

**RED SULPHUR PUBLIC SERVICE DISTRICT**

**Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)**

**NOTES TRANSCRIPT**

**Table of Contents**

**BASIC DOCUMENTS**

1. Notes Resolution
2. Supplemental Resolution
3. Loan Agreement
4. Public Service Commission Orders
5. Infrastructure Council Approval
6. Cross-Receipt for Note and Note Proceeds
7. Direction to Authenticate and Deliver Note
8. Specimen Note

**OPINIONS OF COUNSEL**

9. Approving Opinion of Steptoe & Johnson, Bond Counsel
10. Opinion of Counsel to Issuer

## **CERTIFICATES**

11. General Certificate of Issuer and Attorney
12. Certificate of Engineer, with Schedule B Attached

## **DOCUMENTS OF ISSUER**

13. County Commission Orders on Creation, Merger and Expansion of Service Authority of District
14. County Commission Orders Appointing Current Boardmembers
15. Oaths of Office of Current Boardmembers
16. Rules of Procedure
17. Minutes of Current Year Organizational Meeting
18. Minutes on Adoption of Notes Resolution and Supplemental Resolution

## **MISCELLANEOUS DOCUMENTS**

19. Acceptance by Bank of Greenville of Appointment as Depository Bank
20. Acceptance by One Valley Bank, National Association, of Duties as Registrar
21. Certificate of Registration of Notes
22. Registrar's Agreement
23. Municipal Bond Commission New Issue Report

05/30/98  
742910/98001



**RED SULPHUR PUBLIC SERVICE DISTRICT**  
**COMBINED WATERWORKS AND SEWERAGE SYSTEM**  
**DESIGN NOTES, SERIES 1998**  
**(WEST VIRGINIA INFRASTRUCTURE FUND)**

**NOTES RESOLUTION**

**Table of Contents**

		<b>Page</b>
<b>ARTICLE I</b>		
<b>DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS</b>		
Section 1.01	Definitions	1
Section 1.02	Authority for this Resolution	6
Section 1.03	Findings	6
Section 1.04	Notes Legislation Constitutes Contract	8
<b>ARTICLE II</b>		
<b>AUTHORIZATION OF THE DESIGN OF THE PROJECT AND ENTRY INTO THE LOAN AGREEMENT</b>		
Section 2.01	Authorization of the Design of the Project	9
Section 2.02	Authorization for Issuer to Enter Into Loan Agreement	9
<b>ARTICLE III</b>		
<b>THE NOTES</b>		
Section 3.01	Authorization of the Notes	10
Section 3.02	Terms of Notes	10
Section 3.03	Execution and Authentication of Notes	10
Section 3.04	Negotiability, Transfer and Registration	11
Section 3.05	Notes Mutilated, Destroyed, Stolen or Lost	11
Section 3.06	Form of Notes	12
<b>FORM OF NOTE</b>		13
Section 3.07	Sale of Notes	20
Section 3.08	Advances of Principal of Notes	20
Section 3.09	Pledge of Security for the Notes	20

Section 3.10	Notes Not to be Indebtedness of Issuer	21
Section 3.11	Refunding of Notes	21
Section 3.12	Prohibition of Other Loans	21
Section 3.13	Covenants with Holders of Notes	21
Section 3.14	Covenants with Holders of Notes	21
Section 3.15	Required Notices to Holders of Notes	22

**ARTICLE IV  
FUNDS AND ACCOUNTS; APPLICATION OF NOTES PROCEEDS**

Section 4.01	Establishment of Notes Project Fund; Application of Notes Proceeds	23
Section 4.02	Establishment of Notes Payment Fund	23
Section 4.03	Investment of Funds	24

**ARTICLE V  
DEFAULT AND REMEDIES**

Section 5.01	Events of Default	25
Section 5.02	Remedies	25

**ARTICLE VI  
[RESERVED]**

Section 6.01	[Reserved]	26
--------------	------------	----

**ARTICLE VII  
MISCELLANEOUS**

Section 7.01	Amendment of Modification of Resolution	27
Section 7.02	Resolution Constitutes Contract	27
Section 7.03	Severability of Invalid Provisions	27
Section 7.04	Headings, Etc.	27
Section 7.05	Conflicting Provisions Repealed	27
Section 7.06	Covenant of Due Procedure, Etc.	27
Section 7.07	Effective Date	28
	SIGNATURES	28
	CERTIFICATION	29

RED SULPHUR PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE DESIGN OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE SEWERAGE PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS AND SEWERAGE FACILITIES OF RED SULPHUR PUBLIC SERVICE DISTRICT AND THE RETAINING OF ENGINEERING SERVICES FOR SUCH DESIGN AND THE TEMPORARY FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$180,600 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN NOTES, SERIES 1998 (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH NOTES; APPROVING A LOAN AGREEMENT RELATING TO SUCH NOTES; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH NOTES; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ADOPTED BY THE PUBLIC SERVICE BOARD OF RED SULPHUR PUBLIC SERVICE DISTRICT:

ARTICLE I

DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

Section 1.01    Definitions. The following terms shall have the following meanings in this Resolution unless the context expressly requires otherwise.

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

“Administrative Fee” means any administrative fee required to be paid under the Loan Agreement.

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

"Authorized Officer" means the Chairperson of the Governing Body of the Issuer or any other officer or person of the Issuer specifically designated by resolution of the Governing Body of the Issuer.

"Board" or "Governing Body" means the public service board of the Issuer or any successor thereto.

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

"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 Pentree, Inc., Princeton, West Virginia, or any qualified engineer or firm of engineers that shall at any time now or hereafter be retained by the Issuer as Consulting Engineers for the System, or portion thereof; provided however, that the Consulting Engineer shall not be a regular, full-time employee of the State or any of its agencies, commissions or political subdivisions.

"Contract" means the contract for preconstruction engineering services by and between the Issuer and the Consulting Engineers, the necessity for approval for which was waived by the Final Order of the Public Service Commission of West Virginia entered on January 30, 1998, Case No. 97-1156-PSWD-PC.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns.

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

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

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

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, 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" shall not include any proceeds from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined).

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

“Issuer” means Red Sulphur Public Service District, a public service district and political subdivision of the State of West Virginia, in Monroe County, West Virginia, and, unless the context clearly indicates otherwise, includes the Board and any successor thereto.

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

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

“Noteholder” or “Holder of the Notes” or “Holder” or “Registered Owner” or any similar term means any person who shall be the registered owner of any Outstanding Note or Notes.

“Notes” means the not more than \$180,600 aggregate principal amount of Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), originally authorized hereby.

“Notes Legislation” or “Resolution” means this Notes Resolution and all orders, ordinances and resolutions supplemental hereto or amendatory hereof.

“Notes Project Fund” means the Notes Project Fund established by Section 4.01 hereof.

“Notes Payment Fund” means the Notes Payment Fund established by Section 4.02 hereof.

“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, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that “Operating Expenses” does not include payments on account of the principal of or redemption premium, if any, or interest, if any, on the Notes, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

“Outstanding,” when used with reference to Notes and as of any particular date, describes all Notes theretofore and thereupon being delivered except (a) any Note for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be held in trust under this Resolution and set aside for such payment (whether upon or prior to maturity); and (b) any Note deemed to have been paid as provided in Article VI hereof.

“Paying Agent” means the Commission or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

“Project” means the Project described in Section 1.03A hereof.

“Qualified Investments” means and includes any of the following:

(a) Government Obligations;

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

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

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

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

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

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

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

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

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

“Secretary” means the Secretary of the Issuer.

“State” means the State of West Virginia.

“Supplemental Resolution” means any resolution of the Issuer amending or supplementing this Resolution and, when preceded by the article “the,” refers specifically to the Supplemental Resolution authorizing the sale of the Notes, provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Notes, and not so included may be included in another Supplemental Resolution.

“System” means the complete public waterworks system of the Issuer, as presently existing in its entirety or any integral part thereof, and all waterworks facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the waterworks system, and shall include any additions, improvements and extensions thereto, including those contemplated by the Project, hereafter constructed or acquired for the System from any sources whatsoever.

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

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

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

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms refer to this Resolution; and the term “hereafter” means after the date of adoption of this Resolution.

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

Section 1.02. Authority for this Resolution. This Resolution, together with any resolution supplemental hereto or amendatory hereof, is adopted pursuant to the provisions of the Act and other applicable provisions of the law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer presently owns a public combined waterworks and sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be designed certain improvements and extensions to the sewerage portion of the existing public combined waterworks and sewerage system of the Issuer, including upgrading the Issuer’s existing wastewater treatment plant and extending a collection line to Fountain Plaza in Monroe County, together with all appurtenant facilities (the design of the aforementioned improvements and extensions is herein referred to as the “Project”). The existing public combined waterworks and sewerage system of the Issuer and any further additions, betterments and improvements thereto, including those contemplated by the Project, are herein called the “System”.

B. In order to proceed with the Project, the Issuer has entered into the Contract with the Consulting Engineers for preconstruction engineering services for a total fee of not to exceed \$258,000.

C. It is deemed necessary for the Issuer to issue its Notes, in an aggregate principal amount of not more than \$180,600, to temporarily finance a portion of the costs of the Project and the costs of issuance of the Notes and related costs. The Consulting Engineers are deferring the remaining balance of the costs of the Project until such time as monies are received by the Issuer for acquisition and

construction of the improvements and extensions contemplated by the Project, or, in the event the improvements and extensions contemplated by the Project are not acquired or constructed, the Issuer shall not be required to pay the remaining balance due to the Consulting Engineers for the Project.

D. It is in the best interests of the Issuer that its Notes be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

E. There are no outstanding bonds or other obligations of the Issuer which will rank senior and prior to or on a parity with the Notes as to liens, pledge and source of and security for payment. The Notes shall be payable only from and secured by a first lien on (1) the proceeds of any grants (other than grants from the West Virginia Infrastructure Fund) received by the Issuer for the System; and (2) the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System, issued subsequent to the issuance of the Notes. The Issuer has no obligations outstanding which are payable from any source from which the Notes are payable.

In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received by the Issuer for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued by the maturity date of the Notes over a 20-year period, the payment of the Notes shall be deferred until the earlier of (i) the date any grants (other than grants from the West Virginia Infrastructure Fund) are received for the System, (ii) the date any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued, or (iii) 20 years from the date of issuance of the Notes. In the event any grants (other than grants from the West Virginia Infrastructure Fund) are received for the System or any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued, the Issuer shall pay the entire outstanding principal of and interest, if any, accrued to the maturity date of the Notes from the proceeds thereof. In the event the Issuer receives a grant (other than a grant from the West Virginia Infrastructure Fund) or other non-loan funding assistance for the acquisition and construction of a project to serve the area described in the application to the Council, which grant or other non-loan funding assistance may not be used to pay the Notes, then the Notes shall be repaid from the Net Revenues generated from the project constructed from such grant or other non-loan funding assistance (or from bond proceeds secured by such Net Revenues) and such repayment shall be amortized for a period not to exceed 20 years, provided that the holders of any outstanding debt secured by the System shall consent to the payment of the Notes from the Net Revenues generated from the project, as required. In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued or no project has been acquired or constructed by the Issuer within 20 years from the date of issuance of the Notes, the Council shall authorize the Authority to convert the Notes to a grant and cancel the Notes.

F. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to the authorization of the Project, the Contract and the issuance of the Notes, or will have so complied prior to issuance of the Notes, including the obtaining of approval of the Project, the

Contract and the issuance of the Notes from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Notes or such final order will not be subject to rehearing or appeal.

G. Pursuant to the Act, the Project has been reviewed and determined to be technically feasible by the Council and the Council has authorized the Authority to make a loan to the Issuer from the West Virginia Infrastructure Fund (or will have so authorized prior to issuance of the Notes).

Section 1.04. Notes Legislation Constitutes Contract. In consideration of the acceptance of the Notes by those who shall be Registered Owners of the same from time to time, this Notes Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of the Notes.

## ARTICLE II

### AUTHORIZATION OF THE DESIGN OF THE PROJECT AND ENTRY INTO THE LOAN AGREEMENT

Section 2.01. Authorization of the Design of the Project. There is hereby authorized and ordered the Project, at an estimated cost of not to exceed \$258,000. The Issuer is hereby authorized and directed to enter into the Contract with the Consulting Engineer.

Section 2.02. Authorization for Issuer to Enter Into Loan Agreement. The Issuer hereby approves the Loan Agreement and the sale of the Notes pursuant to the Loan Agreement. The Issuer is hereby authorized and directed to execute and deliver the Loan Agreement to the Authority.

## ARTICLE III

### THE NOTES

Section 3.01. Authorization of the Notes. For the purposes of temporarily financing a portion of the costs of the Project and paying the costs of issuance of the Notes and related costs, there shall be and hereby are authorized to be issued the Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), of the Issuer, in an aggregate principal amount of not more than \$180,600.

Section 3.02. Terms of Notes. The Notes shall be issued in fully registered form and shall be initially issued as one Note, numbered R-1, in the principal amount of not to exceed \$180,600. The Notes shall be dated such date, shall bear interest, if any, at such rate or rates, not exceeding the then legally permissible limit on such date or dates; shall be subject to an Administrative Fee, if any, set forth in the Loan Agreement; shall mature on such date or dates and in such amounts; and shall be subject to such repayment or redemption, all as provided in the Supplemental Resolution or the Notes.

The aggregate principal amount of the Notes need not be paid to the Issuer upon delivery of the Notes but may be advanced to the Issuer as requested by the Issuer from time to time; and the Notes shall evidence only the indebtedness recorded on the Record of Advances attached thereto and incorporated therein. Interest, if any, shall accrue on the Notes only on the amount of each advance from the actual date thereof as listed on said Record of Advances.

The Notes shall be payable as to principal and interest, if any, at the principal office of the Paying Agent in any coin or currency which, on the dates of payment, is legal tender for the payment of public and private debts under the laws of the United States of America.

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

No Note shall be valid or entitled to any security or benefit under this Resolution unless and until the certificate of authentication and registration on such Note shall have been duly manually executed by the Registrar, and such executed certificate of the Registrar upon any such Note shall be conclusive evidence that such Note has been authenticated, registered and delivered under this Notes

Legislation. The certificate of authentication and registration shall be deemed to have been executed by the Registrar if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign the certificate of authentication and registration on all of the Notes issued hereunder.

Section 3.04. Negotiability, Transfer and Registration. Subject to the restrictions on transfer set forth below, the Notes shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Holder, in accepting any of said Notes, shall be conclusively deemed to have agreed that said Notes 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 Notes shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Notes remains Outstanding, the Registrar shall keep and maintain books for the registration and transfer of the Notes. The Notes shall be transferrable only upon the books of the Registrar which shall be kept for that purpose at the office of the Registrar by request of the registered owner thereof in person or by his attorney duly authorized in writing, and upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of a Note, there shall be issued to the transferee another fully registered Note or Notes of the aggregate principal amount equal to the unpaid amount of the transferred Note.

In all cases in which the privilege of transferring Notes is exercised, Notes shall be delivered in accordance with the provisions of this Resolution. All Notes surrendered in any such transfers shall forthwith be canceled by the Registrar. For every such transfer of Notes, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer and the cost of preparing each new Note upon each transfer, and any other expenses of the Registrar incurred in connection therewith, which sum or sums shall be paid by the person requesting such transfer (except for the Authority) as a condition precedent to the exercise of the privilege of making such transfer. The Registrar shall not be obliged to make any such transfer of Notes during the 15 days preceding an interest payment date on the Notes or after notice of any prepayment of the Notes has been given.

Section 3.05. Notes Mutilated, Destroyed, Stolen or Lost. In case any Note shall become mutilated or be destroyed, stolen or lost, the Issuer, may in its discretion, issue and deliver a new Note in exchange and substitution for such mutilated Note upon surrender and cancellation of such mutilated Notes or in lieu of and substitution for the Note destroyed, stolen or lost and upon the Holder's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Council may prescribe and paying such expenses as the Issuer may incur. All Notes so surrendered shall be submitted to and canceled by the Registrar and held for the account of the Issuer. If such Note shall have matured or be about to mature, instead of issuing a substitute Note, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Note be lost, stolen or destroyed, without surrender thereof.

Section 3.06. Form of Notes. The text of the Notes shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Resolution or any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF NOTE)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
RED SULPHUR PUBLIC SERVICE DISTRICT  
COMBINED WATERWORKS AND SEWERAGE SYSTEM  
DESIGN NOTE, SERIES 1998  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1

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

KNOW ALL MEN BY THESE PRESENTS: That RED SULPHUR PUBLIC SERVICE DISTRICT, a public service district, 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 sources and in the manner provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the principal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the Record of Advances attached hereto and incorporated herein by reference as a part hereof, with no interest. The Administrative Fee (as defined in the hereinafter described Notes Legislation) in the amount of \_\_\_\_\_% as set forth in the Loan Agreement (as hereinafter defined) shall also be payable on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

The principal of this Note and the Administrative Fee are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Note may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated \_\_\_\_\_, 199\_\_\_\_, by and between the Issuer and the Authority, on behalf of the Council.

This Note is issued (i) to temporarily finance a portion of the costs of design of certain improvements and extensions to the sewerage portion of the existing public combined waterworks and sewerage system of the Issuer (the design of the aforementioned improvements and extensions is herein referred to as the "Project", and the existing public combined waterworks and sewerage system of the Issuer, together with any further additions, betterments and improvements thereto, including those contemplated by the Project, are collectively referred to as the "System") and (ii) to pay the costs of issuance hereof and related costs. This Note is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), and

a Notes Resolution duly adopted by the Issuer on \_\_\_\_\_, 199\_, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 199\_ (collectively, the "Notes Legislation"), and is subject to all the terms and conditions thereof.

The principal of this Note is payable only from and secured by a first lien on (1) the proceeds of any grants (other than grants from the West Virginia Infrastructure Fund) received by the Issuer for the System; and (2) the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System issued subsequent to the issuance of this Note. The moneys from these sources shall be deposited into the Notes Payment Fund established under the Notes Legislation for the prompt payment of the principal of this Note. In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received by the Issuer for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued by the maturity date of the Notes, the payment of the Notes shall be deferred until the earlier of (i) the date any grants (other than grants from the West Virginia Infrastructure Fund) are received for the System, (ii) the date any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued or (iii) 20 years from the date of issuance of the Notes. In the event any grants (other than grants from the West Virginia Infrastructure Fund) are received for the System or any revenue bonds, refunding bonds or other obligations of the Issuer, secured by or payable from revenues of the System, are issued, the Issuer shall pay the entire outstanding principal of and interest, if any, accrued to the maturity date of the Notes from the proceeds thereof. In the event the Issuer receives a grant (other than a grant from the West Virginia Infrastructure Fund) or other non-loan funding assistance for the acquisition and construction of a project to serve the area described in the application to the Council, which grant or other non-loan funding assistance may not be used to pay the Notes, then the Notes shall be repaid from the Net Revenues generated from the project constructed from such grant or other non-loan funding assistance (or from bond proceeds secured by such Net Revenues) and such repayment shall be amortized for a period not to exceed 20 years, provided that the holders of any outstanding debt secured by the System shall consent to the payment of the Notes from the Net Revenues generated from the project, as required. In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued or no project has been acquired or constructed by the Issuer within 20 years from the date of issuance of the Notes, the Council shall authorize the Authority to convert the Notes to a grant and cancel the Notes.

This Note does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provisions or limitations, nor shall the Issuer be obligated to pay the same except from the sources set forth above. Under the Notes Legislation, the Issuer has entered into certain covenants with the Authority, for the terms of which reference is made to the Notes Legislation. Remedies provided the Authority are exclusively as provided in the Notes Legislation, to which reference is here made for a detailed description thereof.

Subject to the requirements for transfer set forth herein, this Note is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of

West Virginia. This Note is transferable, as provided in the Notes Legislation, only by transfer of registration upon the books of \_\_\_\_\_, West Virginia, as registrar (the "Registrar"), to be made at the request of the registered owner hereof in person or by his attorney duly authorized in writing, and upon surrender hereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney.

All moneys received from the sale of this Note shall be applied solely to the payment of the costs of design of the Project and the costs of issuance and related costs described in the Notes Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Note.

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

**IT IS HEREBY CERTIFIED, RECITED AND DECLARED** that all acts, conditions and things required to exist, happen and be performed precedent to and at issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the Notes, together with all other obligations of the Issuer, do not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia.

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

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

IN WITNESS WHEREOF, RED SULPHUR PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Note to be dated \_\_\_\_\_, 199\_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Chairperson

Attest:

\_\_\_\_\_  
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Note is one of the Notes described in and issued under the provisions of the within-mentioned Notes Legislation and has been duly registered in the name of the registered owner set forth above.

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

\_\_\_\_\_  
Registrar

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

(Form of )

ASSIGNMENT

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

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

\_\_\_\_\_

IN THE PRESENCE OF:

\_\_\_\_\_

(Form Of)

RECORD OF ADVANCES

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

Section 3.07. Sale of Notes. The Notes shall be sold to the Authority contemporaneously with, or as soon as practicable and authorized and permitted by applicable law after, adoption of the Supplemental Resolution; provided, that the Authority and the Issuer shall have agreed to the purchase thereof.

Section 3.08. Advances of Principal of Notes. The Issuer shall request the Council for the proceeds of the Notes as needed to pay the costs of the Project and the costs of issuance of the Notes and related costs, and such proceeds shall be paid to the Issuer or its designated payee only upon resolution of the Governing Body and only to pay the costs authorized by this Notes Legislation. After payment of all such costs, any remaining Notes proceeds which have been advanced to the Issuer shall be transferred to the Notes Payment Fund and applied to the payment of the Notes.

Section 3.09. Pledge of Security for the Notes. The principal of and interest, if any, on the Notes shall be payable only from and secured by a first lien on (1) the proceeds of any grants (other than grants from the West Virginia Infrastructure Fund) received by the Issuer for the System; and (2) the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System issued subsequent to the issuance of the Notes, all of which are hereby pledged for such payment. In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received by the Issuer for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued by the maturity date of the Notes, the payment of the Notes shall be deferred until the earlier of (i) the date any grants (other than grants from the West Virginia Infrastructure Fund) are received for the System, (ii) the date any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued, or (iii) 20 years from the date of issuance of the Notes. In the event any grants (other than grants from the West Virginia Infrastructure Fund) are received for the System or any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued, the Issuer shall pay the entire outstanding principal of and interest, if any, accrued to the maturity date of the Notes from the proceeds thereof. In the event the Issuer receives a grant (other than a grant from the West Virginia Infrastructure Fund) or other non-loan funding assistance for the acquisition and construction of a project to serve the area described in the application to the Council, which grant or other non-loan funding assistance may not be used to pay the Notes, then the Notes shall be repaid from the Net Revenues generated from the project constructed from such grant or other non-loan funding assistance (or from bond proceeds secured by such Net Revenues) and such repayment shall be amortized for a period not to exceed 20 years, provided that the holders of any outstanding debt secured by the System shall consent to the payment of the Notes from the Net Revenues generated from the project, as required. In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued or no project has been acquired or constructed by the Issuer within 20 years from the date of issuance of the Notes, the Council shall authorize the Authority to convert the Notes to a grant and cancel the Notes.

Section 3.10 Payment of Notes Upon Sale of System. So long as the Notes shall be outstanding, neither the System, nor any part thereof, shall be sold, transferred, or otherwise conveyed, or be subject to an operation and maintenance agreement or similar contract, unless the entire outstanding principal, accrued interest, if any, and the Administrative Fee of the Notes shall have been paid pursuant to the Loan Agreement prior to the completion of any such sale, transfer, or other conveyance, or the execution of any such operation and maintenance agreement or similar contract.

Section 3.11. Notes Not to be Indebtedness of Issuer. The Notes shall be special obligations of the Issuer, payable solely from the sources described above. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation. 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 pledged therefor by this Resolution.

Section 3.12. Refunding of Notes. In the event proceeds of the grants (other than grants from the West Virginia Infrastructure Fund) for the System, proceeds of revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System issued subsequent to the issuance of the Notes, are not sufficient or available on a timely basis to pay the Notes in full by the maturity date of the Notes, the Issuer covenants and agrees, at the direction of the Authority and the Council, to issue and sell its refunding notes or bonds in an amount sufficient to pay the entire outstanding principal of and interest, if any, accrued on the Notes.

Section 3.13. Prohibition of Other Loans. So long as the Notes are outstanding, no bonds, notes or other evidences of indebtedness secured by or payable from revenues of the System shall be issued by the Issuer without the prior written consent of the Authority and the Council; provided however, that the Issuer may issue refunding notes or bonds secured by or payable from revenues of the System to pay the entire outstanding principal of and interest, if any, accrued on the Notes in full.

Section 3.14. Covenants with Holders of Notes. In order to secure the payment of the Notes, the Issuer hereby covenants and agrees with the Holders of the Notes, as follows:

(A) The Issuer will not make or cause or permit to be made any application of the proceeds of the Notes except in accordance with the provisions of Section 4.01 hereof, or of any moneys held in the Notes Payment Fund except in accordance with the provisions of Section 4.02 hereof.

(B) The Issuer will comply in all respects with the terms and provisions of any grant agreements applicable to the System and with all applicable State and federal laws and regulations governing the implementation of such grant agreements.

(C) The Issuer will, in the event proceeds of the grants for the System and/or proceeds of revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System issued subsequent to the issuance of the Notes, are not sufficient or available to pay the Notes in full by the maturity date of the Notes, issue and sell its refunding notes or bonds, secured by or payable from revenues of the System, and apply the proceeds of its refunding notes or bonds to the payment of the Notes in accordance with the provisions of Section 3.11 hereof.

(D) The Issuer will comply with all the terms and conditions of the Loan Agreement.

Section 3.15. Required Notices to Holders of Notes. The Issuer will provide the Authority and the Council, prompt written notice, appropriately documented, of any of the following events:

(A) If the Issuer is unable or unsuccessful in obtaining permanent financing for the acquisition and construction of the improvements and extensions contemplated by the Project;

(B) Any suspension, termination or modification of any grant;

(C) The authorization by the Issuer of any additional indebtedness related to the System; and

(D) Any activity that would stop the work schedule of the Contract.

## ARTICLE IV

### FUNDS AND ACCOUNTS; APPLICATION OF NOTES PROCEEDS

Section 4.01. Establishment of Notes Project Fund; Application of Notes Proceeds.

There is hereby created and established with the Depository Bank, to be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from all other funds or accounts of the Issuer, the Notes Project Fund. The moneys derived from the sale of the Notes shall be deposited with the Depository Bank in the Notes Project Fund and applied solely to the payment of the costs of the Project and the costs of issuance and related costs, and until so expended, are hereby pledged as additional security for the Notes.

Section 4.02. Establishment of Notes Payment Fund. There is hereby created and

established with the Commission, to be held by the Commission separate and apart from all other funds or accounts of the Commission and from all other funds or accounts of the Issuer, the Notes Payment Fund. Upon receipt of proceeds of any grant for the System, an amount of the proceeds of such grant sufficient to pay the entire outstanding principal of, interest, if any, accrued on the Notes and the Administrative Fee in full shall be deposited in the Notes Payment Fund. In the event proceeds of such grant are not sufficient to pay the Notes in full, then all proceeds of such grant shall be deposited in the Notes Payment Fund to pay a portion of the Notes. Upon the issuance of the revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System an amount of the proceeds of such revenue bonds, refunding bonds or other obligations of the Issuer sufficient to pay the entire outstanding principal of, interest, if any, accrued on the Notes and the Administrative Fee in full shall be deposited in the Notes Payment Fund. All moneys deposited in the Notes Payment Fund shall be immediately paid by the Commission to the Authority in full payment of the entire outstanding principal of, interest, if any, accrued on the Notes and the Administrative Fee and then shall be paid by the Commission to the Paying Agent for charges, if any, for services rendered. Until payment in full of the entire outstanding principal of, interest, if any, accrued on the Notes and the Administrative Fee, all moneys deposited in the Notes Payment Fund shall be held in trust for the Authority, and the Issuer shall have no rights with respect thereto except to receive the balance therein after payment of the Notes in full and the charges, if any, of the Paying Agent.

Any moneys remaining in the Notes Payment Fund, after the payment of the Notes in full and all charges of the Paying Agent, shall be returned to the Issuer to be used for any lawful purpose of the System.

Section 4.03. Investment of Funds. Pending application as provided above, any moneys held in the Notes Project Fund and the Notes Payment Fund shall be invested and reinvested by the Depository Bank and the Commission at the direction of the Issuer to the fullest extent possible under applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof.

## ARTICLE V

### DEFAULT AND REMEDIES

Section 5.01. Events of Default. Each of the following events shall constitute an “Event of Default” with respect to the Notes:

- (A) If default occurs in the due and punctual payment of the principal of or interest, if any, on any Note;
- (B) If default occurs in the Issuer’s observance of any of the covenants, agreements or conditions on its part relating to the Notes in this Resolution, any Supplemental Resolution, or in the Notes, as the case may be, contained, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, any other bank or banking association holding any fund or account hereunder or a Holder of a Note; or
- (C) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 5.02. Remedies. Upon the happening and continuance of any Event of Default, any Holder of a Note may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of the Holders of the Notes including the right to require the Issuer to perform its duties under the Act and the Notes Legislation relating thereto, (iii) bring suit upon the Notes, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Holders of the Notes, and (v) by action or bill in equity enjoin any acts in violation of the Notes Legislation with respect to the Notes, or the rights of the Holders of the Notes.

ARTICLE VI

[RESERVED]

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. Amendment or Modification of Resolution. Prior to issuance of the Notes, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Notes, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Noteholders shall be made without the consent in writing of the Holders of the Notes then Outstanding; provided, that no change shall be made in the maturity of any Note or Notes or the rate of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein pledged therefor without the consent of the Holder thereof.

Section 7.02. Resolution Constitutes Contract. The provisions of the Resolution shall constitute a contract between the Issuer and the Holder of the Notes, and no change, variation or alteration of any kind of the provisions of the Resolution shall be made in any manner, except as in this Resolution provided.

Section 7.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution or the Notes.

Section 7.04. 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 7.05. Conflicting Provisions Repealed. All resolutions, indentures or orders, or parts thereof, in conflict with the provision of this Resolution are, to the extent of such conflict, hereby repealed.

Section 7.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairperson, 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 7.07. Effective Date. This Resolution shall take effect immediately upon adoption thereof.

Adopted this 9th day of June, 1998.

  
\_\_\_\_\_

Chairperson

  
\_\_\_\_\_

Member

\_\_\_\_\_

Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Governing Body of RED  
SULPHUR PUBLIC SERVICE DISTRICT on June 9, 1998.

Dated: June 15, 1998.

[SEAL]

  
Secretary

06/01/98  
450260/97001

CL442428.1



RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, REDEMPTION PROVISION AND OTHER TERMS OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN NOTES, SERIES 1998 (WEST VIRGINIA INFRASTRUCTURE FUND), OF RED SULPHUR PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH NOTES AND THE SALE AND DELIVERY OF SUCH NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE NOTES.

WHEREAS, the public service board (the "Governing Body") of Red Sulphur Public Service District (the "Issuer") has duly and officially adopted a Resolution, effective June 9, 1998 (the "Resolution") entitled:

RESOLUTION AUTHORIZING THE DESIGN OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE SEWERAGE PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS AND SEWERAGE FACILITIES OF RED SULPHUR PUBLIC SERVICE DISTRICT AND THE RETAINING OF ENGINEERING SERVICES FOR SUCH DESIGN AND THE TEMPORARY FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$180,600 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN NOTES, SERIES 1998 (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING

FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH NOTES; APPROVING A LOAN AGREEMENT RELATING TO SUCH NOTES; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH NOTES; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund) (the "Notes"), of the Issuer, in the aggregate principal amount of not more than \$180,600, and has authorized the execution and delivery of a loan agreement relating to the Notes (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"); and in the Resolution, it is provided that the principal amount, date, maturity date, interest rate, interest and principal payment dates, redemption provision and other terms of the Notes should be established by a Supplemental Resolution thereto and that other matters relating to the Notes be therein provided for;

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

WHEREAS, the Notes are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and entered into by the Issuer, that the principal amount, date, maturity date, interest rate, interest and principal payment dates, redemption provision and other terms of the Notes be fixed hereby in the manner stated herein, and that other matters relating to the Notes be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF RED SULPHUR PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), of the Issuer, initially represented by a single Note, numbered R-1, in the principal amount of \$180,600, or such lesser amount as shall have been advanced, as set forth in the Record of Advances attached to the Note. The Notes shall be dated the date of delivery thereof and shall bear no interest. The entire outstanding principal shall be payable on June 15, 2001, as set forth in the Notes and "Schedule X" attached to the Loan Agreement. The Notes shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of a redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Notes.

Section 2. The Issuer does hereby approve and shall pay the Administrative Fee equal to 3% of the principal amount of the Notes set forth in "Schedule X" attached to the Loan Agreement.

Section 3. All other provisions of the Notes and the text of the Notes shall be in substantially the form provided in the Resolution.

Section 4. The Issuer does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed, ratified and approved. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the application to the Council and the Authority. The price of the Notes shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Notes shall be advanced from time to time as requisitioned by the Issuer.

Section 5. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar"), for the Notes and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Notes, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed.

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

Section 7. The Issuer hereby appoints and designates Bank of Greenville, Greenville, West Virginia, as the Depository Bank under the Resolution.

Section 8. All proceeds of the Notes shall be deposited in or credited to the Notes Project Fund as received from time to time for payment of costs of the Project, including costs of issuance of the Notes and related costs.

Section 9. The Chairperson and the Secretary are hereby authorized and directed to execute and deliver the Notes and such other documents and certificates required or desirable in connection with the Notes hereby and by the Resolution approved and provided for, to the end that the Notes may be delivered to the Authority on or about June 15, 1998, pursuant to the Loan Agreement.

Section 10. The Project and the temporary financing thereof in part with proceeds of the Notes is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 11. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 9th day of June, 1998.

*Dennis Siboll*  
Chairperson

*Rolando Wilford*  
Member

\_\_\_\_\_  
Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Red Sulphur Public Service District on the 9th day of June, 1998.

Dated: June 15, 1998.

[SEAL]

  
Secretary



IC/DL-1  
(July 1997)

## LOAN AGREEMENT

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

RED SULPHUR PUBLIC SERVICE DISTRICT  
(Governmental Agency)

WITNESSETH:

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

WHEREAS, pursuant to the Act, the cost of a project includes the cost of preliminary design and analysis, preparation of plans and specifications, and other engineering services;

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

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to enter into contracts for engineering services and to finance the cost of such engineering services by borrowing money to be evidenced by bonds, notes or other negotiable instruments (hereinafter referred to as the "Notes") issued by the Governmental Agency;

WHEREAS, the Governmental Agency has completed and filed with the Authority an application for a preconstruction engineering services loan with attachments and exhibits (the "Application"), which Application is incorporated herein by this reference;

WHEREAS, the Governmental Agency has entered into a contract for engineering services as set forth in the Application (the "Contract"); and

WHEREAS, having reviewed the Application and made all findings required by the Engineering Design Advance Assistance Funding Program (as hereinafter defined) and having available sufficient funds therefor, the Council has authorized the Authority to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of the Notes of the Governmental Agency with moneys in the Infrastructure Fund, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Engineering Design Advance Assistance Funding Program as hereinafter set forth.

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

## ARTICLE I

### Definitions

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

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

1.3 "Consulting Engineers" means the professional engineers engaged by the Governmental Agency to provide engineering services, and designated in the Application, licensed by the State, who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political subdivisions, and any qualified successor thereto.

1.4 "Contract" means the contract for preconstruction engineering services by and between the Governmental Agency and the Consulting Engineers, and, as necessary, approved by the Public Service Commission.

1.5 "Engineering Design Advance Assistance Funding Program" means the Council's program whereby loans may be made to qualified Governmental Agencies for preconstruction engineering services.

1.6 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

1.7 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of the Notes pursuant to this Loan Agreement.

1.8 "Local Act" means the resolution, ordinance or other official action of the Governmental Agency required by Section 4.1 hereof, authorizing the issuance of the Notes.

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

1.10 "Notes" means the not more than \$180,600 aggregate principal amount of Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), to be issued by the Governmental Agency.

1.11 "Project" means the proposed facilities the Governmental Agency intends to construct for which the preconstruction engineering services are being contracted.

1.12 "Surplus Revenues" means either gross or net revenues, if any, derived from the System and not required to be set aside and held for the payment of or security for any outstanding bonds or notes of the Governmental Agency, including any reserve or depreciation accounts.

1.13 "System" means the facilities owned or to be owned by the Governmental Agency, of which the Project will constitute all or a part thereof, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

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

## ARTICLE II

### The Contract

2.1 The Contract shall provide for all preconstruction engineering services necessary for the implementation of the Project, the Authority and Council having found, to the extent applicable, that the Project is consistent with the Act.

2.2 The Governmental Agency shall do all things necessary to acquire the proposed site of the Project and all necessary easements, and shall do all things necessary to

acquire and construct the Project in accordance with the plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers pursuant to the Contract.

2.3 The Governmental Agency shall keep complete and accurate records of the cost of the engineering services rendered pursuant to the Contract. The Governmental Agency shall permit the Authority, acting by and through its Director or his duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Contract at any and all reasonable times for the purpose of audit and examination, and the Governmental Agency shall submit to the Authority such documents and information as it may reasonably request in connection with the Contract and the administration of the Loan or of any State and federal grants or other sources of financing for the Contract.

2.4 The Governmental Agency shall require that the Consulting Engineers furnish all bonds required by law.

2.5 The Governmental Agency shall require that the Consulting Engineers maintain, during the life of the Contract, workers' compensation coverage and all other insurance coverage required by law.

2.6 The Governmental Agency hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Council, the Authority or other State, federal or local bodies in regard to the performance of the Contract.

### ARTICLE III

#### Conditions to Loan; Issuance of Notes

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

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

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

(c) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC"), as necessary, to enter into the Contract and to borrow funds from the Authority under the terms and conditions of this Loan Agreement, with all requisite appeal periods having expired without successful appeal, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(d) The Governmental Agency shall have procured the subject engineering services in accordance with Chapter 5G, Article 1 of the Code of West Virginia.

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

(f) The net proceeds of the Notes, together with all moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed and any amounts the Consulting Engineers shall have agreed to finance from their own funds, shall be sufficient to pay the costs of the Contract as set forth in the Application, and the Authority shall have received evidence satisfactory to the Authority of such irrevocably committed funds.

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

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

3.4 The Notes shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Notes shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority and the

Governmental Agency. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority.

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

#### ARTICLE IV

Notes; Security for Loan;  
Repayment of Loan; Interest on Loan;  
Fees and Charges

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

(a) The Governmental Agency hereby pledges the following sources of funds as security for the Notes:

(i) Proceeds of any grants (other than Infrastructure Fund grants) received by the Governmental Agency for the System, and

(ii) Proceeds of any revenue bonds, refunding bonds or other obligations of the Governmental Agency, issued subsequent to the issuance of the Notes.

In the event no grants, other than Infrastructure Fund grants, are received for the System or no revenue bonds, refunding bonds or other obligations of the Governmental Agency are issued by the maturity date of the Notes, then the payment of the Notes shall be deferred until the earlier of (i) the date a grant(s), other than Infrastructure Fund grants, are received for the System, (ii) the date revenue bonds, refunding bonds or other obligations of the Governmental Agency are issued, or (iii) twenty years from the date of issuance of the

Notes. In the event a grant(s) other than an Infrastructure Fund grant, is received by the Governmental Agency, or revenue bonds, refunding bonds, or other obligations of the Governmental Agency are issued, the Governmental Agency shall pay the Authority the entire outstanding principal of and interest, if any, accrued to the maturity date of the Notes, from such sources. In the event that the Governmental Agency receives a grant(s) or other non loan funding assistance for the construction of a project to serve the area described in the Application which grant or other funding assistance may not be used to pay the Notes, then the Notes shall be repaid from the net revenues of the system so constructed (or from bond proceeds secured by such revenues) and such repayment shall be amortized for a period not to exceed twenty years. If, on the 20th anniversary of the issuance of the Notes, the Governmental Agency has not received any grants, other than Infrastructure Fund grants, has not issued obligations to repay the Notes and has not constructed any improvements to its System, then the Council shall instruct the Authority to convert the Notes to a grant and cancel the Notes.

In the event Surplus Revenues are available and pledged for the payment of the Notes, the revenues generated from the operation of the System will be used monthly, in the order of priority listed below:

- (i) to pay Operating Expenses of the System,
- (ii) for other legal purposes of the System, including payment of debt service on the Notes and all other outstanding obligations of the Governmental Agency and meeting and maintaining all required reserve accounts and renewal and replacement, or similar accounts, and
- (iii) payment of principal and interest, if any, on the Notes.

Provided, that if the Governmental Agency has existing outstanding indebtedness which requires payments to be made to fund a reserve account, depreciation fund, renewal and replacement fund or similar fund or account, such payments shall be made prior to payment of debt service on the Notes.

(b) The Governmental Agency hereby covenants substantially as follows:

(i) That the Governmental Agency will, simultaneously with the closing of the Notes, if not executed earlier, enter into the Contract for the design of the Project and, following completion of the design, will use its best efforts to complete the Project and will operate and maintain the System in good condition;

(ii) That the Governmental Agency shall establish or, where appropriate, petition the Public Service Commission to establish rates to provide for revenues sufficient to pay the Notes, and that the Governmental Agency recognizes that any owner of

the Notes may by proper legal action compel the performance of the duties of the Governmental Agency under the Local Act, and shall also have, in the event of a default in the payment of principal of and interest, if any, on the Notes, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law;

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

(iv) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority, which report shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Governmental Agency's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

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

(vi) That the proceeds of the Notes must be deposited in a notes project fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Governmental Agency and on which the owners of the Notes shall have a lien until such proceeds are applied to the payment of the costs of the Contract;

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

(viii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, (the "Code"), which exception shall be set forth in an opinion of bond counsel, or, at the option of the Authority, the loan is not tax-exempt, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations or to the effect that no rebate is payable, and, at any time, any additional information requested by the Authority;

(ix) That the Governmental Agency shall take any and all action, or shall refrain from taking any action, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for Federal income tax purposes of interest on

the State's general obligation bonds issued to provide moneys for the Infrastructure Fund, or any bonds secured by the Notes;

(x) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Notes (as that term is defined in the Code) from time to time as the Authority may request, and

(xi) That the Governmental Agency shall not issue any bonds, notes or other obligations payable from the revenues of the System unless it has received the written consent of the Authority and the Council.

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

4.2 The principal of and interest, if any, on the Loan shall be repaid by the Governmental Agency on the days and in the years as provided in Schedule X hereto.

4.3 The Loan shall bear interest, if any, from the dates and at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Notes exceed any statutory limitation with regard thereto.

4.4 The Notes shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency. Anything to the contrary herein notwithstanding, the Notes may be issued in one or more series, as reflected by Schedule X hereto.

4.5 The Governmental Agency shall pay to the Authority, for the benefit of the Infrastructure Fund, a one time Administrative Fee of 3% of the original aggregate principal amount of the Note. This Administrative Fee will be added to the principal amount of the Note due on the maturity date thereof.

4.6 So long as the Notes shall be outstanding, neither the System, or any part thereof, shall be sold, transferred, or otherwise conveyed, or be subject to an operation and maintenance agreement or similar contract, unless the entire outstanding principal, accrued interest, if any, and the Administrative Fee of the Notes shall have been paid in full prior to the completion of any such sale, transfer, or other conveyance, or the execution of any such operation and maintenance agreement or similar contract.

## ARTICLE V

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

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act.

5.2 In the event the Governmental Agency defaults in any amortized payment to the Authority, the amount of such default shall bear interest at the annual rate of 3% on the installment of the Loan next due, from the date of the default until the date of the payment thereof.

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

## ARTICLE VI

### Other Agreements of the Governmental Agency

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

6.2 The Governmental Agency hereby covenants that it will rebate any amounts required by Section 148 of the Code, if applicable, and will take all steps necessary to make any such rebates. In the event the Governmental Agency fails to make any such rebates as required, then the Governmental Agency shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable

to preserve the exclusion from gross income for Federal income tax purposes of interest on the Notes.

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

6.4 The Governmental Agency hereby agrees to give the Authority 90 days prior written notice of the issuance by it of any other obligations to be used to pay costs of the Contract or proposed Project, payable from the revenues of the System or from any grants for the Contract or Project or otherwise related to the Contract, the Project or the System.

## ARTICLE VII

### Miscellaneous

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

7.2 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement and the provisions of the Note.

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

- (i) the end of ninety (90) days after the date of execution hereof by the Authority if the Governmental Agency has failed to deliver the Notes to the Authority;
- (ii) termination by the Authority pursuant to Section 6.1 hereof; or
- (iii) payment in full of the principal of and interest, if any, on the Loan and of any fees and charges owed by the Governmental Agency to the Authority, acting on behalf of the Council.

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

RED SULPHUR PUBLIC SERVICE DISTRICT

(SEAL)

By: *Dennis Sebald*  
Chairman

Attest:

*Cecilia C. Williams*  
Secretary

Date: June 15, 1998

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

(SEAL)

By: *Daniel B. Gorkosh*  
Director

Attest:

*Barbara B. Meadows*  
Secretary-Treasurer

Date: June 15, 1998

EXHIBIT A

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and  
Jobs Development Council  
980 One Valley Square  
Charleston, West Virginia 25301

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

Ladies and Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated \_\_\_\_\_, 19\_\_\_, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of notes of the Governmental Agency, dated \_\_\_\_\_, 19\_\_\_ (the "Notes"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Notes are in the principal amount of \$ \_\_\_\_\_, issued in the form of one note, fully registered as to principal to the Authority, with no interest, and the entire outstanding principal of the Notes and an Administrative Fee of 3% shall be payable on \_\_\_\_\_, 19\_\_\_, as set forth in Schedule X incorporated in and made a part of the Notes.

The Notes are issued for the purpose of financing a portion of preliminary engineering and design costs for certain \_\_\_\_\_ (the "Project") and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of \_\_\_\_\_ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the note \_\_\_\_\_ duly enacted by the Governmental Agency on \_\_\_\_\_ (the "Local Act"), pursuant to and under which Local Statute and Local Act the Notes are author-

ized and issued, and the Loan Agreement that has been undertaken. The Notes are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Governmental Agency without the consent of the Authority.

3. The Governmental Agency is a duly organized and presently existing \_\_\_\_\_, with full power and authority to design, construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Notes, all under the Local Statute and other applicable provisions of law.

4. The Governmental Agency has legally and effectively enacted the Local Act and all other necessary \_\_\_\_\_ in connection with the issuance and sale of the Notes. The Local Act contains provisions and covenants substantially in the form of those set forth in Article IV of the Loan Agreement.

5. The Notes are valid and legally enforceable special obligations of the Governmental Agency, payable from the proceeds of any grants received by the Governmental Agency for the System, proceeds of any revenue bonds, refunding bonds or other obligations of the Governmental Agency, issued subsequent to the issuance of the Notes, all in accordance with the terms of the Notes and the Local Act, and have been duly issued and delivered to the Authority.

6. [If required, the Notes are, by statute, exempt \_\_\_\_\_, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Notes is excludable from the gross income of the recipients thereof for Federal income tax purposes.]

7. [The Notes and the interest thereon are, by the Local Statute, exempt from taxation by the State of West Virginia and the other taxing bodies of the State.]

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

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

Very truly yours,

C:\OFFICE\WPWIN\WPDOCS\CLOSED\REDSUL.ENG

## SCHEDULE X

### DESCRIPTION OF NOTES

Principal Amount of Notes	\$180,600
Purchase Price of Notes	\$180,600

Principal on the Notes is deferred until June 15, 2001, upon which date the entire outstanding principal is due. There is no interest on the Notes.

An Administrative Fee of 3% of the principal amount of the Notes is due and payable on June 15, 2001.

The Notes will be fully registered in the name of the West Virginia Water Development Authority as to principal and such Notes shall grant the Authority a first lien on the proceeds of any grants for the System (other than Infrastructure Fund grants), and/or proceeds of any revenue bonds, refunding bonds or other obligations of the Governmental Agency, issued subsequent to the issuance of the Notes.

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

## SCHEDULE X

### DESCRIPTION OF NOTES

Principal Amount of Notes	\$180,600
Purchase Price of Notes	\$180,600

Principal on the Notes is deferred until June 15, 2001, upon which date the entire outstanding principal is due. There is no interest on the Notes.

An Administrative Fee of 3% of the principal amount of the Notes is due and payable on June 15, 2001.

The Notes will be fully registered in the name of the West Virginia Water Development Authority as to principal and such Notes shall grant the Authority a first lien on the proceeds of any grants for the System (other than Infrastructure Fund grants), and/or proceeds of any revenue bonds, refunding bonds or other obligations of the Governmental Agency, issued subsequent to the issuance of the Notes, and Surplus Revenues, if any, of the System.

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

SCHEDULE Y

Red Sulphur Public Service District

\$180,600 0% Interest. 3 Years  
\$5,418.00 Administrative Fee

DEBT SERVICE SCHEDULE

---

Date	Principal	Coupon	Administrative Fee	Total
June 15, 2001	: 180,600	-	5,418	186,018

---



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 30th day of January, 1998.

CASE NO. 97-1156-PSWD-PC

RED SULPHUR PUBLIC SERVICE DISTRICT  
Petition for consent and approval of an  
engineering agreement between the District  
and Pentree, Inc.

COMMISSION ORDER

PROCEDURE AND HISTORY

On September 9, 1997, the Red Sulphur Public Service District filed a petition for consent and approval of an engineering agreement between the District and Pentree, Inc. for engineering services associated with wastewater treatment plant upgrading, interceptor line construction, and inflow/infiltration rehabilitation. Staff recommended that the District request a waiver of the Public Service Commission's requirement of prior approval and consent for entering into contracts for engineering, pursuant to West Virginia Code § 16-13A-25. The Administrative Law Division, having not received Staff's memorandum, was not informed the District was planning on filing a waiver request, and entered a Recommended Decision on December 16, 1997, dismissing the case.

After the recommended Decision was received, on December 29, 1997, the District filed a letter requesting the waiver. Staff filed its Further Final Joint Staff Memorandum on January 15, 1998, indicating the District has fulfilled the requirements of West Virginia Code § 16-13A-25 and recommending the waiver be granted.

DISCUSSION

Having reviewed the petition filed by the District and the Commission Staff's Further Final Joint Staff Memorandum, and finding the requirements of West Virginia Code § 16-13A-25 to have been met, it is reasonable to grant the District's request for a waiver.

FINDINGS OF FACT

1. On September 9, 1997, the Red Sulphur Service District filed a petition with the Public Service Commission seeking consent and approval to enter into an engineering agreement with Pentree, Inc. (See petition)

2. The Red Sulphur Public Service District filed a request dated December 29, 1997 for a waiver of the requirement of West Virginia Code § 16-13A-25. (See letter from Porter Robertson, mgr. of Red Sulphur PSD to Commission Executive Secretary)

3. Technical and Legal Staff reviewed the materials submitted and recommended approval of the Districts request for a waiver. (See Further Final Joint Staff Memorandum, filed January 15, 1998.

#### CONCLUSIONS OF LAW

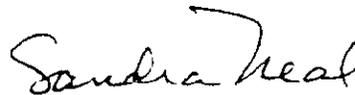
The District has met the Public Service Commission's requirements for the granting of a waiver pursuant to West Virginia Code 16-13A-25.

#### ORDER

IT IS THEREFORE ORDERED that the petition by the Red Sulphur Public Service District for a waiver of the Public Service Commission's requirement of prior approval and consent for entering into contracts for engineering is granted.

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

A True Copy, Teste:



Sandra Neal  
Executive Secretary

ARC

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

FINAL  
5-13-98

Entered: April 23 1998

CASE NO. 98-0197-PSWD-PC

RED SULPHUR PUBLIC SERVICE DISTRICT

Petition for consent and approval for a loan from the West Virginia Infrastructure and Jobs Development Council for the District to receive engineering design advance assistance.

RECEIVED  
5-18-98

RECOMMENDED DECISION

On February 24, 1998, Red Sulphur Public Service District (District) filed a petition for Commission consent and approval to accept a loan from the West Virginia Infrastructure and Jobs Development Council (WVIJDC) to provide a portion of the funds necessary for engineering design advances included in an engineering agreement.

On March 23, 1998, the Public Service Commission issued a Referral Order in this proceeding, referring this matter to the Division of Administrative Law Judges for a decision to be rendered on or before September 29, 1998.

On April 8, 1998, Cecelia Gail Jarrell, Staff Attorney, filed a Final Joint Staff Memorandum in this proceeding. Attached to that Memorandum was a Final Internal Memorandum prepared by Robert M. Hubbard, Senior Utilities Analyst, Water and Wastewater Division, dated March 9, 1998. According to Staff, the engineering agreement was approved by Commission Order dated January 30, 1998, in Case No. 97-1156-PSWD-PC. The referenced agreement is for preconstruction engineering services related to the District's proposed project to upgrade its existing wastewater treatment plant and to extend service to the Fountain Plaza. At its January 7, 1998 meeting, the WVIJDC considered the District's request, made pursuant to the WVIJDC Engineering Advance Funding Assistance Program (Program), for a deferred loan of \$258,000, to pay for the preconstruction engineering services related to the District's proposed project. According to Staff, the WVIJDC approved funding in the amount of \$180,600, which is the maximum amount allowed under the Program, resulting in a shortfall in funding in the amount of \$77,400 between the amount requested and the amount approved by the Council. Staff noted that telephone contact with the District indicated that the engineering firm will wait for the balance of the payment until additional funding is available through permanent financing.

The WVIJDC funding will be in the form of a deferred loan obligation, to be repaid with the project's permanent financing. Accordingly, the WVIJDC will enter into appropriate closing documents with the District following receipt of a final order from the Commission authorizing the

M 12

4B

proposed borrowing. Under the parameters of the Program, in the event the proposed project is not ultimately constructed, all or any portion of the deferred obligation may, at the option of the WVIJDC, be treated as an uncollectible obligation.

Staff recommended that the District's request for approval of the above-referenced borrowing from the WVIJDC in an amount not to exceed \$180,600, for engineering design advance assistance, be approved.

Upon consideration of all of the above, the Administrative Law Judge is of the opinion that Staff's recommendation is reasonable and should be adopted.

#### FINDINGS OF FACT

1. On February 24, 1998, Red Sulphur Public Service District filed a petition for consent and approval of a loan from the West Virginia Infrastructure and Jobs Development Council to provide a portion of the funds necessary for engineering design advances included in an engineering agreement. (See, Petition).

2. On April 8, 1998, Staff filed a Final Joint Staff Memorandum recommending approval of the District's proposed borrowing from WVIJDC in an amount not to exceed \$180,600, for engineering design advance assistance. (See, Final Joint Staff Memorandum and attachment filed April 8, 1998).

#### CONCLUSION OF LAW

Since Commission Staff has reviewed the District's petition and has recommended approval thereof, it is reasonable that the District's petition should be approved, as filed.

#### ORDER

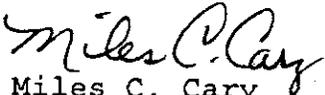
IT IS, THEREFORE, ORDERED that the petition filed by Red Sulphur Public Service District on February 24, 1998, for Commission consent and approval to accept a loan from the West Virginia Infrastructure and Jobs Development Council to provide a portion of the funds necessary for engineering design advance included in an engineering agreement, in an amount not to exceed \$180,600, be, and it hereby is, approved.

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.

  
Miles C. Cary  
Administrative Law Judge

MCC:dfs





# West Virginia Infrastructure & Jobs Development Council

Public Members:

James D. Williams, Chairman  
St. Albans  
James L. Harrison, Sr., Vice Chairman  
Princeton  
Lloyd P. Adams, PE.  
Wheeling  
Sheirl L. Fletcher  
Morgantown

980 One Valley Square  
Charleston, West Virginia 25301  
Telephone: (304) 558-4607  
Facsimile: (304) 558-4609

Susan J. Riggs, Esquire  
Executive Secretary

January 14, 1998

Dennis Sibold  
Red Sulphur Public Service District  
P. O. Box 697  
Peterstown, WV 24963

Re: Red Sulphur Public Service District  
Wastewater System Extension Project (Fountain) 96S-250

Dear Mr. Sibold:

The West Virginia Infrastructure and Jobs Development Council (Council), at its January 7, 1998 meeting, considered the Red Sulphur Public Service District's (District) request, made pursuant to the Council's Engineering Design Advance Funding Assistance Program (Program), for a deferred loan of \$258,000 to pay for the preconstruction engineering services related to its proposed project to upgrade the existing wastewater treatment plant and extend service to the Fountain Plaza (Project). The Council approved funding in the amount of \$180,600, which is the maximum amount allowed under the Program.

The Council's funding will be in the form of a deferred loan obligation, to be repaid with the Project's permanent financing.

The Council will enter into the appropriate closing documents with the District following receipt of a final nonappealable order from the Public Service Commission authorizing the proposed borrowing and approving the proposed engineering agreement, and any other documentation which may be requested by the Council. If you have any questions regarding this matter, please contact Susan J. Riggs at the above telephone number.

Sincerely,

James D. Williams

JDW/ceg  
Enclosure

cc: Norman L. Kirkham



RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

CROSS-RECEIPT FOR NOTE AND NOTE PROCEEDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and the undersigned Chairperson of the Public Service Board of Red Sulphur Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certify as follows:

1. On the 15th day of June, 1998, the Authority received the entire original issue of Red Sulphur Public Service District Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), No. R-1, issued as a single, fully registered Note, in the principal amount of \$180,600, dated June 15, 1998 (the "Notes").

2. At the time of such receipt, the Notes had been executed and sealed by the designated officials of the Issuer.

3. The Issuer has received and hereby acknowledges receipt from the Authority and the Council of the sum of \$30,350, being the initial advance of principal of the Notes. Additional advances of the balance of the principal amount of the Notes will be requested by the Issuer and made by the Authority and the Council as the Project progresses.

1998. WITNESS our respective signatures on this 15th day of June,

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

Barbara B Meadows  
Authorized Representative

RED SULPHUR PUBLIC SERVICE DISTRICT

Dennis Sibold  
Chairperson



RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

DIRECTION TO AUTHENTICATE AND DELIVER NOTE

One Valley Bank, National Association,  
as Registrar  
Charleston, West Virginia

Ladies and Gentlemen:

There are delivered to you herewith as Registrar for the above-captioned  
Notes:

(1) Note No. R-1, constituting the entire original issue of the Red Sulphur Public Service District Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), in the principal amount of \$180,600, dated June 15, 1998 (the "Notes"), executed by the Chairperson and the Secretary of Red Sulphur Public Service District (the "Issuer") and bearing the official seal of the Issuer. The Notes are authorized to be issued under and pursuant to a Notes Resolution duly adopted by the Issuer on June 9, 1998, and a Supplemental Resolution duly adopted by the Issuer on June 9, 1998 (collectively, the "Notes Legislation");

(2) A copy of the Notes Legislation duly certified by the Secretary of the Issuer;

(3) Executed counterparts of the loan agreement dated June 15, 1998 (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"); and

(4) An executed opinion of nationally recognized bond counsel regarding the validity of the Loan Agreement and the Notes.

You are hereby requested and authorized to authenticate, register and deliver the Notes to the Authority, upon payment to the Issuer of the sum of \$30,350 representing the initial advance of principal of the Notes.

Dated this 15th day of June, 1998.

RED SULPHUR PUBLIC SERVICE DISTRICT

  
Chairperson

06/08/98  
742910/98001



[FORM OF NOTE]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
RED SULPHUR PUBLIC SERVICE DISTRICT  
COMBINED WATERWORKS AND SEWERAGE SYSTEM  
DESIGN NOTE, SERIES 1998  
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1

\$180,600

KNOW ALL MEN BY THESE PRESENTS: That RED SULPHUR PUBLIC SERVICE DISTRICT, a public service district, 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 sources and in the manner provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns, on the 15th day of June, 2001, the principal sum of One Hundred Eighty Thousand Six Hundred Dollars (\$180,600), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the Record of Advances attached hereto and incorporated herein by reference as a part hereof, with no interest. The Administrative Fee (as defined in the hereinafter described Notes Legislation) in the amount of 3% as set forth in the Loan Agreement (as hereinafter defined) shall also be payable on the 15th day of June, 2001.

The principal of this Note and the Administrative Fee are payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Note may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated June 15, 1998, by and between the Issuer and the Authority, on behalf of the Council.

This Note is issued (i) to temporarily finance a portion of the costs of design of certain improvements and extensions to the sewerage portion of the existing public combined waterworks and sewerage system of the Issuer (the design of the aforementioned improvements and extensions is herein referred to as the "Project", and the existing public combined waterworks and sewerage system of the Issuer, together with any further additions, betterments and improvements thereto, including those contemplated by the Project, are collectively referred to as the "System") and (ii) to pay the costs of issuance hereof and



related costs. This Note is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), and a Notes Resolution duly adopted by the Issuer on June 9, 1998, and a Supplemental Resolution duly adopted by the Issuer on June 9, 1998 (collectively, the "Notes Legislation"), and is subject to all the terms and conditions thereof.

The principal of this Note is payable only from and secured by a first lien on (1) the proceeds of any grants (other than grants from the West Virginia Infrastructure Fund) received by the Issuer for the System; and (2) the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System issued subsequent to the issuance of this Note. The moneys from these sources shall be deposited into the Notes Payment Fund established under the Notes Legislation for the prompt payment of the principal of this Note. In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received by the Issuer for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued by the maturity date of the Notes, the payment of the Notes shall be deferred until the earlier of (i) the date any grants (other than grants from the West Virginia Infrastructure Fund) are received for the System, (ii) the date any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued or (iii) 20 years from the date of issuance of the Notes. In the event any grants (other than grants from the West Virginia Infrastructure Fund) are received for the System or any revenue bonds, refunding bonds or other obligations of the Issuer, secured by or payable from revenues of the System, are issued, the Issuer shall pay the entire outstanding principal of and interest, if any, accrued to the maturity date of the Notes from the proceeds thereof. In the event the Issuer receives a grant (other than a grant from the West Virginia Infrastructure Fund) or other non-loan funding assistance for the acquisition and construction of a project to serve the area described in the application to the Council, which grant or other non-loan funding assistance may not be used to pay the Notes, then the Notes shall be repaid from the Net Revenues generated from the project constructed from such grant or other non-loan funding assistance (or from bond proceeds secured by such Net Revenues) and such repayment shall be amortized for a period not to exceed 20 years, provided that the holders of any outstanding debt secured by the System shall consent to the payment of the Notes from the Net Revenues generated from the project, as required. In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued or no project has been acquired or constructed by the Issuer within 20 years from the date of issuance of the Notes, the Council shall authorize the Authority to convert the Notes to a grant and cancel the Notes.

This Note does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provisions or limitations, nor shall the Issuer be obligated to pay the same except from the sources set forth above. Under the Notes

Legislation, the Issuer has entered into certain covenants with the Authority, for the terms of which reference is made to the Notes Legislation. Remedies provided the Authority are exclusively as provided in the Notes Legislation, to which reference is here made for a detailed description thereof.

Subject to the requirements for transfer set forth herein, this Note is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia. This Note is transferable, as provided in the Notes Legislation, only by transfer of registration upon the books of One Valley Bank, National Association, West Virginia, as registrar (the "Registrar"), to be made at the request of the registered owner hereof in person or by his attorney duly authorized in writing, and upon surrender hereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney.

All moneys received from the sale of this Note shall be applied solely to the payment of the costs of design of the Project and the costs of issuance and related costs described in the Notes Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Note.

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

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the Notes, together with all other obligations of the Issuer, do not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia.

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

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

IN WITNESS WHEREOF, RED SULPHUR PUBLIC SERVICE DISTRICT  
has caused this Note to be signed by its Chairperson and its corporate seal to be hereunto  
affixed and attested by its Secretary, and has caused this Note to be dated June 15, 1998.

[SEAL]

\_\_\_\_\_  
Chairperson

Attest:

\_\_\_\_\_  
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is to certify that this Note is one of the Notes described in and issued under the provisions of the within-mentioned Notes Legislation and has been duly registered in the name of the registered owner set forth above.

Date: June 15, 1998

ONE VALLEY BANK, NATIONAL  
ASSOCIATION, Registrar

---

Authorized Officer

ASSIGNMENT

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

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

\_\_\_\_\_

IN THE PRESENCE OF:

\_\_\_\_\_

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) \$ 30,350	06/15/98	(7) \$	
(2) \$		(8) \$	
(3) \$		(9) \$	
(4) \$		(10) \$	
(5) \$		(11) \$	
(6) \$		(12) \$	

TOTAL \$ \_\_\_\_\_

06/11/98  
742910/98001



# STEPTOE & JOHNSON

ATTORNEYS AT LAW

BANK ONE CENTER

SEVENTH FLOOR

P. O. BOX 1588

CHARLESTON, W. VA. 25326-1588

(304) 353-8000

FACSIMILE (304) 353-8180

BANK ONE CENTER, SIXTH FLOOR  
P. O. BOX 2190  
CLARKSBURG, W. VA. 26302-2190  
(304) 624-8000  
FACSIMILE (304) 624-8183

1000 HAMPTON CENTER  
P. O. BOX 1616  
MORGANTOWN, W. VA. 26507-1616  
(304) 598-8000  
FACSIMILE (304) 598-8116

126 EAST BURKE STREET  
P. O. BOX 2629  
MARTINSBURG, W. VA. 25402-2629  
(304) 263-6991  
FACSIMILE (304) 262-3541

RILEY BUILDING, FOURTH FLOOR  
14TH AND CHAPLINE STREETS  
P. O. BOX 150  
WHEELING, W. VA. 26003-0020  
(304) 233-0000  
FACSIMILE (304) 233-0014

THE RIVERS OFFICE PARK  
200 STAR AVENUE, SUITE 220  
P. O. BOX 628  
PARKERSBURG, W. VA. 26102-0628  
(304) 422-6463  
FACSIMILE (304) 422-6462

ALAN B. MOLLOHAN INNOVATION CENTER  
1000 TECHNOLOGY DRIVE  
P. O. BOX 2210  
FAIRMONT, W. VA. 26555-4332  
(304) 368-8000  
FACSIMILE (304) 368-8413

WRITER'S DIRECT DIAL NUMBER

June 15, 1998

Red Sulphur Public Service District  
Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

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

West Virginia Infrastructure and  
Jobs Development Council  
980 One Valley Square  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by Red Sulphur Public Service District (the "Issuer"), a public service district and public corporation and political subdivision created and existing under the laws of the State of West Virginia, of its \$180,600 Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), dated the date hereof (the "Notes").

We have examined the law and certified copies of proceedings and other papers relating to the authorization of a loan agreement, dated June 15, 1998, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and the Notes, which are to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Notes are originally issued in the form of one Note, registered as to principal to the Authority, with no interest, and the entire outstanding principal of the Notes shall be payable on June 15, 2001, all as set forth in the Notes and "Schedule X" attached to the Loan Agreement.

The Notes are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 31,

Article 15A of the West Virginia Code of 1931, as amended (collectively, the "Act"), for the purposes of (i) temporarily financing a portion of the costs of design of certain improvements and extensions to the sewerage portion of the existing public combined waterworks and sewerage system of the Issuer (the design of the aforementioned improvements and extensions is herein referred to as the "Project"); and (ii) paying costs of issuance and related costs.

We have also examined the applicable provisions of the Act, the Notes Resolution duly adopted by the Issuer on June 9, 1998, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 9, 1998 (collectively, the "Notes Legislation"), pursuant to and under which Act and Resolution the Notes are authorized and issued, and the Loan Agreement has been entered into. The Notes are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement.

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

1. The Issuer is a duly created and validly existing public service district, public corporation and political subdivision of the State of West Virginia, with corporate power and authority to adopt the Notes Legislation, to proceed with the Project and to issue and sell the Notes, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer, is a valid and binding special obligation of the Issuer enforceable in accordance with the terms thereof, and inures to the benefit of the Authority and the Council and cannot be amended so as to adversely affect the rights of the Authority or the Council or diminish the obligations of the Issuer without the written consent of the Authority and the Council.

3. The Notes Legislation and all other necessary orders and resolutions have been duly and effectively adopted by the Issuer and constitute valid and binding obligations of the Issuer enforceable upon the Issuer in accordance with their terms. The Notes Legislation contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

4. The Notes have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable only from and secured by a first lien on (1) the proceeds of any grants (other than grants from the West Virginia Infrastructure Fund) received by the Issuer for the System; and (2) the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System issued subsequent to the issuance of the Notes, all in accordance with the terms of the Notes and the Notes Legislation.

5. The Notes have not been issued on the basis that the interest thereon, if any, is or will be excluded from gross income for federal income tax purposes; therefore, the interest, if any, on the Notes 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 Notes.

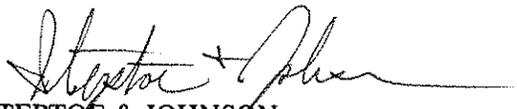
West Virginia Water Development Authority, et al.  
June 15, 1998  
Page 3

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

It is to be understood that the rights of the holders of the Notes and the enforceability of the Notes, the Notes Legislation 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 their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

  
STEPTOE & JOHNSON



LAW OFFICES  
WILLIAM S. WINFREY, II

1608 MAIN STREET WEST  
POST OFFICE BOX 1159  
PRINCETON, W. VA. 24740

TELEPHONE  
304-487-1887  
TELECOPIER  
304-425-7340

FILE NO.

94-089

June 15, 1998

Red Sulphur Public Service District  
Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

West Virginia Water Development Authority  
180 Association Drive  
Charleston, WV 25311-1571

West Virginia Infrastructure and  
Jobs Development Council  
980 One Valley Square  
Charleston, WV 25301

Steptoe & Johnson  
P.O. Box 2190  
Clarksburg, West Virginia 26302

Ladies and Gentlemen:

I am counsel to Red Sulphur Public Service District, a public service district in Monroe County, West Virginia (the "Issuer"), in connection with the issuance and sale of the above-captioned notes (the "Notes"). As such counsel, I have reviewed copies of the approving opinion of Steptoe & Johnson, as bond counsel, a loan agreement dated June 15, 1998, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of West Virginia Infrastructure and Jobs Development Council (the "Council"), the Notes Resolution duly adopted by the Issuer on June 9, 1998, as supplemented by the Supplemental Resolution duly adopted by the Issuer on June 9, 1998 (collectively, the "Notes Legislation"), and other documents, papers, agreements, instruments and certificates relating to the Notes and orders of The County Commission of Monroe County relating to the Issuer and the appointment members of the Public Service Board of the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Notes Legislation and the Loan Agreement when used herein.

I am of the opinion that:

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

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

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

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

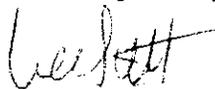
5. The execution and delivery of the Notes and the Loan Agreement and the consummation of the transactions contemplated by the Notes, the Loan Agreement and the Notes Legislation, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on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

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates and authorizations required by law for the creation and existence of the Issuer, the issuance of the Notes, and the design of the Project, including, without limitation, all requisite orders, certificates and approvals from The County Commission of Monroe County, the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia. The Issuer has received the Final Order of the Public Service Commission of West Virginia entered on January 30, 1998, Case No. 97-1156-PSWD-PC, granting a waiver of the requirement of West Virginia Code Section 16-13A-25 as it applies to the contract with the Consulting Engineers for the Project, and the Final Order of the Public Service Commission of West Virginia entered on May 13, 1998, Case No. 98-0197-PSWD-PC, among other things, approving the issuance of the Notes. The time for rehearing and appeal of each of the aforementioned Final Orders has expired prior to the date hereof.

West Virginia Water Development  
Authority, et al  
Page 3

7. 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 Notes and the Notes Legislation, the design of the Project, validity of the Notes or pledge of the funds set forth in the Notes Legislation.

Yours very truly,



William S. Winfrey, II

WSW, II/gmt



RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

GENERAL CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. CERTIFICATION OF COPIES OF DOCUMENTS
6. INCUMBENCY AND OFFICIAL NAME
7. MEETINGS, ETC.
8. LOAN AGREEMENT
9. SIGNATURES AND DELIVERY
10. NOTE PROCEEDS
11. SPECIMEN NOTE
12. CONFLICT OF INTEREST
13. EXECUTION IN COUNTERPART

We, the undersigned Chairperson and Secretary of Red Sulphur Public Service District in Monroe County, West Virginia (the "Issuer"), and the undersigned Counsel to the Issuer, hereby certify in connection with the \$180,600 principal amount of Red Sulphur Public Service District Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), dated the date hereof (the "Notes"), as follows:

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Notes Resolution of the Issuer duly adopted June 9, 1998, and the Supplemental Resolution duly adopted June 9, 1998 (collectively, the "Note Legislation").

2. **NO LITIGATION:** No controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Notes, the design of the Project, or in any way contesting or affecting the validity of the Notes, or any proceedings of the Issuer taken with respect to the issuance or sale of the Notes, the pledge or security provided for the payment of the Notes or the existence or the powers of the Issuer insofar as they relate to the authorization, sale and issuance of the Notes, the Project, the pledge or security provided for the payment of the Notes.

3. **GOVERNMENTAL APPROVALS:** All applicable and necessary approvals, permits, licenses, orders, authorizations, registrations, exemptions, consents and certificates required by law for the creation and existence of the Issuer, the issuance of the Notes and the design of the Project, including, without limitation, all requisite orders, certificates and approvals from The County Commission of Monroe County, the West Virginia Infrastructure and Jobs Development Council and the Public Service Commission of West Virginia, have been duly and timely obtained and remain in full force and effect. The Issuer has received the Final Orders of the Public Service Commission of West Virginia entered on January 30, 1998, Case No. 97-1156-PSWD-PC, granting a waiver of the requirement of West Virginia Code section 16-13A-25 as it applies to the contract with the Consulting Engineers for the Project and the Final Order of the Public Service Commission of West Virginia entered on May 13, 1998, in Case No. 98-0197-PSWD-PC, among other things, approving the issuance of the Notes. The time for rehearing and appeal of the aforementioned Final Orders has expired prior to the date hereof.

4. **NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS:** There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery by the Issuer of the Loan Agreement, and the Issuer has met all conditions prescribed in the Loan Agreement entered into by and between the Issuer and the Authority, on behalf of the Council. The Issuer has or can provide the financial, institutional, legal and managerial capabilities necessary for the Project.

There are no outstanding bonds or other obligations of the Issuer which will rank senior and prior to or on a parity with the Notes as to liens, pledge and source of and security for payment. The Notes shall be payable only from and secured by a first lien on (1) the proceeds of any grants (other than grants from the West Virginia Infrastructure Fund) received by the Issuer for the System; and (2) the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System issued subsequent to the issuance of the Notes. The Issuer has no obligations outstanding which are payable from any source from which the Notes are payable.

In the event no grants (other than grants from the West Virginia Infrastructure Fund) are received by the Issuer for the System or no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued by the maturity date of the Notes, the payment of the Notes shall be deferred until the earlier of (i) the date of issuance of any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System, or (ii) 20 years from the date of issuance of the Notes. In the event any revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from revenues of the System are issued within 20 years from the date of issuance of the Notes, the Issuer shall pay the entire outstanding principal of and interest, if any, accrued to the maturity date of the Notes from the proceeds thereof. In the event no revenue bonds, refunding bonds or other obligations of the Issuer secured by or payable from the revenues of the System are issued within 20 years from the date of

issuance of the Notes, the Council shall authorize the Authority to convert the Notes to a grant and cancel the Notes.

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

Notes Resolution

Supplemental Resolution

Loan Agreement

Infrastructure Council Approval

County Commission Orders on Creation, Merger and Expansion of Service Authority of District

County Commission Orders Appointing Current Boardmembers

Oaths of Office of Current Boardmembers

Rules of Procedure

Minutes of Current Year Organizational Meeting January 6, 1998.

Minutes on Adoption of Notes Resolution and Supplemental Resolution

Public Service Commission orders entered January 30, 1998, and May 13, 1998.

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

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Dennis Sibold	September 1, 1995	September 1, 2001
Robert M. Williams, Sr.	December 19, 1997	December 19, 2003
Paul E. Ball, Jr.	September 13, 1993	September 13, 1999

The duly elected, qualified and acting officers of the Public Service Board of the Issuer for the calendar year 1998 are as follows:

Chairman	-	Dennis Sibold
Secretary	-	Ceresia Williams
Treasurer	-	Robert M. Williams, Sr.

The duly appointed and acting Counsel to the Issuer is William S. Winfrey, II, Princeton, West Virginia.

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

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

9. SIGNATURES AND DELIVERY: On the date hereof, the undersigned Chairperson did officially sign all of the Notes of the aforesaid issue, consisting upon original issuance of a single Note, dated the date hereof, by his manual signature, and the undersigned Secretary did officially cause the official seal of the Issuer to be affixed upon the Notes and to be attested by his manual signature, and the Registrar did officially authenticate and deliver

the Notes to a representative of the Authority as the original purchaser of the Notes under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

10. **NOTE PROCEEDS:** On the date hereof, the Issuer received \$30,350 from the Authority and the Council, being the initial advance of principal of the Notes. Additional advances of the balance of the principal amount of the Notes will be requested by the Issuer and made by the Authority and the Council as the Project progresses.

11. **SPECIMEN NOTE:** Delivered concurrently herewith is a true and accurate specimen of the Note.

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

13. **EXECUTION IN COUNTERPART:** This Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.



WITNESS our signatures and the official seal of RED SULPHUR PUBLIC SERVICE DISTRICT on this 15th day of June, 1998.

[CORPORATE SEAL]

SIGNATURE

OFFICIAL TITLE

\_\_\_\_\_

Chairperson

\_\_\_\_\_

Secretary

\_\_\_\_\_

Counsel to Issuer

*(Handwritten signature)*



RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

CERTIFICATE OF ENGINEER

I, Robert Hazelwood, Registered Professional Engineer, West Virginia License No. 8452 of Pentree, Inc., in Princeton, West Virginia, hereby certify as follows:

1. My firm is engineer for the design of certain improvements and extensions to the sewerage portion of the existing public combined waterworks and sewerage facilities (the design of the aforementioned improvements and extensions is herein referred to as the "Project") of Red Sulphur Public Service District (the "Issuer"), to be constructed primarily in Monroe County, West Virginia, which design is being temporarily financed in part by the proceeds of the above-captioned notes (the "Notes") of the Issuer. Capitalized terms used herein and not defined herein shall have the same meanings set forth in the Notes Resolution adopted by the Issuer on June 9, 1998, and the Supplemental Resolution adopted by the Issuer on June 9, 1998, and the Loan Agreement dated June 15, 1998 (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council").

2. The Notes are being issued for the purposes of (i) temporarily financing a portion of the costs of the Project; and (ii) paying costs of issuance and related costs.

3. The undersigned hereby certifies that (i) the Project will be completed by my firm as described in the application submitted to the Authority and the Council, requesting the Authority to purchase the Notes (the "Application"), (ii) the improvements and extensions to the existing public waterworks facilities of the Issuer which will be designed as a result of the Project will be adequate for the purpose for which they will be designed and, when constructed, will have a useful life of at least forty years, (iii) prior to construction, the undersigned will assist the Issuer in obtaining all permits required by the laws of the State of West Virginia and the United States necessary for the construction and acquisition of the improvements and extensions contemplated by the Project and the operation of the System, (iv) the net proceeds of the Notes, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto, are sufficient to pay the costs of the Project, other than the amount deferred by the Consulting Engineer, as set forth in the Application, and (v) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature and seal on this 15th day of June, 1998.

PENTREE, INC.

[SEAL]



*Robert D. Hazelwood*

Robert Hazelwood, P.E.

West Virginia License No. 8452

EXHIBIT A

**WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL**

**SCHEDULE B**

Red Sulphur Public Service District

Wastewater System Upgrade Project 96S-250

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

<b>A. Cost of Project</b>	<b>Total Costs</b>	<b>IJDC Loan</b>	<b>Deferred Costs A/</b>
1. Construction Based on Actual Bids			
2. Technical Services (Preconstruction)	268,000	177,250	90,750
3. Legal & Fiscal	600	600	
4. Administrative			
5. Sites and Other Lands			
6. Step I or II or Other Loan Repayments			
7. Interim Financing Costs			
8. Contingency			
9. Total of Lines 1 through 8	268,600	177,850	90,750
<b>B. Sources of Funds</b>			
10. Federal Grants:			
a.			
b.			
11. State Grants:			
a.			
b.			
12. Other Grants:			
13. Any Other Source: (1)			
a.			
b.			
14. Infrastructure Fund Grant			
15. Total of Lines 10 through 14		0	
16. Net Proceeds Required from Bond Issue (Line 9 minus Line 15)		177,850	
<b>C. Cost of Financing</b>			
17. Funded Reserve Account (2)			
18. Other Costs (3)			
a. Bond Counsel		2,500	
b. Bank		250	
19. Total Cost of Financing		2,750	
20. Size of Bond Issue (Line 16 plus Line 19)		180,600	

A/ Balance carried by Engineer until permanent financing is obtained and available for disbursement.

*Dennis Seboll*  
GOVERNMENTAL AGENCY

DATE

6/9/98

*Robert D. Hazelwood*  
CONSULTING ENGINEER

DATE

6/9/98

- (1) Include the proceeds of any parity or subordinate bond issue to be used for such purpose and attach supporting documentation.
- (2) Consult with bond counsel and the Council before assuming a funded reserve.
- (3) For example, fees of accountants, bond counsel and local counsel for the Governmental Agency



J. E. WHELAN

Having been erroneously charged \$22.00 capitation tax which had been paid to the Assessor, as shown by Receipt No. 1161.

It is therefore ordered that the said applicant be refunded, or have credited the amount of \$22.00 capitation tax.

FIDUCIARY SETTLEMENTS AND SETTLEMENTS HEREAFTER ALLOWED

Decedent or Ward.		Fiduciary.		Kind of Bond.	Amount
G. C. Shaver,	Dec'd.	Pearl Shaver,	Execut.	F. Sett. 1-12-34	\$10,000
William Ashby Young,	Dec'd.	Leighton Dransfield,	Exec.	F. Sett. 7-12-34	\$10,000
Sidney C. Skaggs,	Dec'd.	Charles F. Skaggs,	Admin.	F. Sett. 1-12-34	\$10,000
E. H. Wiley,	Dec'd.	Lorana E. Wiley,	Exec.	F. Sett. 1-12-34	\$10,000
Mary E. Nash,	Dec'd.	J. Frank and Ralph Nash,	Admin.	F. Sett. 1-24-34	\$10,000
C. W. Thompson,	Dec'd.	Pearl Pence,	Admin.	F. Sett. 1-24-34	\$10,000
Mattie B. Thompson,	Inc.	Pearl Pence,	Com.	F. Sett. 1-24-34	\$10,000

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 records of this Court.

And, upon the recommendation of G. W. Beon, 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 Rolfs, 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 Mattie 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.

RECORDED AND INDEXED

PROPOSING CREATION OF PUBLIC SERVICE DISTRICT

At a regular meeting of the County Court of Monroe County, West Virginia, held at the courthouse on the 6th day of April, 1939, at 10:00 A. M. there were present Hugh G. Cook, President, and H. L. Gallup and Charles A. Hines, Commissioners. H. L. Gallup introduced and caused to be read a proposed resolution and order as follows:

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

and moved the adoption of said proposed resolution and order. Charles A. 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. Gallup, Commissioners, Charles A. Hines, Commissioner. Against the motion: None

The said resolution and order follows:

21 225

"WHEREAS, the County Court of Monroe County, deeming it to be in the public interest on its own motion proposes the creation of a public service district within Monroe County, 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 adopted 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 said County on the 10th day, which said resolution is as follows:

BE IT RESOLVED, That the Town Council of the Town of Peterstown deems it to be necessary for the health and sanitation of the said Town and its inhabitants and of the inhabitants of areas adjacent to the Town that the sewer system of the Town be improved by making of certain additions thereto and extensions thereof, including the construction of a primary sewage treatment plant or arrangement with some other municipal corporation or body operating a primary sewage treatment plant to accept the sewage effluent from the sewerage system of the said Town; and

BE IT FURTHER RESOLVED, That Dennis M. Leary, Jr., Civil Engineer of Parkersburg, West Virginia, and W. H. File, Jr., Attorney at Law, Beckley, West Virginia, are hereby authorized 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 has given its 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 March, 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 15 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 that 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 within Monroe County, West Virginia, as provided by Article 13A of Chapter 15 of the Code of West Virginia.

"Section 2.

"a) The name and corporate title of said public service District shall be the Red Sulphur Public Service District.

116  
"b) The territory to be embraced in the public service district shall be all of 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 15A of Chapter 15, 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. the 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 give notice of such hearing in substantially the form hereinafter set out to be published on 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 5th day of April, 1959.

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

cc - [illegible]

ADJOURNMENT ORDER:

It is ordered that this Court be and the same is hereby adjourned until May 4, 1959, at which time it will convene in Regular Session.

FIDUCIARY SETTLEMENTS AND REPORT OF CLAIMS, APPROVED.

<u>Decedent or Ward,</u>	<u>Fiduciary</u>	<u>Kind of Settl.</u>	<u>Date</u>	<u>County of Account</u>
Mickey S. Ball, Minor	J. L. Inghes, 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.

\*\*\*\*\*  
\*\*\*\*\*

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, Hura 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 passed 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 deemed desirable by said County Court to adopt a resolution and order creating said district;

229

"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 same 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 conducive 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. J. 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, 1960; Charles O. Hines for a term of four years from May 1, 1959; and E. E. Rowe 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.

Charles G. Cook
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. L. 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 issued in payment of the following bills, which have this day been approved by this Court,

Table with 4 columns: PAYEE, PURPOSE, AMOUNT, and CHECK NO. It lists various vendors and their bills, such as E. B. Duncan (Janitor), The C. & P. Tel. Co. (Tel. Services), and others, with corresponding amounts and check numbers.

\*\*\*\*\*
\*\*\*\*\*

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.

It is therefore ordered that the said applicant be refunded, or given credit to the

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 District.

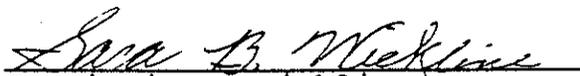
The undersigned Commissioners being asked to consider the matter of the authorized powers of Red Sulphur Public Service District, did review its records and files, and did determine that the aforesaid order does not clearly define the purposes for which the said public service district was created, as it purports to create a public service district with all lawful powers exercised by such districts, but also contains language which could conceivably be construed as limiting the district to sewer services, and that some of the original 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

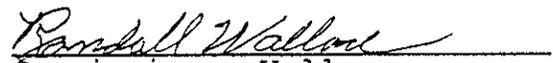
moved, seconded, and adopted by acclamation that Section 3, of the previous order of the Monroe County Commission dated May 4, 1959 be amended to reflect the actual intent of the said commission at that time, as follows:

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 conducive 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.

  
Commissioner Wickline

  
Commissioner Wallace

  
Commissioner Sibold

IN THE COUNTY COMMISSION OF MONROE COUNTY, WEST VIRGINIA

In Re: Proposed Merger of Red Sulphur Public Service District  
and Linside 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 Linside 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 conspicuous 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, 1996.

MONROE COUNTY COMMISSION

Sam B. Wickline  
PRESIDENT

H.C. Libald  
COMMISSIONER

Ronald W. Moore  
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.

**JIM HINES, COUNTY CLERK**  
Monroe County Commission

**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

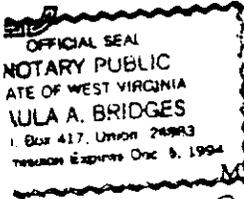
was published two (2)..... consecutive weeks in THE MONROE WATCHMAN, a newspaper published at Union, Monroe County, West Virginia, beginning the 20th day of December, 1990.....

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



commission expires on the 5th day of Dec.....  
19...91.....

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 purporting 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

Eric B. Wickline

COMMISSIONER

H.C. Sibald

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 Lindsides 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 Lindsides 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 Lindsides 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 Lindsides 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 Lindsides 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 Intervenor's 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 Intervenor in this case.

The Petitioner, Monroe County Commission, has presented the testimony of a duly-qualified and experienced engineer as to the efficiency and feasibility 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 Intervenor 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 than 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 contractual 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

# Certificate Of Publication



**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, Petersown, 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**

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

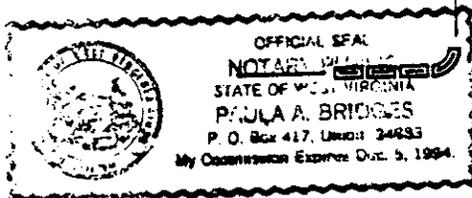
was published ...1... (one) ... consecutive weeks in THE MONROE WATCHMAN, a newspaper published at Union, Monroe County, West Virginia, beginning the 11th day of April 1991.

Given under my hand this 15th day of April 1991.

*H. H. Mohler*  
Publisher

Given under my hand this 15th day of April 1991.

*Paula A. Bridges*  
Notary Public



Total cost of advertisement  
\$ 11.25

My commission expires on the 5th day of Dec 1991.

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, Freston 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

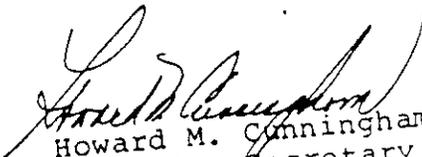
The recommended decision should be affirmed.

#### 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.

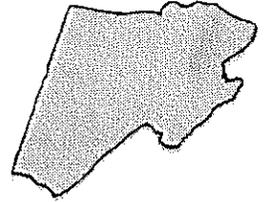
A True Copy, Teste:

  
Howard M. Cunningham  
Executive Secretary





OFFICE OF THE COUNTY CLERK  
MONROE COUNTY  
DONALD J. EVANS, CLERK



P. O. BOX 350  
UNION, WV 24983

PHONE: 304-772-3096  
FAX: 304-772-4191

May 21, 1998

To Whom This May Cocern,

I, Donald J, Evans, Clerk of the Monroe County Commission do hereby certify that as of this 21st day of May, 1998, Paul Ball Jr., Robert Williams and Dennis Sibold are the members of the Red Sulphur Public Service District.

Sincerely,

A handwritten signature in cursive script that reads "Donald J. Evans".

Donald J. Evans  
Monroe County Clerk

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*  
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 occurred 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*  
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 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*  
DUANE MILLER, PRESIDENT

\*\*\*\*\*

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

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

AT A REGULAR SESSION OF THE COUNTY COMMISSION HELD IN AND FOR THE COUNTY OF MONROE AT THE COURTHOUSE ON THE 13TH DAY OF SEPTEMBER, 1993, WITH W. C. SIBOLD, PRESIDENT, SARA WICKLINE AND DUANE MILLER, ASSOCIATE COMMISSIONERS, PRESENT.

The Commission met this date due to regular scheduled meeting fell on Labor Day.

RED SULPHUR PSD-PAUL BALL JR.:

Sara Wickline made a motion to appoint Paul Ball Jr. to the Red Sulphur PSD to a six year term. Duane Miller second the motion. Vote was unanimous.

MONROE COUNTY HEALTH CENTER BOARD OF TRUSTEES:

Sara Wickline made motion to re-appoint A. G. Dransfield, Warrren Ellison and Elizabeth Deggs to the Monroe County Health Center Board of Trustees. Duane Miller second the motion. Vote was unanimous.

GLADYS WILSON:

Gladys Wilson appeared before Commission suggesting that the county should implement building permits. Mrs. Wilson explained that not only would the county benefit from the permit fee's, but it would also help the assessor's office in picking up new additions to homes, which would result in more tax dollars for the county. Commission decided to let Debra Dalton, Prosecuting Attorney research the legal aspects of the permits and they would make a decision after this research.

COMMITTEE FOR DON KINCAID:

Tom Murtaugh, attorney for Mrs. Hazel Kincaid appeared before Commission and presented them with a petition to vacate the appointment of herself as a committee for her husband, Don Kincaid. The reason for vacating this committee is that Mrs. Kincaid never took any action as committee for her husband. Sara Wickline made a motion to vacate the committee. Duane Miller second the motion. Vote was unanimous.

PUBLIC EMPLOYEES INSURANCE AGENCY:

Mr. Bob Mallory from P. E. I. A. Credit Union appeared before Commission, explaining the P.E.I.A. Credit Union and its benefits. Commission decided to let the employee's decide weather or not they would want to join the credit union. Mr. Mallory said if there was enough interest he would come back and explain the credit union to all of the employee's.

PRO COM, INC - DENNY GILGER:

Mrs. Denny Gilger from Pro Com, Inc., a long distance telephone company, appeared before the Commission, explaining the money the county would save by switching to Pro Com Inc. long distance service versus the service we have currently. Commission decided to discuss this matter and make a decision at a later date.

MONROE COUNTY SOLID WASTE:

Mrs. Shirley Neel and Mr. Glen Dowdy appeared before the Commission to discuss a couple of items. The first was what the Commission had decided to do about a copying machine, that is to be shared by Solid Waste, Prosecuting Attorneys Office and the Probation Office, since the one they have there is broken. Commission decided to purchase a small new copier for their use. Mrs. Neel said that the air conditioner they purchased for the Sheriffs' Office in June, this would go towards this copier, for Solid Wastes' part of the copier. Mrs. Neel also questioned the smoking policy in the Solid Waste Office, Prosecuting Attorneys Office and Probation Office, since these offices are in the same building. Commission decided to use one of the vacant offices in the building as a designated smoke area.

MIKE GRAVELY:

Mike Gravelly appeared before Commission asking for an updated phone system for the Magistrate's Office in Union. He explained the cost figures and savings to the county this new system would provide. Duane Miller made a motion to purchase an updated phone system for the Magistrate's Office. Sara Wickline second the motion. Vote was unanimous.

MARY SUE CROTTY ESTATE - RONALD GREEN:

Mr. Ronald Green appeared before Commission asking what stage the estate of Mary Sue Crotty is at to this date. Sheriff Gerald Crosier is administrator of this estate. Mr. Green was in question about a mobile home that was involved in the estate. Commission told Mr. Greene that this mobile home could be sold after the release comes back from the state tax division.

VACATION ORDERS:

It is ordered that all orders and proceedings had before the Clerk of Monroe County Commission for the month of September are approved and confirmed.

EXONERATIONS:

The following Exonerations were approved for the month of August, 1993:

Michael Biggs	Joseph Hartley
Opal C. Wikle	James Jefferson
Herbert Dent	Jefferson Faust
Harold Bostic	Danny Bostic
Fred M. Lilly Jr.	G. P. South
Junior Wickline	Frank Bailey Jr.
French Holt	Charles E. Pence
Don Bradley	Lloyd Charles Franks Sr.
Linda M. Hazelwood	Homer Wickline
John Woodson	Dennis White
Dennis Burton	Irene Wright
Randy Knight	Gladys Huffman
Charles C. Lewis	Paul Martin
Arthur D. Williams	James Fisher
Steven D. Ballengee	Amy Boothe

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

AT A SPECIAL SESSION OF THE MONROE COUNTY COMMISSION CALLED AFTER NOTICE AND AFTER POSTING ON THE FRONT DOOR OF THE COURTHOUSE OF MONROE COUNTY, MORE THAN 48 HOURS PRIOR TO SAID MEETING, BEING HELD ON THE 30TH DAY OF AUGUST, 1995 AT 6:00 P.M. WITH SARA WICKLINE, PRESIDENT, DUANE MILLER AND DR. CRAIG MOHLER, ASSOCIATE COMMISSIONERS, PRESENT.

E-911 DIRECTOR POSITION:

The purpose of this meeting was to interview candidates for the position of 911 director. Also present was T.K. Mullins, Mercer County 911 Director, Donnie Evans, County Clerk, Jerry Brown, Dean Weikle, Shane Ashley and Larry Dunbar, all representing the Monroe County 911 Committee.

After interviewing three candidates, Duane Miller made a motion to accept the application of Jeff Dillon, of Peterstown, and hire him as the Monroe County 911 Director. Dr. Craig Mohler second the motion.

Jeff Dillon had stated that he mailed his application from Peterstown on July 22, 1995, but the county clerks' office did not receive it. The Commission asked Dillon to sign a sworn affidavit that he did mail this application on July 22, 1995. Jeff Dillon agreed to sign the affidavit. The deadline to apply for the 911 Directors position was July 24, 1995. Dillon will start employment of September 18, 1995.

ADJOURNMENT ORDER:

IT IS ORDERED THAT THE COURT BE AND THE SAME IS HEREBY ADJOURNED UNTIL REGULAR SESSION SCHEDULED FOR SEPTEMBER 11, 1995.

*Sara Wickline*  
SARA WICKLINE, PRESIDENT

\*\*\*\*\*

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 11TH DAY OF SEPTEMBER, 1995 AT 9:00 A.M. WITH SARA WICKLINE, PRESIDENT, DUANE MILLER AND DR. CRAIG MOHLER, ASSOCIATE COMMISSIONERS, PRESENT.

MAGDALINE MOOREFIELD ESTATE:

A hearing was held before the Monroe County Commission regarding the Magdalene Moorefield Estate. Mr. Derik Swope, representing Richard Wills, Executor of the Moorefield estate, petitioned the Commission to admit a list to probate as incorporated by reference to the last will and testament. Copy of order on file in County Clerks' Office.

RED SULPHUR PUBLIC SERVICE DISTRICT:

Duane Miller made a motion to re-appoint Dennis Sibold as a member to the Red Sulphur Public Service District for a 6 year term, effective September 1, 1995. Dr. Craig Mohler second the motion. Vote was unanimous.

BUDGET REVISIONS:

The following budget revisions were approved: debit account #999 by \$7,000.00 and credit account #404 by \$5,000.00 and credit account #456 by \$2,000.00.

QUORUM CORPORATION:

Ms. Debbie Ellis, representing Quorum Corporation, appeared before Commission explaining copy machines Quorum Corporation offered. Ms. Ellis gave Commission a proposal on a new copier. Commission advised Mr. Ellis they would have to accept bids on this copier before a decision could be made.

E-911 BUDGET REVISION:

Duane Miller made a motion to enter the 911 funds into the county budget. Dr. Craig Mohler second the motion. Vote was unanimous.

ALDERSON FEDERAL PRISON CAMP:

County Clerk, Donnie Evans, advised Commission that he had received approval from the Alderson Federal Prison Camp to let the Commission use four inmates to do some repair work to the jury rooms in the Monroe County Courthouse.

JOHN JONES ESTATE:

A hearing was held before the County Commission in reference to the John Jones estate. The purpose of this hearing was to appoint an executor to the above estate. Mrs. Laura (Pat Jones), widow of John Jones was present. Also present was Mrs. Gayle Witt and Mrs. Patricia Asbury, daughters of John Jones. An executor was named in the last will and testament of John Jones, but this executor resigned. A mutual agreeable executor could no be agreed upon by Mrs. Jones, Mrs. Witt and Mrs. Asbury. Commission advised the above individuals to choose two people agreeable by both parties to serve as co-executors of this estate.

FIDUCIARIES:

- Estate of Francis Bewley, Deceased, Sharon Waddell, Administratrix, Donald J. Evans, Commissioner of Accounts.
- Estate of Don Kincaid, Deceased, Vickie Fleshman, Executrix, Donald J. Evans, Commissioner of Accounts.
- Estate of Judith Taylor, Deceased, Curtis G. Taylor, Executor, Donald J. Evans, Commissioner of Accounts.

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 occurred in the flood of 1996.

RED SULPHUR PUBLIC SERVICE DISTRICT - BOB WILLIAMS:

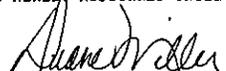
Oliver Porterfield made a motion to re-appoint Bob Williams of Lindside, as a member of the Red Sulphur Public Service District. Dr. Craig Mohler second the motion. Vote was unanimous.

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

\*\*\*\*\*

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

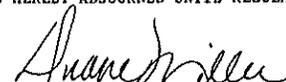
AT A SPECIAL SESSION OF THE MONROE COUNTY COMMISSION CALLED AFTER NOTICE AND POSTING ON THE FRONT DOOR OF THE COURTHOUSE OF MONROE COUNTY, MORE THAN 48 HOURS PRIOR TO SAID MEETING, BEING HELD ON THE 22ND DAY OF DECEMBER, 1997 AT 9:00 A.M. WITH DUANE MILLER, PRESIDENT, DR. CRAIG MOHLER AND OLIVER PORTERFIELD,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

\*\*\*\*\*

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

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

AT A REGULAR SESSION OF THE COUNTY COMMISSION HELD IN AND FOR THE COUNTY OF MONROE AT THE COURTHOUSE ON THE 13TH DAY OF SEPTEMBER, 1993, WITH W. C. SIBOLD, PRESIDENT, SARA WICKLINE AND DUANE MILLER, ASSOCIATE COMMISSIONERS, PRESENT.

The Commission met this date due to regular scheduled meeting fell on Labor Day.

RED SULPHUR PSD-PAUL BALL JR.:

Sara Wickline made a motion to appoint Paul Ball Jr. to the Red Sulphur PSD to a six year term. Duane Miller second the motion. Vote was unanimous.

MONROE COUNTY HEALTH CENTER BOARD OF TRUSTEES:

Sara Wickline made motion to re-appoint A. G. Dransfield, Warrren Ellison and Elizabeth Deggs to the Monroe County Health Center Board of Trustees. Duane Miller second the motion. Vote was unanimous.

GLADYS WILSON:

Gladys Wilson appeared before Commission suggesting that the county should implement building permits. Mrs. Wilson explained that not only would the county benefit from the permit fee's, but it would also help the assessor's office in picking up new additions to homes, which would result in more tax dollars for the county. Commission decided to let Debra Dalton, Prosecuting Attorney research the legal aspects of the permits and they would make a decision after this research.

COMMITTEE FOR DON KINCAID:

Tom Murtaugh, attorney for Mrs. Hazel Kincaid appeared before Commission and presented them with a petition to vacate the appointment of herself as a committee for her husband, Don Kincaid. The reason for vacating this committee is that Mrs. Kincaid never took any action as committee for her husband. Sara Wickline made a motion to vacate the committee. Duane Miller second the motion. Vote was unanimous.

PUBLIC EMPLOYEES INSURANCE AGENCY:

Mr. Bob Mallory from P. E. I. A. Credit Union appeared before Commission, explaining the P.E.I.A. Credit Union and its benefits. Commission decided to let the employee's decide weather or not they would want to join the credit union. Mr. Mallory said if there was enough interest he would come back and explain the credit union to all of the employee's.

PRO COM, INC - DENNY GILGER:

Mrs. Denny Gilger from Pro Com, Inc., a long distance telephone company, appeared before the Commission, explaining the money the county would save by switching to Pro Com Inc. long distance service versus the service we have currently. Commission decided to discuss this matter and make a decision at a later date.

MONROE COUNTY SOLID WASTE:

Mrs. Shirley Neel and Mr. Glen Dowdy appeared before the Commission to discuss a couple of items. The first was what the Commission had decided to do about a copying machine, that is to be shared by Solid Waste, Prosecuting Attorneys Office and the Probation Office, since the one they have there is broken. Commission decided to purchase a small new copier for their use. Mrs. Neel said that the air conditioner they purchased for the Sheriffs' Office in June, this would go towards this copier, for Solid Wastes' part of the copier. Mrs. Neel also questioned the smoking policy in the Solid Waste Office, Prosecuting Attorneys Office and Probation Office, since these offices are in the same building. Commission decided to use one of the vacant offices in the building as a designated smoke area.

MIKE GRAVELY:

Mike Gravelly appeared before Commission asking for an updated phone system for the Magistrate's Office in Union. He explained the cost figures and savings to the county this new system would provide. Duane Miller made a motion to purchase an updated phone system for the Magistrate'S Office. Sara Wickline second the motion. Vote was unanimous.

MARY SUE CROTTY ESTATE - RONALD GREEN:

Mr. Ronald Green appeared before Commission asking what stage the estate of Mary Sue Crotty is at to this date. Sheriff Gerald Crosier is administrator of this estate. Mr. Green was in question about a mobile home that was involved in the estate. Commission told Mr. Greene that this mobile home could be sold after the release comes back from the state tax division.

VACATION ORDERS:

It is ordered that all orders and proceedings had before the Clerk of Monroe County Commission for the month of September are approved and confirmed.

EXONERATIONS:

The following Exonerations were approved for the month of August, 1993:

Michael Biggs	Joseph Hartley
Opal C. Wikle	James Jefferson
Herbert Dent	Jefferson Faust
Harold Bostic	Danny Bostic
Fred M. Lilly Jr.	G. P. South
Junior Wickline	Frank Bailey Jr.
French Holt	Charles E. Pence
Don Bradley	Lloyd Charles Franks Sr.
Linda M. Hazelwood	Homer Wickline
John Woodson	Dennis White
Dennis Burton	Irene Wright
Randy Knight	Gladys Huffman
Charles C. Lewis	Paul Martin
Arthur D. Williams	James Fisher
Steven D. Ballengee	Amy Boothe

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

AT A SPECIAL SESSION OF THE MONROE COUNTY COMMISSION CALLED AFTER NOTICE AND AFTER POSTING ON THE FRONT DOOR OF THE COURTHOUSE OF MONROE COUNTY, MORE THAN 48 HOURS PRIOR TO SAID MEETING, BEING HELD ON THE 30TH DAY OF AUGUST, 1995 AT 6:00 P.M. WITH SARA WICKLINE, PRESIDENT, DUANE MILLER AND DR. CRAIG MOHLER, ASSOCIATE COMMISSIONERS, PRESENT.

E-911 DIRECTOR POSITION:

The purpose of this meeting was to interview candidates for the position of 911 director. Also present was T.K. Mullins, Mercer County 911 Director, Donnie Evans, County Clerk, Jerry Brown, Dean Weikle, Shane Ashley and Larry Dunbar, all representing the Monroe County 911 Committee.

After interviewing three candidates, Duane Miller made a motion to accept the application of Jeff Dillon, of Peterstown, and hire him as the Monroe County 911 Director. Dr. Craig Mohler second the motion.

Jeff Dillon had stated that he mailed his application from Peterstown on July 22, 1995, but the county clerks' office did not receive it. The Commission asked Dillon to sign a sworn affidavit that he did mail this application on July 22, 1995. Jeff Dillon agreed to sign the affidavit. The deadline to apply for the 911 Directors position was July 24, 1995. Dillon will start employment of September 18, 1995.

ADJOURNMENT ORDER:

IT IS ORDERED THAT THE COURT BE AND THE SAME IS HEREBY ADJOURNED UNTIL REGULAR SESSION SCHEDULED FOR SEPTEMBER 11, 1995.

*Sara Wickline*  
SARA WICKLINE, PRESIDENT

\*\*\*\*\*

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 11TH DAY OF SEPTEMBER, 1995 AT 9:00 A.M. WITH SARA WICKLINE, PRESIDENT, DUANE MILLER AND DR. CRAIG MOHLER, ASSOCIATE COMMISSIONERS, PRESENT.

MAGDALINE MOOREFIELD ESTATE:

A hearing was held before the Monroe County Commission regarding the Magdalene Moorefield Estate. Mr. Derik Swope, representing Richard Wills, Executor of the Moorefield estate, petitioned the Commission to admit a list to probate as incorporated by reference to the last will and testament. Copy of order on file in County Clerks' Office.

RED SULPHUR PUBLIC SERVICE DISTRICT:

Duane Miller made a motion to re-appoint Dennis Sibold as a member to the Red Sulphur Public Service District for a 6 year term, effective September 1, 1995. Dr. Craig Mohler second the motion. Vote was unanimous.

BUDGET REVISIONS:

The following budget revisions were approved: debit account #999 by \$7,000.00 and credit account #404 by \$5,000.00 and credit account #456 by \$2,000.00.

QUORUM CORPORATION:

Ms. Debbie Ellis, representing Quorum Corporation, appeared before Commission explaining copy machines Quorum Corporation offered. Ms. Ellis gave Commission a proposal on a new copier. Commission advised Mr. Ellis they would have to accept bids on this copier before a decision could be made.

E-911 BUDGET REVISION:

Duane Miller made a motion to enter the 911 funds into the county budget. Dr. Craig Mohler second the motion. Vote was unanimous.

ALDERSON FEDERAL PRISON CAMP:

County Clerk, Donnie Evans, advised Commission that he had received approval from the Alderson Federal Prison Camp to let the Commission use four inmates to do some repair work to the jury rooms in the Monroe County Courthouse.

JOHN JONES ESTATE:

A hearing was held before the County Commission in reference to the John Jones estate. The purpose of this hearing was to appoint an executor to the above estate. Mrs. Laura (Pat Jones), widow of John Jones was present. Also present was Mrs. Gayle Witt and Mrs. Patricia Asbury, daughters of John Jones. An executor was named in the last will and testament of John Jones, but this executor resigned. A mutual agreeable executor could no be agreed upon by Mrs. Jones, Mrs. Witt and Mrs. Asbury. Commission advised the above individuals to choose two people agreeable by both parties to serve as co-executors of this estate.

FIDUCIARIES:

- Estate of Francis Bewley, Deceased, Sharon Waddell, Administratrix, Donald J. Evans, Commissioner of Accounts.
- Estate of Don Kincaid, Deceased, Vickie Fleshman, Executrix, Donald J. Evans, Commissioner of Accounts.
- Estate of Judith Taylor, Deceased, Curtis G. Taylor, Executor, Donald J. Evans, Commissioner of Accounts.



# 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.

Dennis Sibold  
DENNIS SIBOLD

Subscribed and sworn before me, in said County and State, this 28 day of May, 1998.

My Commission expires Jan. 6 2003.

Doni Egan  
NOTARY PUBLIC

WEST VIRGINIA, IN MONROE COUNTY CLERK'S OFFICE

May 28 1998, at 1:30 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 Monroe County, do hereby certify that the foregoing and hereto annexed writing is a true copy of the Oath as found of record in this office in Oath Book No. 2 at page No. 213.

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

Donald J. Evans, CLERK  
MONROE COUNTY COMMISSION

By JBH Deputy

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 Sr.  
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.

Doni 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, 19 98.

Donald J. Evans CLERK  
MONROE COUNTY COMMISSION

By [Signature] Deputy

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 RED SULPHUR PUBLIC SERVICE DISTRICT

to the best of my skill and judgment SO HELP ME GOD.

Paul E. Ballpa

Subscribed and sworn to before me, in said County and State, this 1 day of September, 19 93.

My Commission Expires: Jan. 6, 2003

Doni Evans  
NOTARY PUBLIC

WEST VIRGINIA, IN MONROE COUNTY COURT CLERK'S OFFICE

September 2 19 93, at 9:05 P.M.

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

TESTE Doni Evans CLERK

STATE OF WEST VIRGINIA  
COUNTY OF MONROE, TO WIT:  
I, DONALD J. EVANS Clerk of the County Commission  
Monroe County, do hereby certify that the foregoing and hereto  
annexed writing is a true copy of a Oath of Office as found of  
record in this office in Oath Book No. 2 at page No. 167  
Given under my hand and seal of said Commission this the  
21 day of May 18 98  
Donald J. Evans CLERK  
MONROE COUNTY COMMISSION  
by \_\_\_\_\_ Deputy

STATE OF WEST VIRGINIA  
COUNTY OF MONROE, TO WIT:  
I, DONALD J. EVANS Clerk of the County Commission  
Monroe County, do hereby certify that the foregoing and hereto  
annexed writing is a true copy of a Oath of Office as found of  
record in this office in Oath Book No. 2 at page No. 167  
Given under my hand and seal of said Commission this the  
21 day of May 18 98  
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 P.O. Box 697, Peterstown, 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 the 1st day of July in 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 \_\_\_\_\_ 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 waived, notice to members by letter or telephone shall be required for regular meetings. Unless otherwise waived, notice in writing of each special meeting of the membership shall be given to all members by the Secretary by mailing the same to the last known post office addresses of the members at least 3 days before the date fixed for such 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, notice of the time and place of all regularly scheduled sessions of such Public Service Board, and the time, place and purpose of all special

sessions of such Public Service Board, shall be made available, in advance, to the public and news media as follows:

A. A notice shall be posted by the Secretary of the Public Service Board of the Public Service District at the front door of the Monroe County Courthouse and at the front door of the place fixed for the regular meetings of the Public Service Board of the time and place fixed and entered of record by the Public Service Board for the holding of regularly scheduled sessions. If a particular regularly scheduled session is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the front doors of the Courthouse and the meeting place as soon as feasible after such cancellation or postponement has been determined upon.

B. A notice shall be posted by the Secretary of the Public Service Board at the front door to the Monroe County Courthouse and at the front door of the place fixed for the regular meetings of the Public Service Board at least 48 hours before a special session is to be held, stating the time, place and purpose for which such special session shall be held. If the special session is cancelled, a notice of such cancellation shall be posted at the front doors of the Courthouse and the meeting place as soon as feasible after such cancellation has been determined upon.

C. The form of notice for posting as to a special session may be generally as follows:

RED SULPHUR PUBLIC SERVICE DISTRICT

NOTICE OF SPECIAL SESSION

The Public Service Board of Red Sulphur Public Service District will meet in special session on \_\_\_\_\_, at \_\_\_\_\_ .m., prevailing \_\_\_\_\_ time, at \_\_\_\_\_, West Virginia, for the following purposes:

1. To consider and act upon a proposed Bond Authorizing Resolution providing for the issuance of a \_\_\_\_\_ Bond, Series \_\_\_\_\_, of the District, in the principal amount of \$ \_\_\_\_\_, to provide

funds for construction of \_\_\_\_\_  
\_\_\_\_\_ facilities of the District.

2.

\_\_\_\_\_  
Secretary

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

#### ARTICLE V

##### OFFICERS

Section 1. The officers of the Public Service Board shall be a Chairman, Secretary and 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 the month of January of 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. He shall, together with the Secretary, sign the minutes of all meetings at which he shall preside. He shall attend generally to the executive business of the Board and exercise such powers as may be conferred upon him by the Board, by these Rules of Procedure, or prescribed by law. He 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. If the Chairman is absent from any meeting, the remaining members of the Board shall select a temporary chairman.

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. He shall, together with the Chairman, sign the minutes of the meetings at which he is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other writings and papers of the Board. He shall also perform such other duties as he may have under law by virtue of his office or as may be conferred upon him from time to time by the members of the Board.

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and shall pay same out on orders authorized or approved by the Board. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through 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.

## ARTICLE VII

### AMENDMENTS TO RULES OF PROCEDURE

These Rules of Procedure may be altered, changed, amended 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 or addition shall be made at any special meeting unless notice of the intention to propose such change, alteration, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such meeting.

11/14/87  
RSPSD1-W



Special Meeting January 6, 1998 - 7:00 p.m. at  
Water Plant.

Present: Dennis Sitold, Paul Ball and Bob Williams  
Also: Porter Robertson, Ceresa Williams, Bob Hazelwood  
and Curtis White.

Guest: Oakley Jones

First Order of Business was to re-organize and  
elect officers for the new year. ✓

Motion by Bob Williams, second by Paul Ball to  
appoint Dennis Sitold, Chairman, a motion by Paul Ball  
and second by Dennis Sitold to appoint Bob Williams  
as Treasurer; Motion by Paul Ball, second by Bob Williams  
to appoint Ceresa Williams as Secretary. All motions  
were carried unanimously.

Guest Oakley Jones appeared before the board to  
discuss what steps can be taken by residents of the  
Pine Grove Rd. to get water services extended to homes  
on the Pine Grove Rd. Bob Hazelwood informed Mr. Jones  
that request for funding was denied because of the  
split rate structure. Mr. Jones stated that people  
along the Pine Grove Rd. were desperate for water &  
would gladly pay a higher rate than Petterstown customers  
were paying. Bob Williams told Mr. Jones that  
the district was trying in all areas of funding to  
get money for various projects. Bob Hazelwood explained  
the infra-structure process and what the Public  
Service Commission require. Bob Hazelwood informed

Mr. Jones that the Co. Commission would be holding a public meeting sometime this month and all concerned citizens should attend. Porter suggested that Mr. Jones get up a petition & be sure to state that residents would gladly pay a higher rate and send it to the Infra. Structure Council.

CK#	Vendor	Amount
5812	Starmark Vns.	3417.62
5813	WO Pub. Emp Retirement	1378.88
5814	WO Dept of Tax & Revenue	448.83
5815	INB-Pittsboro "941" Jays	3355.38
5816	Kurt Boggs	250.00
5817	RDA	9717.00
5818	Red Sulph. P.S.D. (Water Reserve)	972.00
5819	BK of Greenville R+R SAV. WATER	1247.33
5820	BK of Greenville R+R SAV. Sewer	1825.62
5821	RDA Pymnt- Ballard	177.00
5822	VOID	—
5823	VOID	—
5824	Petty Cash	89.80
5825	Quill Corp.	45.83
	TOTAL	22,925.29
5810-5811-VOID		

Checks and invoices were approved on motion of Bob Williams, second by Paul Ball and unanimously by board.

Minutes of last meeting were read and approved as read on motion of Paul Ball, second by Bob Williams

And unanimous by board.

### Unfinished Business:

Quote from <sup>Kiders</sup> Quality Fence for the following was received:

1.) Jark on Hill - 300' 8" High -	\$3,920.00
2.) Lendside Jark - 150' 8" High	2,190.00
<u>Total</u>	6,110.00

Motion by Bob Williams, second by Paul Ball and unanimous by board to accept quote.

### New Business:

Paul Ball brought up for discussion the Sewer Problem at Ruth McClaugherty's residence in Orchard. Sewer backed up in basement 1<sup>st</sup> time it was plugged up it was her line, 2<sup>nd</sup> time it was our line. Curtis stated that he had gone down there and Mrs. McClaugherty is to get Daniel Ballard to install clean out valve. Board suggested that Porter go talk to her and tell her that she can turn Daniel's bill in to our insurance and any damages to her home in on her homeowners.

Porter also stated that there was a similar problem in the McKenzie Addition with Connie Spangler sewer line. Kenneth Vass has torn out and repaired but still having problems. Porter figured problem is near main and Porter was pretty sure that the main was on Mr. Spangler's property. It was suggested that Curtis tell Mr. Spangler that the next time he has a problem to call the district.

Porter Reported the following:

Kenny Miller - Rt 219 sewer line stopped up, which the man fixed, Roy Martin, in the Orchard, is having

Some problems with his water services. 2" line ends at his driveway & Paula felt that installing a flow off at the end of the line, would work.

Paula informed the Board of some problems at C. C. Water plant.

Bro Hazelwood had a letter to Mary Pearl Compton concerning funding for Ballard Water Project. Read and approved by Board and signed by Dennis Sibell Chairman.

Bro also reported that WSPA Structure Council Funding Committee had met Monday and he thought they had approved funding for sewer plant upgrade. He will know after the 1st Wednesday of the month.

Bro + Dennis told Paul that the Board had finally received payment from WSDOT for final invoice for line relocation at Coates Chapel.

Cecilia asked about 2 filing cabinets and keyboard tray for the office - Motion by Paul & second by Bro and unanimous to buy them - Also shop vac.

With no further business & on motion of Paul and second by Bro, Meeting Adjourned at 8:25 to go into Executive Session.

Dennis Sibell Chairman  
Cecilia Williams Secretary



RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

MINUTES ON ADOPTION OF NOTES  
RESOLUTION AND SUPPLEMENTAL RESOLUTION

I, Ceresia Williams, SECRETARY of the Public Service Board of Red Sulphur Public Service District, hereby certify 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 9th day of June, 1998, at the District's Office in Peterstown, West Virginia, at the hour of 7:00 p.m.

PRESENT: Dennis Sibold - Chairman  
Robert M. Williams, Sr - Member

ABSENT: Ceresia Williams - Secretary  
Paul E. Ball, Jr. - Member

Dennis Sibold, Chairperson, presided.

The Chairperson announced that a quorum of members was present and that the meeting was open for any business properly before it.

The Chairperson then presented a resolution to approve the hiring of Steptoe & Johnson as bond counsel for the Combined Waterworks and Sewerage System Design Notes, Series 1998, and the Combined Waterworks and Sewerage System Revenue Bonds anticipated to be issued in 1999. On motion duly made and seconded, it was unanimously resolved that Steptoe & Johnson be retained as bond counsel for the Water System Design Notes, Series 1998, and the Combined Waterworks and Sewerage System Revenue Bonds anticipated to be issued in 1999, and that the Chairman be authorized to execute the engagement letter between Steptoe & Johnson and the District.

Thereupon, the Chairperson presented a proposed Notes Resolution in writing entitled:

RESOLUTION AUTHORIZING THE DESIGN OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE SEWERAGE PORTION OF THE EXISTING PUBLIC COMBINED WATERWORKS AND SEWERAGE FACILITIES OF RED SULPHUR PUBLIC SERVICE DISTRICT AND THE RETAINING OF ENGINEERING SERVICES FOR SUCH DESIGN AND THE TEMPORARY FINANCING OF THE COSTS, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN \$180,600 IN AGGREGATE PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN NOTES, SERIES 1998 (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH NOTES; APPROVING A LOAN AGREEMENT RELATING TO SUCH NOTES; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH NOTES; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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 Notes Resolution be adopted and be in full force and effect on and from the date hereof.

The Chairman then presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, REDEMPTION PROVISION AND OTHER TERMS OF THE COMBINED WATERWORKS AND SEWERAGE SYSTEM DESIGN NOTES, SERIES 1998 (WEST VIRGINIA INFRASTRUCTURE FUND), OF RED SULPHUR PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT RELATING TO SUCH NOTES AND THE SALE AND DELIVERY OF SUCH NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING

AGENT AND DEPOSITORY BANK; AND MAKING  
OTHER PROVISIONS AS TO THE NOTES.

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

The Chairman then presented a resolution to authorize the payment of certain invoices related to the design of the improvements to the sewerage portion of the combined waterworks and sewerage system and the issuance of the Combined Waterworks and Sewerage System Design Notes, Series 1998, from funds provided upon issuance of the Series 1998 Notes. Thereupon, on motion duly made and seconded, it was unanimously ordered that the said resolution be adopted and be in full force and effect on and from the date hereof.

AGENT AND DEPOSITORY BANK; AND MAKING  
OTHER PROVISIONS AS TO THE NOTES.

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

The Chairman then presented a resolution to authorize the payment of certain invoices related to the design of the improvements to the sewerage portion of the combined waterworks and sewerage system and the issuance of the Combined Waterworks and Sewerage System Design Notes, Series 1998, from funds provided upon issuance of the Series 1998 Notes. Thereupon, on motion duly made and seconded, it was unanimously ordered that the said 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.

Dennis Sebald  
Chairperson

Cecilia C. Williams  
Secretary

CERTIFICATION

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

WITNESS my signature on this 15th day of June, 1998.

  
Cecelia C. Williams  
Secretary



RED SULPHUR PUBLIC SERVICE DISTRICT

Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Bank of Greenville, a state banking corporation with its principal office in Greenville, West Virginia, hereby accepts appointment as Depository Bank in connection with a Notes Resolution of Red Sulphur Public Service District (the "Issuer") adopted on June 9, 1998, and a Supplemental Resolution of the Issuer adopted on June 9, 1998 (collectively, the "Note Legislation"), authorizing issuance of the Issuer's Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), dated June 15, 1998, in the principal amount of \$180,600 (the "Notes"), all as set forth in the Notes Legislation.

WITNESS my signature on this 15th day of June, 1998.

BANK OF GREENVILLE



\_\_\_\_\_  
Its Operations Officer

06/03/98  
742910/98001

CL442276.1



RED SULPHUR PUBLIC SERVICE DISTRICT

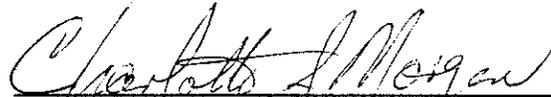
Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

ACCEPTANCE OF DUTIES AS REGISTRAR

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in Charleston, West Virginia, hereby accepts appointment as Registrar in connection with the Red Sulphur Public Service District Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), dated June 15, 1998, in the principal amount of \$180,600 (the "Notes"), and agrees to perform all duties of Registrar in connection with the Notes, all as set forth in the Note Legislation authorizing issuance of the Notes.

WITNESS my signature on this 15th day of June, 1998.

ONE VALLEY BANK, NATIONAL  
ASSOCIATION

  
Assistant Vice President



RED SULPHUR PUBLIC SERVICE DISTRICT

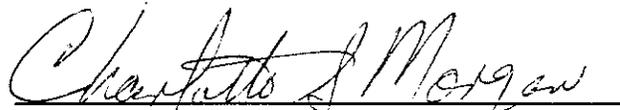
Combined Waterworks and Sewerage System Design Notes, Series 1998  
(West Virginia Infrastructure Fund)

CERTIFICATE OF REGISTRATION OF NOTES

ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association with its principal office in Charleston, West Virginia, as Registrar under the Note Legislation and Registrar's Agreement providing for the above-captioned note issue of Red Sulphur Public Service District (the "Issuer"), hereby certifies that on the date hereof, the single, fully registered, Red Sulphur Public Service District Combined Waterworks and Sewerage System Design Notes, Series 1998 (West Virginia Infrastructure Fund), of the Issuer, dated June 15, 1998, in the principal amount of \$180,600, numbered R-1, was registered as to principal in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association, as Registrar.

WITNESS my signature on this 15th day of June, 1998.

ONE VALLEY BANK, NATIONAL  
ASSOCIATION

  
Assistant Vice President

05/30/98  
742910/98001

CL442302.1



RECYCLED PAPER  
RECYCABLE

THIS REGISTRAR'S AGREEMENT, dated as of the 15th day of June, 1998, by and between RED SULPHUR PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia (the "Issuer"), and ONE VALLEY BANK, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its \$180,600 principal amount of Waterworks System Design Notes, Series 1998 (West Virginia Infrastructure Fund), in fully registered form (the "Notes"), pursuant to a Note Resolution of the Issuer adopted on June 9, 1998, and a Supplemental Resolution of the Issuer adopted on June 9, 1998 (collectively, the "Note Legislation");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Note Legislation, a copy of which is attached as EXHIBIT A hereto and incorporated herein by reference;

WHEREAS, the Note Legislation provides for an appointment by the Issuer of a Registrar for the Notes; and

WHEREAS, the Issuer desires to appoint, and by the Note Legislation and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Note Legislation and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Notes, all as set forth in the Note Legislation, such duties including, among other things, the duties to authenticate, register and deliver Notes upon original issuance and when properly presented for exchange or transfer.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Note Legislation with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Note Legislation, the terms of the Note Legislation shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Note Legislation will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: Red Sulphur Public Service District  
P.O. Box 697  
Peterstown, West Virginia 24963  
Attention: Chairperson

REGISTRAR: One Valley Bank, National Association  
Post Office Box 1793  
One Valley Square  
Charleston, West Virginia 25326  
Attention: Corporate Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Notes in accordance with the Note Legislation.

IN WITNESS WHEREOF, RED SULPHUR PUBLIC SERVICE DISTRICT and ONE VALLEY BANK, NATIONAL ASSOCIATION, have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first written above.

RED SULPHUR PUBLIC SERVICE DISTRICT

  
\_\_\_\_\_  
Chairperson

ONE VALLEY BANK, NATIONAL ASSOCIATION

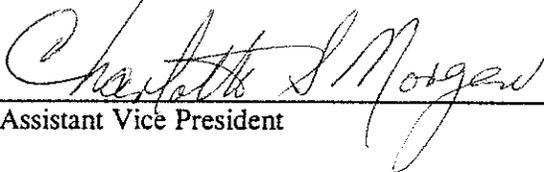
  
\_\_\_\_\_  
Assistant Vice President

EXHIBIT A

Included in transcript as Documents No. 1 and No. 2

SCHEDULE OF COMPENSATION



WV MUNICIPAL BOND COMMISSION  
812 Quarrier Street  
Suite 300  
Charleston, WV 25301  
(304) 558-3971

NEW ISSUE REPORT FORM

Date of Report: June 15, 1998

(See Reverse for Instructions)

ISSUE: Red Sulphur Public Service District Combined waterworks and Sewerage System Design Notes, Series 1998

ADDRESS: P.O. Box 697, Peterstown, West Virginia 24963 COUNTY: Monroe

PURPOSE OF ISSUE: New Money: X  
Refunding: \_\_\_\_\_ REFUNDS ISSUE(S) DATED: NA

ISSUE DATE: June 15, 1998 CLOSING DATE: June 15, 1998

ISSUE AMOUNT: \$180,600 RATE: 0% (3% Administrative Fee)

1ST DEBT SERVICE DUE: June 15, 2001 1ST PRINCIPAL DUE: June 15, 2001

1ST DEBT SERVICE AMOUNT: \$186,018 PAYING AGENT: Municipal Bond Commission - <sup>UB</sup>

ISSUERS BOND

COUNSEL: Steptoe & Johnson  
Contact Person: Vincent A. Collins, Esquire  
Phone: (304) 624-8161

UNDERWRITERS

BOND COUNSEL: Jackson & Kelly  
Contact Person: Samme L. Gee, Esquire  
Phone: (304) 340-1318

CLOSING BANK: Bank of Greenville  
Contact Person: Nancy Utterback  
Phone: (304) 753-4311

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

KNOWLEDGEABLE ISSUER CONTACT

Contact Person: Ms. Ceresia Williams  
Position: Secretary  
Phone: (304) 753-4003

OTHER: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Function: \_\_\_\_\_  
Phone: \_\_\_\_\_

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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS REQUIRED: \_\_\_\_\_

TRANSFERS REQUIRED: \_\_\_\_\_