of the Issuer and all necessary appurtenances.

"Purchase Price," for the purpose of computation of the Yield of the Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting

in the capacity of underwriters or wholesalers) at which price a substantial amount of the Bonds of each maturity is sold or, if the Bonds are privately placed, the price paid by the first buyer of the Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds.

"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 Investment Agreement which, in the event Notes are issued, may be entered into by and between the Trustee and the bank designated as "Investment Bank" in the Supplemental Resolution;

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

(j) 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," "Noteholder," "Bondholder," "Holder" or any similar term means whenever used herein with respect to an outstanding Bond, Note, Bonds or Notes, the person in whose name such Bond or Note is registered.

"Registrar" means as appropriate, either the Bond Registrar or the Notes Registrar or both.

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

"1973 Resolution" means the resolution of the Issuer adopted July 14, 1973, pursuant to which the 1973 Bonds were issued.

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

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

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

"Series 1987 A Bonds" or "Series A Bonds" means the not more than $1,000,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1987 A, of the Issuer.

"Series 1987 A Bonds Reserve Account" means the Series 1987 A Bonds Reserve Account established in the Series 1987 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1987 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1987 A Bonds in any year.

"Series 1987 A Bonds Sinking Fund" means the Series 1987 A Sinking Fund established by Section 5.02 hereof.

"Series 1987 B Bonds" or "Series B Bonds" means the not more than $400,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1987 B, of the Issuer.

"Series 1987 B Bonds Reserve Account" means the Series 1987 B Bonds Reserve Account established in the Series 1987 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1987 B Bonds Reserve Requirement" means, as of the date of calculation, the maximum amount of principal which will become due on the Series 1987 B Bonds in any year.

"Series 1987 B Bonds Sinking Fund" means the Series 1987 B Bonds Sinking Fund established by Section 5.02 hereof.

"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 resolutions authorizing the sale of the Notes or the Original Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Notes or the Original Bonds, as the case may be, 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 1973 Bonds, the Bonds or any other obligations of the Issuer, including the Renewal and Replacement Fund and the Reserve Accounts, and all other reserve accounts, depreciation accounts and any similar funds or accounts relating to the 1973 Bonds.

"System" means the existing combined public waterworks and sewerage system of the Issuer in its entirety, and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

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

"Trustee" means the banking institution designated as trustee for the Noteholders under the Indenture, if any, its successors and assigns.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Bonds produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

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 CONSTRUCTION AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the construction and acquisition of the Project, at an estimated cost of $2,693,860, 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 Notes and the Bonds hereby authorized shall be applied as provided in the Indenture, if any, and Article VI hereof, respectively.

## 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 capitalizing interest on the Series 1987 A Bonds, funding a reserve account for each series of Original Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance and related costs, or any of such purposes, there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than $1,400,000. Said Bonds shall be issued in two series, to be designated respectively, "Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 A," in the aggregate principal amount of not more than $1,000,000, and "Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B," in the aggregate principal amount of not more than $400,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Such Bonds shall be issued contemporaneously with or prior to issuance of the Notes, if any. The proceeds of the Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually 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. 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 Bonds 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 Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds of each series 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 3.03. Execution of Bonds. The 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 Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No 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 3.09 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 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 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 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 Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

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

The registered 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 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of 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 preceding an interest payment date on the Bonds or, in the case of any proposed redemption of 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 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 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 respective Reserve Accounts. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Subordinate Pledge of Net Revenues; Series 1987 B Bonds to be Junior and Subordinate to Series 1987 A Bonds. The payment of the debt service of all the Series 1987 A Bonds shall be secured forthwith equally and ratably with each other, by a lien on the Net Revenues derived from the System, junior and subordinate to the lien thereon in favor of the holders of the 1973 Bonds. The payment of the debt service of all the Series 1987 B Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but junior and subordinate to the lien on such Net Revenues in favor of the Holders of both the 1973 Bonds and the Series 1987 A Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds after all payments required to be made on account of the 1973 Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Bonds shall be in substantially the following forms, 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 1987 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
RED SULPHUR PUBLIC SERVICE DISTRICT
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND, SERIES 1987 A

No. AR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That RED SULPHUR PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Monroe 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 _____ ($_____), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____ 1, 19____. 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 interest on this Bond is 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 One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest 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 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 upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated _____, 198__.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the sewerage facilities portion of the combined waterworks and sewerage system of the Issuer (the "Project"); (ii) to pay interest on the Bonds of this series (the "Bonds") during the construction of the Project and for approximately _____ months thereafter; and (iii) to pay certain costs of issuance hereof and related costs. 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 of the West Virginia Code of 1931, as amended (the "Act"), and a Resolution and Supplemental Resolution, duly adopted by the Issuer on _____, 1987 (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 security provided for the Bonds under the Bond Legislation.

This Bond is issued contemporaneously with the Combined Waterworks and Sewerage System Revenue Bonds, Series 1987 B, of the Issuer (the "Series 1987 B Bonds"), issued in the aggregate principal amount of $_____, which Series 1987 B Bonds are junior and subordinate with respect to liens and sources of and security for payment to the Bonds.

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System (as such terms are defined in the Bond Legislation), moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1987 A Bonds Reserve Account"), and unexpended proceeds of the Bonds and the Series 1987 B 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 1987 A Bonds Reserve Account and unexpended Bond proceeds. 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 amount required to pay the maximum amount due in any year of principal of and interest

on the Bonds, the Series 1987 B Bonds, and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds or the Series 1987 B Bonds, provided however, that so long as there exists in the Series 1987 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in any year, and in the respective reserve accounts established for the Series 1987 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1987 B 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 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 Bond 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 owner of this Bond.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIEN AND SOURCES OF AND SECURITY FOR PAYMENT TO THE ISSUER'S OUTSTANDING COMBINED WATERWORKS AND SEWERAGE REVENUE REFUNDING BONDS, DATED JULY 1, 1973, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $540,000.

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, RED SULPHUR PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed hereon and attested by its Secretary, and has caused this Bond to be dated _____, 1987.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1987 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: _____

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(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 1987 B Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
RED SULPHUR PUBLIC SERVICE DISTRICT
COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BOND, SERIES 1987 B

No. BR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That RED SULPHUR PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Monroe 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 _____ ($_____), in annual installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without 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 upon the terms and conditions prescribed by, and otherwise in compliance with, the Supplemental Loan Agreement between the Issuer and the Authority, dated _____, 198__.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities portion of the combined waterworks and sewerage system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. 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 of the West Virginia Code of 1931, as amended (the "Act"), and a Resolution and Supplemental Resolution, duly adopted by the Issuer on _____, 1987 (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 security provided for the Bonds under the Bond Legislation.

This Bond is payable only from and secured by a pledge of the Net Revenues to be derived from the operation of the System (as such terms are defined in the Bond Legislation) after there has first been paid from said Net Revenues all payments then due and owing on account of the Series 1987 A Bonds herein described and to all moneys in the Reserve Account (the "Series 1987 B Reserve Account") created under the Bond Legislation for the Bonds of this Series (the "Bonds"), 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, except from said special fund provided from the Net Revenues, the moneys in the Series 1987 B Bonds Reserve Account and unexpended Bond proceeds. 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 amount required to pay the maximum amount due in any year of principal of and interest, if any, on the Bonds, the Series 1987 A Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Series 1987 A Bonds or the Bonds, provided however, that so long as there exists in the Series 1987 B Bonds Reserve Account and the reserve account established for the Series 1987 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest which will become due on the Bonds and the Series 1987 A Bonds in any year, and any reserve account for any such prior or parity obligations is funded at least at 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 One Valley Bank, National Association, 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 Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as 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 owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1987 A Bonds.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING COMBINED WATERWORKS AND SEWERAGE REVENUE REFUNDING BONDS OF THE ISSUER, DATED JULY 1, 1973, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $540,000, AND THE SEWER REVENUE BONDS, SERIES 1987 A, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ OF THE ISSUER, ISSUED CONCURRENTLY HEREWITH AND DESCRIBED IN THE BOND LEGISLATION.

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, RED SULPHUR PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed hereon and attested by its Secretary, and has caused this Bond to be dated _____, 1987.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1987 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: _____

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(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 3.10. Sale of Original Bonds; Ratification of Execution of Loan Agreement with Authority. The Original 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 A" 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, ratified and approved.

## ARTICLE IV

## INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts, the Issuer may issue and sell its Notes in an aggregate principal amount not to exceed $1,000,000. The Notes may be in the form of grant anticipation notes or as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental hereto. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Indenture or supplemental resolution, as applicable.

Section 4.02. Terms of and Security for Notes; Trust Indenture. The Notes, if issued, shall be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof, with such terms and secured in the manner set forth in the Indenture, if applicable (which Indenture in the form to be executed and delivered by the Issuer shall be approved by a supplemental resolution), or supplemental resolution, if no Indenture is used.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from the Grant Receipts, Surplus Revenues, letter of credit proceeds, if any, and other sources described in the Indenture or supplemental resolution. 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 Indenture and the Supplemental Resolution.

Section 4.04. 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 to the Trustee, upon presentation by the Trustee of certain certificates, the sum or sums set forth therein but not to exceed $1,000,000 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 letter of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

## ARTICLE V

## SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created (or continued if previously established by the 1973 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 (established by 1973 Resolution);

(2) Depreciation Account (established by the 1973 Resolution);

(3) Renewal and Replacement Fund; and

(4) Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established (or continued if previously established by the 1973 Resolution) with the Commission:

(1) The Sinking Fund established for the 1973 Bonds (herein called the "1973 Bonds Sinking Fund");

(a) Within the 1973 Bonds Sinking Fund, the Reserve Account established for the 1973 Bonds (the "1973 Bonds Reserve Account");

(2) Series 1987 A Bonds Sinking Fund;

(a) Within the Series 1987 A Bonds Sinking Fund, the Series 1987 A Bonds Reserve Account.

(3) Series 1987 B Bonds Sinking Fund;

(a) Within the Series 1987 B Bonds Sinking Fund, the Series 1987 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.

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

(2) The Issuer shall next, before the end of each month, transfer from the Revenue Fund and remit to the Commission for deposit into the 1973 Bonds Sinking Fund, 1/6th of the amount required to pay the interest on the 1973 Bonds which will mature and become due on the next interest payment date; and shall also monthly transfer from the Revenue Fund and remit to the Commission, for deposit into the 1973 Bonds Sinking Fund, 1/12th of the amount required to pay the principal of the 1973 Bonds which will mature and become due on the next succeeding January 1, which payments for principal and interest required to be remitted to the Commission in each June and December shall be so remitted not later than each June 15 and December 15.

The Issuer shall also, from the Revenue Fund, remit to the Commission, at such times as the Commission shall require, such additional sums, if any, as shall be necessary to pay the fiscal charges due for paying the 1973 Bonds and the interest thereon.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Commission, for deposit into the 1973 Bonds Reserve Account, in the 1973 Bonds Sinking Fund, the sum of $300, until the amount in the 1973 Bonds Reserve Account equals $36,000. After such amount has been accumulated in the 1973 Reserve Account, the Issuer shall monthly remit to the Commission such part of the moneys remaining in the Revenue Fund, after such provision for payment of maturing principal of and interest on the 1973 Bonds, as shall be required to maintain such amount in the 1973 Bonds Reserve Account. Moneys in the 1973 Bonds Reserve Account shall be used solely to make up any deficiency in the 1973 Sinking Fund for payment of the principal of and interest on the 1973 Bonds as the same shall mature hereinafter provided and for no other purpose.

(4) The Issuer shall next, each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Depreciation Account heretofore established by the 1973 Resolution a sum equal to not less than 5% of the Gross Revenues derived from the operation of the

System during the preceding month; provided however, that no further payments shall be made into the Depreciation Account when there shall have been deposited therein, and so long as these shall remain on deposit therein, the sum of $30,000. Moneys in the Depreciation Account shall be used only for replacement or addition of capital assets of the System, except that such moneys may be transferred to the 1973 Bonds Sinking Fund under the circumstances prescribed by Section 3.02(B)(5) of the 1973 Resolution.

(5) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1987 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1987 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1987 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1987 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(6) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1987 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1987 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1987 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(7) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1987 A Bonds, if not fully funded upon issuance of the Series 1987 A Bonds, apportion and set apart out of the Revenue Fund and remit

to the Commission for deposit in the Series 1987 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1987 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1987 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 1987 A Bonds Reserve Requirement.

(8) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the System, 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 the Series 1987 A Bonds 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 the Series 1987 A Bonds Reserve Account [except to the extent such deficiency exists because the required payments into such account has not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03(A)(4)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(9) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1987 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1987 B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1987 B Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(10) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1987 B Bonds, if not fully funded upon issuance of the Series 1987 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1987 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1987 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1987 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 1987 B Bonds Reserve Requirement.

Moneys in the Series 1987 A Bonds Sinking Fund and the Series 1987 B 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 1987 A Bonds Reserve Account and the Series 1987 B 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 and Reserve Accounts shall be returned, not less than once each year, by the Commission to the Issuer, for deposit in the Revenue Fund, 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 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 1987 A Bonds Reserve Account which result in a reduction in the balance of the Series 1987 A Bonds Reserve Account to below the Series 1987 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1987 A Bonds Sinking Fund for payment of debt service on the Bonds have been made in full.

Any withdrawals from the Series 1987 B Bonds Reserve Account which result in a reduction in the balance of the Series 1987 B Bonds Reserve Account to below the

Series 1987 B Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1987 A Bonds Sinking Fund, the Series 1987 A Bonds Reserve Account, the Renewal and Replacement Fund and the Series 1987 B Bonds Sinking Fund have been made in full.

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 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 an 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 1987 A Bonds Sinking Fund, or the Series 1987 B Bonds Sinking Fund or into the Reserve Accounts therein when the aggregate amount of funds in said respective Sinking Funds and Reserve Accounts are at least equal to the aggregate principal amount of the respective Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the respective maturities thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a 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.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding 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 several funds and accounts described herein and in the 1973 Resolution on account of the 1973 Bonds and the Bonds 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, including, but not limited to, payment to the Trustee for deposit in the Notes Debt Service Fund, as defined in the Indenture.

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.

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.

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, provided that, in the event Notes are issued, Tap Fees may, with the written consent of the Authority be deposited otherwise.

## ARTICLE VI

## BOND PROCEEDS; FUNDS AND ACCOUNTS

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 Original Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1987 A Bonds there shall first be paid any and all 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.

B. From the proceeds of the Series 1987 A Bonds, there shall next be deposited with the Commission in the Series 1987 A 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 1987 A Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

C. Next, from the proceeds of the Series 1987 A Bonds, there shall be deposited with the Commission in the Series 1987 A Bonds Reserve Account and from the proceeds of the Series 1987 B Bonds, there shall be deposited with the Commission in the Series 1987 B Reserve Account the respective sums, if any, set forth in the Supplemental Resolution for funding of the Reserve Accounts.

D. The remaining moneys derived from the sale of the Bonds 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.

E. 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 and Indenture (if any). Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Series 1987 A Bonds, and thereafter for the Series 1987 B Bonds. In the event that Notes are issued, the disposition of funds in the Bonds Construction Trust Fund may be modified from that set forth herein, with the written consent of the Authority.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Disbursements from the Bond Construction Trust Fund, except for the costs of issuance of the Original Bonds which shall be made upon request of the Issuer, shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

(B) 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;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. 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 written statements advising the Depository Bank 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 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 1987 A Bonds Reserve Account, and when fully funded to the Series 1987 B Bonds Reserve Account, and when both Reserve Accounts are fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments, if any, due on

the respective Series of Bonds and thereafter to the next ensuing principal payments due thereon.

## 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 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 Bonds or the interest thereon is Outstanding and unpaid.

Until the payment in full of the principal of and interest on the Notes when due, and to the extent they do not materially adversely affect Bondholders, the covenants, agreements and provisions contained in this Bond Legislation shall, where applicable, also inure to the benefit of the Holders of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by the Trustee or any Holder or Holders of said Notes as prescribed in the Indenture; provided, that Section 7.04 and Section 7.09 shall not be applied to the Notes.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. Neither the Bonds nor the Notes shall 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 Bond Legislation. No Holder or Holders of any Bonds or Notes, shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or Notes or the interest thereon.

Section 7.03. Bonds Secured by Subordinate Pledge of Net Revenues. The payment of the debt service of the Series 1987 A 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 and subordinate to the lien in favor of the Holders of the 1973 Bonds and payment of the debt service of the Series 1987 B Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Net Revenues junior and subordinate to the lien on said Net Revenues in favor of the Holders of the 1973 Bonds and the Series 1987 A Bonds. The revenues derived from the System, in an amount sufficient to pay the principal of and

interest on the 1973 Bonds and the 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 are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. 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 Order of the Public Service Commission of West Virginia entered October 30, 1987 (Case No. 86-616-S-CN).

Section 7.05. Sale of the System. 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 Bonds and Notes, if any, Outstanding, or to effectively defease this Resolution in accordance with Section 10.01 hereof and, if entered into and not previously defeased, the Indenture in accordance with Section 8.01 thereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the 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. Any balance remaining after the payment of all the 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. With respect to the Notes, such proceeds in an amount sufficient to pay the Notes in full shall be applied to the payment of the Notes, either at maturity or, if allowable under the Supplemental Resolution or Indenture, prior thereto.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited 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 upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds 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, or their duly authorized representatives, of over 50% in amount of the 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 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 7.07B, the Issuer shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to the Notes issued under the Indenture or supplemental resolution prior to or on a parity with the lien on behalf of such Notes until such Notes have been defeased in accordance with the provisions of the Indenture and the Bond Legislation; and, so long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Series 1987 B Bonds only may be issued as provided for in Section 7.07 hereof. All obligations issued by the Issuer after the issuance of the 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 1987 A Bonds and the Series 1987 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the 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 Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

Section 7.07. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any 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 1987 B Bonds. No Parity Bonds shall be issued which shall be payable out of the revenues of the System on a parity with the Series 1987 A Bonds, unless the Series 1987 B Bonds are no longer outstanding.

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 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 Bonds then Outstanding;

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

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

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

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and 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.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such additions, betterments or improvements, if any, to the System that are to be financed by 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 1987 A Bonds and the Series 1987 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 Series 1987 A Bonds or the Series 1987 B 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 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 such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of bonds on a parity with the Bonds.

Section 7.08. Books and Records. 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 or of a Note or Notes issued pursuant to this Bond Legislation or the Trustee 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 Consulting Engineers, the Trustee and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds or Notes, as the case may be, 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 Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

(C) The amount of any 1973 Bonds, 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 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 or Notes, as the case may be, and shall file said report with the Trustee and the Authority, or any other original purchaser of the Bonds.

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 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% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds; provided that, in the event that an amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Reserve Accounts and reserve accounts for obligations prior to or on a parity with the 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 Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds.

Section 7.10. Operating Budget and Audit. 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 expenditures for operation and maintenance of the System during the succeeding 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 and all resolutions authorizing increased expenditures for operation and maintenance to the Trustee and the Authority and to any Holder of any Bonds or Notes, as the case may be, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her 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 Trustee and to any Holder of any Bonds or Notes, as the case may be, or anyone acting for and in behalf of such Holder of any Bonds or Notes, as the case may be.

In addition, the Issuer shall annually cause the records of the System to be audited by an independent certified public accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement.

Section 7.11. 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 7.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules of the Issuer, 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.

Section 7.13. 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 7.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds or the Notes 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 Loan Agreement, during construction of the Project in the full insurable value thereof, 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 $100,000 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, to the extent available at reasonable cost to the Issuer.

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

B. 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. In the event the Issuer requires the Loan Agreement, 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 7.15. 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 7.16. Completion of Project. The Issuer will complete the Project and operate and maintain the System in good condition.

Section 7.17. 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 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 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 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) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the 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 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 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 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.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the Net Proceeds of the 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 Bonds to be "federally guaranteed" within the meaning of Section 149(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 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 Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the 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 Bonds and shall be for the equal benefit of all Holders of each respective series of Bonds, provided however, that the statutory mortgage lien in favor of the Holders of the Series 1987 A Bonds shall be junior to the statutory mortgage lien in favor of the Holders of the 1973 Bonds and senior to the statutory mortgage lien in favor of the Holders of the Series 1987 B Bonds.

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

Except as provided in the Indenture, if any, 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 Trustee, if any, 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 Trustee, if any, 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.

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Bonds) so that the interest on the Bonds will be and

remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Rebate of Excess Investment Earnings to the United States. A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Bond Legislation, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Bond Legislation, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than $100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on the last day of each Bond Year or on the preceding business day in the event that such last day is not a business day, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the Issuer on such date shall be credited by an amount equal to the amount so transferred.

B. DUTIES OF ISSUER IN GENERAL. The Issuer shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 30 days following the last day of the first Bond Year, the Issuer shall calculate, and shall provide written notice to the Original Purchaser and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 30 days following the last day of each Bond Year and within 30 days following the date of the retirement of the Bond, the Issuer shall calculate, and shall provide written notice to the Purchaser and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the Issuer in accordance with the following:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Bonds shall be determined based on the actual Yield of the Bonds during the period between the Closing Date of the Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the Bond, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount earned on any fund or account which is used primarily to achieve a

proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 year's earnings on such fund or account or 1/12th of annual Debt Service as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year is less than $100,000.

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection D, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

E. FURTHER OBLIGATIONS OF ISSUER. The Issuer shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the Issuer shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The Issuer shall keep, and retain for a period of 6 years following the retirement of the Bonds, records of the determinations made pursuant to this Section 8.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 8.03, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

H. FURTHER AGREEMENT. Notwithstanding the foregoing, the Issuer further covenants to comply with all Regulations from time to time in effect and applicable to the Bonds, as may be necessary in order to fully comply with Section 148(f) of the Code.

## ARTICLE IX

## DEFAULT AND REMEDIES

Section 9.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Notes:

(1) If default occurs in the due and punctual payment of the principal of or interest on any Notes; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Notes set forth in this Bond Legislation, any supplemental resolution, the Indenture or in the Notes, 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 Trustee, any other bank or banking association holding any fund or account hereunder or a Holder of a Note; 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.

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

(1) If default occurs in the due and punctual payment of the principal of or interest on any 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 Bonds set forth in this Bond Legislation, any supplemental resolution or in the 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.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Note

or Bond, as the case may be, 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 Notes or Bonds, as the case may be, (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 Notes or Bonds, as the case may be, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Notes or Bonds, or the rights of such Registered Owners, provided however, that no remedy herein stated may be exercised by a Noteholder in a manner which adversely affects any remedy available to the Bondholders, and provided further, that all rights and remedies of the Holders of the Series 1987 B Bonds shall be subject to those of the Holders of the Series 1987 A Bonds and all rights and remedies of the Holders of the Bonds shall be subject to those of the Holders of the 1973 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, 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 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 do.

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 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 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 1987 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1987 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1987 A 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 1987 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1987 A 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 Agents 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 1987 A 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 1987 A 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 1987 A 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 1987 A 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.

Section 10.02. Defeasance of Series 1987 B Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1987 B Bonds, the principal 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 1987 B 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 1987 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1987 B 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 Agents 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 1987 B 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 1987 B 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 1987 B 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 1987 B 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.

Section 10.03. Defeasance of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Notes, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Indenture, then with respect to the Notes only, this Bond Legislation, the Indenture, if any, and the pledges of Grant Receipts and other moneys and securities pledged thereby, and all covenants, agreements and other obligations of the Issuer to the Holders of the Notes shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE XI

## MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. 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 Registered Owners of the Notes or Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Notes or Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or any Note or Notes 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 Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds or Notes respectively, 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 or Noteholder 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 exemption from federal income taxation of interest on the Bonds and the Notes.

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 Bonds and Notes, 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, the Indenture, if any, the Bonds or the Notes, if any.

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 1973 Resolution, the 1973 shall control, so long as the 1973 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 enactment 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 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 Public Service Commission of West Virginia for a certificate of convenience and necessity and adoption of this Resolution, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation in each municipality in Red Sulphur Public Service District and within the boundaries of the District, a Class II legal advertisement stating:

(a) The respective maximum amounts of the Bonds and Notes to be issued;

(b) The respective maximum interest rates and terms of the Bonds and the Notes 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 Public Service Commission of West Virginia.

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

Adopted this 12th day of November, 1987.

Basil J. M. Sadowski
Chairman, Public Service Board

Dennis Liberal
Member, Public Service Board

Edward L. Ferguson
Member, Public Service Board

CERTIFICATION

Certified a true copy of a Resolution adopted by the Public Service Board of Red Sulphur on the 12th day of November, 1987.

Dated: 11-16, 1987

[SEAL]

Dennis Libold
Secretary, Public Service Board

11/15/87
RSPSD2/3-A/A

"EXHIBIT A"

[Included as Document Nos. 3 and 4 of Bond Transcript]

USDA-FmHA
Form FmHA 442-9
(Rev. 8-12-75)

*Position 5*

# ASSOCIATION LOAN RESOLUTION
## SECURITY AGREEMENT

A RESOLUTION OF THE MEMBERSHIP

OF THE BALLARD WATER WORKS ASSOCIATION
AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS IN THE PRINCIPAL AMOUNT OF $36,000.00 FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING AND CONSTRUCTING A WATER LINE, PROVIDING FOR THE COLLECTION, HANDLING, AND DISPOSITION OF REVENUES THEREFROM, AND AUTHORIZING MAKINGS OF PROMISSORY NOTE(S), SECURITY INSTRUMENTS, AND PLEDGES OF REVENUES TO EVIDENCE AND SECURE THE PAYMENT OF SAID INDEBTEDNESS AND FOR RELATED PURPOSES.

WHEREAS, the Ballard Water Works Association, (hereinafter referred to as the "Association"), was organized under the laws of the State of West Virginia for the purpose of providing a water system

(hereinafter referred to as the "Facility") to serve the Members of the said Association; and

WHEREAS, a meeting of the members of the said association was held on the 24th day of March, 1977 pursuant to proper notice thereof to consider plans for the acquisition and construction methods of financing the Facility; and, as shown by the minutes of said meeting, of the 90 members of record of the association there was present and voting 52, and by a recorded majority vote the Facility and its financing authorized; and,

WHEREAS, the proposed Facility is to be constructed and equipped in accordance with plans and specifications prepared by Gates Engineering Co., Inc.,

and in order to finance the Facility, the Board of Directors (hereinafter referred to as the "Board") is authorized and empowered, in their discretion, for and in the name of the association, to make application to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, (hereinafter referred to as the "Government"), for financial assistance; to cause the execution and delivery of a promissory note or notes or other evidence of indebtedness (hereinafter referred to as the "note"), and appropriate security instruments to secure any loan or loans made or insured by the Government; to comply with any requirements, terms or conditions prescribed by the Government or by Government regulations; and to execute contracts or enter into agreements and, without limitation, to take any and all other action as may be necessary, incidental or appropriate to finance, acquire, construct, complete, and/or equip the Facility for and on behalf of the Association.

NOW THEREFORE, it is hereby resolved by the Board as follows:

Section 1. (Determination of Board). That it is necessary to defray a portion of the costs of financing the Facility by obtaining a loan made or insured by the Government in accordance with applicable provisions of the Consolidated Farm and Rural Development Act, it being determined that the Association is unable to obtain sufficient credit elsewhere to finance the Facility, taking into consideration prevailing private and cooperative rates and terms currently available;

Section 2. (Terms of Loan). That the Association borrow $ 36,000.00 and issue as evidence thereof an installment promissory note in the form prescribed by the Government for the full principal amount of the loan. The note shall be signed by the President, attested by the Secretary and have the corporate seal of the Association affixed thereto, and shall bear interest from its date, which shall be the date of delivery, at the rate, five percent per annum; the principal and interest shall be paid over a period of 40 years in accordance with the payment schedule set forth in the promissory note. until the principal and interest are fully paid except the final payment of the entire indebtedness, if not sooner paid, shall be due and payable 40 years from the date of the note. Each payment shall be applied first to the payment of the accured interest and second to the payment of the principal. Prepayments of any installment may be made in any amount at any time at the option of the Association.

Section 3. (Assignment and Pledge of Revenue). The indebtedness hereby authorized to be incurred, together with the interest thereon, shall be payable from the gross income and revenue to be derived from the operation of the Facility, a sufficient portion of which, to pay the principal and interest as and when the same shall become due, is hereby assigned and pledged and shall be set aside for that purpose and this assignment and pledge shall extend to and include any assessments that may be levied pursuant to Section 5 (d) hereof.

Section 4. (Protection and Disposition of Funds). The Treasurer of the Association shall be the custodian of all funds of the Association and all funds shall be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The Treasurer shall execute a fidelity bond in an amount not less $ _____ with a surety company approved by the Government and the "United States of America" shall be named as a co-obligee in such bond and the amount thereof shall not be reduced without the prior written consent of the Government. The Treasurer is hereby directed to establish the following accounts into which the current funds of the Association, note proceeds, the revenues from the Facility and any other income shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the indebtedness hereby authorized remains unpaid:

(a) Construction Account – Supervised Bank Account.

The proceeds of the borrowing hereby authorized not disbursed contemporaneously with loan closing for incurred Facility costs, and at least the amount of $ _____ to be contributed by the Association from the collection of initial connection fees, membership fees or contributions shall be deposited in the Construction Account which shall be established as a "supervised bank account" as required by the Government. Amounts in the supervised bank account exceeding $20,000 shall be secured by the depositary bank in advance in accordance with U. S. Treasury Department Circular No. 176. Withdrawals from the supervised bank account shall be made only on checks signed by the Treasurer of the Association as authorized by the Board from time to time and countersigned by the County Supervisor of the Farmers Home Administration, and only for the purposes for which said note was issued. There shall be transferred and paid from the Construction Account into the Debt Service Account, at least an amount sufficient to pay the interest due on the note accruing during the period of construction and until the Facility becomes revenue producing. The Association's share of any insurance or liquidated damages and other monies paid by defaulting contractors or their sureties will be deposited in the Construction Account to assure completion of the Facility. When all construction costs have been paid in full, any balance remaining in the Construction Account may be applied on the loan or used for other authorized purposes that have been approved by the Government and the Construction Account shall be closed.

(b) Revenue Funds Account.

As soon as the Facility becomes revenue producing, the gross revenues and other income, if any, shall be set aside in a separate account to be designated the Revenue Fund Account, and monies so deposited therein shall be expended and used only in the manner and order as follows:

(1) Debt Service Account. There shall be transferred each month from the Revenue Fund Account before any other expenditure or transfer therefrom, and credited to the Debt Service Account an amount equal to the next monthly installment due in cases of a monthly installment note, or 1/6 in cases of a semiannual installment note, or 1/12 in cases of an annual installment note.

If the Association for any reason shall fail to make such required transfers, then an amount equal to the deficiency shall be set apart and credited to the Debt Service Account out of the gross revenues in the ensuing month or months, which amount shall be in addition to the regular credits required during such succeeding month or months.

(2) Operation and Maintenance Account. After the transfer required in (1) above, there shall be set aside and credited to the Operation and Maintenance Account each month a sufficient portion of the balance of the income and revenue remaining in the Revenue Fund Account to pay the reasonable and necessary current expenses of operating and maintaining the Facility for the current month.

(3) Reserve Account. From the balance funds in the Revenue Fund Account remaining after the transfers require in (1) and (2) above have been made, there shall be set aside and credited in the Reserve Account the sum ( $ 18.00 each month until there is accumulated in that fund the sum of $ 2124.00 after which no further credits need be made into said account except to replace withdrawals. The Reserve Account shall be use and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the Facility which may be cause by any unforeseen catastrophe, for making extensions or improvements to the Facility with the prior written approval of th Government, and when necessary for the purpose of making debt service payments on the note in the event the amount in th Debt Service Account is insufficient to meet such payments. Whenever disbursements are made from the Reserve Accour monthly credits shall then be resumed until there is again accumulated the maximum amount of $ 2124.00 at which time credits may be discontinued.

Whenever there shall accumulate in the Revenue Fund Account amounts in excess of the requirements ( subsections (1), (2), and (3) above, such excess may be used by the Association to make prepayments on the loan. The accoun required by said subsections (1), (2), and (3) may be established and maintained either as bookkeeping accounts or as separa bank accounts at the election of the Association unless otherwise directed by the Government.

Section 5. (Other Covenants and Agreements of the Association). The Association covenants and agrees that so long a the indebtedness hereby authorized remains unpaid:

(a) It will indemnify the Government for any payments made or losses suffered by the Government.

(b) It will comply with applicable State laws and regulations and continually operate and maintain the Facility i good condition.

(c) It will impose and collect such rates and charges that gross revenues will be sufficient at all times to provide fo the payment of the operation and maintence thereof and the installment payments on the note and the maintenance of th various funds herein created. All service rendered by or use of the Facility shall be subject to the full rates prescribed in th rules and regulations of the Association; no free service by or use of the Facility will be permitted.

(d) It will cause to be levied and collected such assessments as may be necessary to operate and maintain th Facility in good condition and meet installment payments on the note when the same become due if, for any reason, gro revenues are insufficient.

(e) It will establish and maintain such books and records relating to the operation of the system and its financi affairs and will provide for the annual audit thereof in such manner as may be required by the Government, will provide th Government without its request a copy of each such audit, and will make and forward to the Government such addition information and reports as it may from time to time require.

(f) It will provide the Government at all reasonable times, access to all books and records relating to the Facilit and access to the property of the Facility so that the Government may ascertain that the Association is complying with th provisions hereof and with the provisions of other instruments incident to the making or insuring of the loan.

(g) It will maintain at least such insurance coverage as may be required by the Government.

(h) It will not borrow any money from any source or enter into any contract or agreement or incur any oth liabilities in connection with making extensions or improvements to the Facility, exclusive of normal maintenance, withou obtaining the prior written consent of the Government.

(i) It will not cause or permit any voluntary dissolution of its organization; merge or consolidate with any oth organization; dispose of or transfer its title to the Facility or any part thereof, including lands and interest in lands by sal security instruments, lease or other encumbrance, without obtaining the prior written consent of the Government.

(j) It will not modify or amend the Articles of Incorporation or the Bylaws of the Association without the writte consent of the Government.

(k) It will serve any applicant within the service area who desires service and can be feasibly and legally served, an will obtain the concurrence of the Farmers Home Administration prior to refusing service to such applicant. Upon the failure t provide such service which is feasible and legal such applicant shall have a direct right of action against the association und this agreement.

Section 5(1). All present and future contract rights, accounts receivable, and general intangibles arising in connectic with the facility are pledged as security for the loan.

Section 6. (Security Instruments). In order to secure the payment of the principal and interest of the note, the Preside and Treasurer of the Association are hereby authorized and directed to execute and deliver good and sufficient lien instrument where necessary, encumbering the properties and assets both real and personal constituting said Facility, as completed or as th same may be thereafter extended, including an assignment and pledge of revenues and such other instruments as may prescribed by the Government.

Section 7. (Refinancing). If at any time it shall appear to the Government that the Association is able to refinance th amount of the indebtedness then outstanding, in whole or in part, by obtaining a loan for such purposes from responsib cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, th Association will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Governme and will take all such action as may be required in connection with such loan.

Section 8. ("Equal Employment Opportunity under Construction Contracts and Nondiscrimination"). The President an the Secretary be and they are hereby authorized and directed to execute for and on behalf of the Association, Form FmH 400-1 "Equal Opportunity Agreement," and Form FmHA 400-4, "Nondiscrimination Agreement."

Section 9. (Resolution a Contract). The provisions of this resolution shall constitute a contract between the Association and the Government so long as the note hereby authorized remains unpaid.

Section 10. This resolution shall take effect and be in force from and after the 24th day of March, 19 77 being the date of its enactment.

The vote was:

YEAS: 52

NAYS: 0

ABSENT: 38

* [signature]
President (Appropriate Official)

* [signature]
Secretary (Appropriate Official)

## CERTIFICATION

I, the undersigned, as secretary of the Ballard Water Works Association hereby certify that the membership of such Association or Corporation is composed of 90 members, of whom 52, constituting a quorum, were present at a meeting thereof duly called and held on the 24th day of March, 19 77; that the foregoing resolution was adopted at such meeting by the vote shown above and that said resolution has not been rescinded or amended in any way.

Dated, this 24th day of March, 19 77.

* [signature]

Secretary of Ballard Water Works Association

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