

**IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

CAROLINA WATER SERVICE, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CA NO. <u>3:15-4919-MBS</u>
	)	
REGINA MCCARTHY,	)	
ADMINISTRATOR, UNITED STATES	)	
ENVIRONMENTAL PROTECTION	)	
AGENCY, in her official capacity,	)	
	)	
UNITED STATES ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
and	)	
	)	
TOWN OF LEXINGTON, SOUTH	)	
CAROLINA,	)	
	)	
Defendants.	)	
	)	

---

**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

Plaintiff Carolina Water Service, Inc. complains of Defendants as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Carolina Water Service, Inc. (“CWS”) is a public utility, as defined by S.C. Code Ann. §§ 58-3-5(6) and 58-5-10(4), and is authorized by a certificate of public convenience and necessity issued by the Public Service Commission of South Carolina (“PSC”) to provide wastewater collection and treatment services to customers in various areas in the State of South Carolina, including portions of Lexington County, South Carolina. CWS is a Delaware corporation, authorized to do business in South Carolina.

2. Defendant Regina McCarthy is the Administrator of the Defendant United States Environmental Protection Agency and, in her official capacity, is charged with the overall

supervision, administration and enforcement of the Federal Water Pollution Control Act of 1972, commonly referred to as the Clean Water Act (“CWA”), 33 U.S.C.A. §§ 1251-1376, including the approval of area wide waste treatment and water quality management plans (“208 Plan”) developed and submitted pursuant to Section 208 of the CWA, 33 U.S.C.A. § 1288, by local government planning organizations. Defendant McCarthy is sued in this action in her official capacity as Administrator of EPA.

3. Defendant United States Environmental Protection Agency (“EPA”) is an agency of the United States established pursuant to Reorganization Plan No. 3 of 1970, 84 Stat. 2086. EPA has primary responsibility over and is charged with the supervision, administration and enforcement of the CWA, including the approval of 208 Plans developed and submitted pursuant to Section 208 of the CWA, 33 U.S.C.A. § 1288, by local government planning organizations.

4. Defendant Town of Lexington (“Town”) is a municipal corporation of the State of South Carolina existing pursuant to Article VIII, § 9 of the South Carolina Constitution and S.C. Code Ann. §§ 5-1-10 *et seq.* and is located entirely in Lexington County, South Carolina. The Town is, and at all times relevant to this litigation was, the Designated Management Agency (hereinafter “DMA”) and also the regional provider of wastewater collection and transportation services in a portion the Midland’s South Carolina region under the 208 Plan developed and approved for this area pursuant to Section 208 of the CWA. A copy of the current 208 Plan is attached as Exhibit A. The PSC-authorized service territory of CWS recognized by the 208 Plan is within the Town’s DMA management and regional collection and transportation area.

5. This is a civil action for declaratory judgment pursuant to the Federal Declaratory Judgment Act, 28 U.S.C.A. §§ 2201 and 2202, to declare the rights, duties and responsibilities of the Defendants under Section 208 of the CWA, 33 U.S.C.A. § 1288, as well as a declaration as to

the validity of the 208 Plan adopted thereunder, and for injunctive relief either compelling Defendants' compliance with Section 208 and the performance of certain non-discretionary duties and responsibilities, or decertifying the Town as the Designated Management Agency under the 208 Plan.

6. This Court has jurisdiction over this action pursuant to 28 U.S.C.A. § 1331 based on the claims asserted of Defendants' actions and omissions under 33 U.S.C.A. § 1288. This Court also has jurisdiction to grant the requested relief pursuant to the Federal Declaratory Judgment Act, 28 U.S.C.A. §§ 2201 and 2202.

7. Venue is proper in this judicial district and in the Columbia Division pursuant to 28 U.S.C.A. § 1391(e) and Local Civil Rule 3.01(A)(1) (D.S.C.) because Defendant Town is located in the district and division, the most substantial parts of the acts and omissions giving rise to the causes of action in this Complaint occurred in this district and division, and the relevant geographic territory that is the subject of the action is located in this district and division.

### **LEGAL BACKGROUND**

8. In 1972, Congress enacted the CWA for the purpose of restoring and maintaining the "chemical, physical and biological integrity of the Nations' waters." 33 U.S.C.A. § 1251.

9. Under the CWA, Congress instituted a permitting process known as the National Pollution Discharge Elimination System ("NPDES") that prohibited the discharge of pollutants into waterways without an NPDES permit, issued either by the EPA or a delegated state or state agency, which permit would place limitations on the discharge of effluent. 33 U.S.C.A. §§ 1311, 1342.

10. As further part of the CWA, under 33 U.S.C.A. § 1288(b), planning organizations, which may include local government entity representatives, are delegated the authority to develop and implement an areawide waste treatment and water quality management (“WQM”) plan for a regional area. Section 1288 sets forth the elements required of these areawide waste treatment and WQM plans, which are further described in the Code of Federal Regulations, 40 C.F.R. Parts 25, 130 and 131.

11. Following the implementation of Section 208, the governor of each state was required to identify each area within the state which had substantial water quality control problems. Thereafter, the governor of each state was required to timely designate (A) the boundaries of each such area, and (B) a single representative planning organization, including elected officials from local governments or their designees, capable of developing an effective 208 Plan for such area. 33 U.S.C.A. § 1288(a)(2).

12. Not later than one year after the designation of the designated planning agency (“DPA”) under Section 1288(a), that organization was required to implement an areawide waste treatment management planning process consistent with 33 U.S.C.A. § 1281. Within two years after the implementation of the areawide waste treatment management planning process, an initial 208 Plan was required to be certified by the governor of each state and submitted to the Administrator of the EPA for approval. 33 U.S.C.A. § 1288(b)(1)(A).

13. 208 Plans developed by the DPAs must contain certain measures and processes, as identified in 33 U.S.C.A. § 1288(b)(2). Moreover, pursuant to 33 U.S.C.A. § 1288(b)(3), 208 Plans must be certified annually by the governor of each state, or his/her designee, as being consistent with the applicable basin plans, and the 208 Plans must be submitted annually to the Administrator of the EPA for approval.



14. When the Administrator of the EPA determines, following a public hearing, that a state or its designee is not administering a 208 Plan in accordance with Section 208, the Administrator must so-notify the state or its designee. 33 U.S.C.A. § 1288(b)(4)(D)(i). If appropriate corrective action is not instituted by the state or its designee within ninety (90) days, the Administrator is required to withdraw its approval of the 208 Plan. *Id.* Such withdrawal must be based on a substantial failure of the state or its designee to administer its program in accordance with Section 208. 33 U.S.C.A. § 1288(b)(4)(D)(ii).

15. Each DPA, in consultation with its state governor under 33 U.S.C.A. § 1288(a), shall thereafter designate one or more waste treatment management agencies, which could include an existing or newly created local, regional, or state agency or political subdivision, for each area designated under subsection (a). 33 U.S.C.A. § 1288(c). Each such DMA is required to have the authority to carry out the 208 Plans developed for its area in accordance with the guidelines set forth in 33 U.S.C.A. § 1288(c)(2)(A)-(I).

16. Under 33 U.S.C.A. § 1288(e), NPDES permits issued pursuant to 33 U.S.C.A. § 1342 must be in compliance with the 208 Plan.

17. DMA's are entitled to apply for grants from the Administrator of the EPA for reasonable costs associated with the development and continuing operation of a 208 Plan on an annual basis. 33 U.S.C.A. § 1288(f)(1).

18. Under 33 U.S.C.A. 1281(g)(1), the Administrator of the EPA is restricted from making any grant for construction of a publicly owned treatment works to the DMA within the area, unless it is in compliance with the 208 Plan.

19. Section 303 of the CWA requires that each state implement a continuing planning process approved by the Administrator and implemented by the Administrator, the state or its

designee, and the DMAs. These processes require, *inter alia*, annual certification and approval of updates to 208 Plans. *See* 33 U.S.C.A. § 1288(b); 40 C.F.R. §§ 130.0, 130.5, 130.6, and 130.10.

20. Related to the issues of this action, the PSC is vested with the exclusive jurisdiction to regulate public utilities in South Carolina, like CWS, including, *inter alia*, the oversight and approval of any and all agreements and/or contracts affecting the ability of CWS to provide sewer service to its customers, to include the sale of regulated facilities, and connection agreements serving to transfer obligations of regulated sewer treatment. *See* S.C. Code Ann. § 58-5-210; 26 S.C. Code Ann. Regs. 103-503, -541.

### **STATEMENT OF FACTS**

21. In South Carolina, the South Carolina Department of Health and Environmental Control (“DHEC”) is the agency designated by the Governor of South Carolina to administer Section 208. DHEC is also the permitting agency designated to review and issue NPDES permits pursuant to 33 U.S.C.A. §§ 1311, 1342.

22. In or about 1969, the Central Midlands Council of Governments (“CMCOG”) was created by the South Carolina General Assembly as the Designated Planning Agency under Section 208 with authority to develop a WQM plan for the Midlands region of the state. The member counties of the CMCOG are Richland, Lexington, Fairfield, and Newberry. Voting members of the CMCOG Board consist of legislators, representatives of municipalities and counties (generally elected officials, but in some cases administrators or other appointees), and representatives of special purpose districts or other local governmental entities.

23. CWS owns and operates wastewater treatment plants (“WWTP”), collection, transportation, and other facilities associated with sewer systems as a public utility pursuant to S.C. Code Ann. § 58-5-10(4). In the Midlands region of South Carolina, one of CWS’s WWTP’s

is the I-20 wastewater treatment plant (“I-20 Plant”), which treats wastewater from customers situated within its I-20 collection and transportation system (“I-20 System”) located in Lexington County and is authorized by an NPDES permit to discharge into the Lower Saluda River. The I-20 System is located within the region and subject to the jurisdiction of Designated Planning Agency CMCOG.

24. In accordance with its DPA designation and the requirements of 33 U.S.C.A. § 1288(b), the CMCOG developed and submitted the area’s first WQM plan on or about June 1, 1979, which identified actions to address water quality issues associated with development in the Midland’s Region. Under Section 208, the CMCOG is authorized to make periodic reviews and updates to the 208 Plan, which it has done on multiple occasions.

25. The 208 Plan was amended in or about 1993, which amendment called for the elimination of discharges by several small wastewater treatment facilities, including the discharge from the I-20 Plant, and the re-routing of wastewater from those facilities to a wastewater treatment facility owned and operated by the City of Cayce. The City of Cayce was designated by the CMCOG as a regional treatment facility and was authorized to discharge into the Congaree River.

26. On or about November 17, 1994, DHEC issued to CWS NPDES Permit SC0035564, which authorizes CWS to operate and discharge wastewater from the I-20 Plant into the Lower Saluda River subject to the terms and conditions of the permit, a copy of which is attached as Exhibit B (NPDES Permit SC0035564).

27. NPDES Permit SC0035564 recognized the 208 Plan’s call for the elimination of discharges from small wastewater treatment facilities, of which the I-20 Plant is one, and required the I-20 System to be connected to the regional facility under the following terms:

Within 90 days after the issuance date of the Permit to Operate for the regional sewer system, the Permittee will connect to the regional sewer system and cease the discharge to the Saluda River. This Permit will expire on the date of issuance of the Permit to Operate the connection between this facility and the regional sewer system. In accordance with the Area Wide 208 Management Plan, this facility is considered as a temporary treatment facility that will be closed out when the regional sewer system is constructed and available.

Exh. B, NPDES Permit SC0035564 at 7.

28. On or about February 27, 1997, the CMCOG developed and adopted a new 208 Plan, a copy of which is attached as Exhibit A (1997 208 Plan). The 1997 208 Plan continued to express the CMCOG's stated policy that small wastewater treatment facilities be connected to a regional wastewater system when a regional facility became available. Specifically, the 1997 208 Plan provides in pertinent part:

Small, public or private domestic wastewater treatment facilities are considered temporary facilities. When a regional wastewater collection system, public or private, becomes available, these facilities will be required to connect to that system.

Exh. C, 1997 208 Plan at 44.

29. Under the 1997 208 Plan, for the I-20 System service area, the Town was designated to be the regional wastewater collection and transportation provider and DMA. Under that designation, wastewater from the CWS I-20 System, its Watergate system, and the systems served by the Town's Coventry Woods and Whiteford Plants, would be pumped to the City of Cayce regional treatment facility via a newly constructed regional sewer line to be owned and operated by the Town. As the DMA and regional wastewater collection and transportation facility provider, the Town was required to offer an interconnection of the I-20 System to the

Town's regional facilities, such interconnection being beyond the unilateral capability or control of CWS.<sup>1</sup>

30. On or about April 7, 1999, the Town finished construction on the regional sewer line and received a Permit to Operate from DHEC.

31. Since CWS was issued NPDES Permit SC0035564 for the I-20 System in 1993, which, along with the later 1997 208 Plan, calls for the elimination of the I-20 System through interconnection to the Town's regional facilities, CWS has proactively sought to address the discharge elimination requirement on five separate occasions<sup>2</sup> and through varying means. Each of those attempts have been rejected and interconnection remains unavailable to CWS.

32. The current City of Cayce regional treatment facility ("RTF") was constructed at 539 Old State Road, Cayce, South Carolina, with operations beginning in or about October 2012. In or about August 2009, the City of Cayce and the Town, along with the Lexington County

---

<sup>1</sup> In addition, the statutorily mandated jurisdiction of the PSC requires that body to review and approve (or deny, as it has done on two occasions) any interconnection agreement for the provision of utility services to the public, which is also a matter beyond CWS's unilateral capability or control.

<sup>2</sup> (1) *In re Petition of Carolina Water Service*, Docket No. 2000-425-S (S.C. Pub. Serv. Comm'n) (Petition for approval of an interconnection agreement withdrawn by consent agreement); (2) CWS and the Town reached a compromise for the amendment of the 1997 208 Plan, which, *inter alia*, changed the regional facility to the CWS I-20 Plant, instead of the Town (DHEC refused to certify the amendment); (3) *In re Application of Carolina Water Service, Inc.*, 2003 WL 26623818, Order No. 2003-10, Docket No. 2002-147-S (Jan. 7, 2003) (S.C. Pub. Serv. Comm'n) (attached as Exhibit C) (The PSC refused to approve the interconnection between the I-20 System and the Town's facilities); (4) In 2014, CWS inquired with the Town as to the feasibility of an interconnection; the Town refused (*see, infra*, ¶ 35); and (5) *In re application of Carolina Water Service, Inc.*, Docket No. 2015-327-S (S.C. Pub. Serv. Comm'n) (attached as Exhibit D) (On September 3, 2015, CWS again filed an application with the PSC for approval of an interconnection of the I-20 System to the Town's facilities, which matter is currently pending, *see, infra*, ¶ 39). In addition to the foregoing, CWS accepted an offer for a sale of the I-20 System to the Town in 1996, but the PSC refused to approve a negotiated sale of the I-20 System to the Town. *In re Application of Carolina Water Service, Inc.*, Order No. 96-859, Docket No. 96-235-W/S (Dec. 13, 1996) (S.C. Pub. Serv. Comm'n) (The PSC refused to approve a negotiated sale of the I-20 System to the Town) (attached as Exhibit E). CWS has never received another offer from the Town to purchase the I-20 System.

Joint Municipal Water and Sewer Commission<sup>3</sup> (“LCJMWSC”), entered into a contractual agreement entitled the Waste Services Agreement (“Agreement”) related to the financing and capacity of the RTF, an excerpted copy of which is attached as Exhibit F. Based on the language of the Agreement, and upon information and belief, the City of Cayce wholly owns the RTF. The Agreement secured the purchase of portions of the available allocated treatment and discharge capacity of the RTF by, *inter alia*, the Town. *Id.*

33. The Agreement further details that the City of Cayce financed the cost of construction of the RTF through the issuance of tax-exempt bonds which contain certain express restrictions that are designed to preserve the status of the bonds as tax-exempt. Exh. F at 32 (Section 3.13(D)). Among these restrictions is a limitation on the amount of wastewater that is allowed to be treated by the RTF that is derived, either directly or indirectly, from Private Business Use. *Id.* The Agreement further defines private wastewater resulting from Private Business Use as any such wastewater generated either directly or indirectly by an entity other than the State of South Carolina or a local government entity of South Carolina, including the Federal Government, any agency or instrumentality of the Federal Government, and any private utility. *Id.* Under the definition provided in the Agreement, wastewater from the I-20 System is considered Private Business Use.

34. As a condition of its purchase of a portion of the RTF’s available allocated capacity through the Agreement, the Town expressly covenanted to the City of Cayce that it would not enter into any contract, arrangement, or agreement, to include an interconnection

---

<sup>3</sup> The LCJMWSC is a public water and sewer utility operating in Lexington County. The CMCOG has designated the LCJMWSC as a DMA to serve certain portions of Lexington County. Additionally, the LCJMWSC is a voting member on the CMCOG Environmental Planning Advisory Committee.

agreement, to treat wastewater which is generated by a private wastewater utility, such as CWS. Exh. F at 33.

35. On information and belief, the Town financed its investment in the RTF and its available allocated capacity, in whole or in part, through the issuance of tax-exempt bonds. On further information and belief, and based on representations of the Town, the tax exempt bonds issued by the Town contain additional general covenants that prohibit the Town's use of any part of its purchased allocated capacity in the RTF to treat wastewater generated by a private wastewater utility, such as CWS. On further information and belief, the prohibition caused by these general covenants entered into by the Town are required to maintain the tax-exempt status of the bonds issued by the Town to finance its investment in the RTF.

36. In a related (and pending) matter, on or about November 6, 2013, the Congaree Riverkeeper, Inc. ("CRK") served on CWS, with a copy to DHEC and EPA, notice of CRK's intent to sue CWS in a citizen's suit under the CWA ("60-Day Notice") for an alleged failure to comply with NPDES Permit SC0035564, based upon alleged exceedances of effluent limitations as well as an allegation that CWS was in violation of NPDES Permit SC0035564 because it has failed to eliminate the discharge from the I-20 Plant via an interconnection to the Town's regional wastewater collection and transportation facilities.

37. Following receipt of the 60-Day Notice, CWS again inquired with the Town regarding the feasibility of an interconnection of the I-20 system to the Town's facilities, as contemplated by NPDES Permit SC0035564 and the 1997 208 Plan. The Town, although it is the DMA and regional wastewater collection and transportation facility for the area required to fulfill the provisions of the 208 Plan, refused, responding that it was "not interested in such an

interconnection at this time.” A copy of such written refusal is attached as Exhibit G (Town Ltr. to CWS, dated May 8, 2014).

38. On January 14, 2015, CRK filed the noticed citizen suit against CWS alleging, *inter alia*, that CWS is in violation of NPDES Permit SC0035564 due to its failure to connect the I-20 System with the Town’s facilities. *See Congaree Riverkeeper, Inc. v. Carolina Water Service, Inc.*, Case No. 3:15-CV-194-MBS.

39. On July 16, 2015, DHEC issued for public notice a draft renewal NPDES permit for the I-20 Plant, a copy of which is attached as Exhibit H (Draft Renewal Permit). The Draft Renewal Permit, which required that CWS increase the treatment levels of wastewater to meet higher discharge limits, expressly recognized that the PSC is required to approve an agreement related to the connection of the I-20 System to the Town’s regional facilities. *Id.* at 25.

40. Consequently, to date, and despite the existence of the Town’s regional facilities, interconnection of the I-20 System has been refused by the Town and it is therefore unavailable to CWS.

41. Additionally, on September 3, 2015, CWS filed an application with the PSC once again seeking approval of an interconnection of the I-20 system to the Town’s regional facilities through approval for CWS to pay the same wholesale treatment charges to the Town that it collects from CWS for wholesale service provided for a different CWS system than the I-20 System.<sup>4</sup> A copy of the 2015 PSC Application is attached as Exhibit D.

---

<sup>4</sup> CWS does not have an agreement with the Town for the provision of additional bulk sewer transfer service for the I-20 System; however, as indicated in the Application to the PSC, CWS is willing to immediately enter into such an agreement under the terms set forth in the Application, which are identical to the existing wholesale sewage treatment agreement between the Town and CWS for another CWS system, which has previously been approved by the PSC.



42. On September 4, 2015, following public and political pressure to not issue the Draft Renewal Permit from, *inter alia*, CRK, DHEC reversed course and issued a Notice of Intent to Deny the Draft Renewal Permit, a copy of which is attached as Exhibit I.

43. As of the date of this filing, DHEC has not officially acted on its intended denial of the Draft Renewal Permit. CWS continues to lawfully operate the I-20 Plant under NPDES Permit SC0035564.

44. On November 10, 2015, representatives from CWS, the Town, DHEC, and the South Carolina Office of Regulatory Staff (“ORS”) met to discuss the elimination of CWS’s discharge from the I-20 Plant. In this meeting, and consistent with the specific allegations of paragraphs 32-35, *supra*, the Town made certain representations regarding the Town’s ability to fulfill its obligations as the DMA and regional wastewater collection and transportation facility, including the following:

- A. The bonds issued by the Town to finance its investment in the available allocated treatment and discharge capacity of the City of Cayce’s RTF prohibit an interconnection of the CWS I-20 System to the Town’s regional facilities, because said bonds restrict the receipt and/or quantity of wastewater generated by privately-owned (*i.e.*, public) utilities, and the receipt of wastewater from the I-20 System might therefore constitute “private activity” which could result in the revocation of the tax exempt status of the bonds;
- B. The Agreement between the Town and the City of Cayce giving rise to the Town’s investment in and right to available allocated capacity of the City of Cayce RTF preclude the Town from accepting wastewater from a private

public utility (*i.e.*, CWS) for transport to and treatment at the City of Cayce RTF.

C. Based on these two foregoing considerations, the Town is either unable or unwilling to allow interconnection of CWS's I-20 System with the Town's regional facilities.

45. Accordingly, in addition to having refused interconnection of the I-20 System to the Town's regional facilities as recently as May 8, 2014, CWS is informed and believes that the Town has also voluntarily undertaken certain actions, including the issuance of bonded indebtedness and the entry into a contract with the City of Cayce, that expressly deprive the Town of its authority to accept an interconnection of the I-20 System in contravention of the terms of the 1997 208 Plan and the Town's duties and obligations as the DMA and the regional collection and transportation facility for the I-20 System service area under the CWA.

**FOR A FIRST CAUSE OF ACTION**  
**Declaratory Judgment Against the**  
**Administrator of the United States Environmental Protection Agency**  
**and the United States Environmental Protection Agency**

46. The relevant allegations contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim herein, insofar as they are not inconsistent with the allegations of this First Cause of Action.

47. On information and belief, the Administrator of the EPA and the EPA (collectively, EPA) has annually accepted certification from DHEC of and approved the 208 Plan promulgated by the CMCOG for the Midland's region of South Carolina in which the I-20 System is located.

48. The 1997 208 Plan promulgated by the CMCOG, which is the operative WQM Plan for this region, and certified by DHEC to EPA, contemplates the elimination of the treated

wastewater discharge from the I-20 Plant into the Lower Saluda River by a connection of CWS's I-20 System to the regional collection and transportation facilities operated by the DMA, Defendant Town, for eventual treatment and discharge by the City of Cayce. Such elimination is conditioned on the availability of an interconnection of the I-20 System to the Town's regional facilities.

49. As the DMA for this service area, the Town is required under the 208 Plan to make interconnection available to CWS for the I-20 System, which would permit the elimination of the discharge from the I-20 Plant in compliance with the stated policy of the 1997 208 Plan for eliminating discharges from small public or private "temporary" wastewater treatment facilities.

50. On information and belief, the Town has issued bonded indebtedness with terms and conditions that prohibit or restrict its authority to carry out the provisions of the 208 Plan, as required by 33 U.S.C.A. § 1288(c)(2)(A) and (B), specifically those which require that the Town make available to CWS an interconnection which will permit the elimination of the discharge from the I-20 Plant by accepting wastewater currently treated by the I-20 Plant for transportation to and treatment by the City of Cayce at the RTF.

51. Additionally, the Town entered into a contract with the City of Cayce that also prohibits or restricts the exercise of the Town's authority to comply with the aforementioned provisions of the 208 Plan and 33 U.S.C.A. § 1288 by accepting the I-20 System's wastewater flow for collection and transportation to and treatment by the City of Cayce at the RTF.

52. Based upon the foregoing, the EPA has accepted DHEC's annual certifications of the CMCOG's 1997 208 Plan as compliant with the CWA when it is not. Moreover, and contrary to its duties under the CWA, including, *inter alia*, 33 U.S.C.A. § 1288(b),(c), (d), and (f), the EPA has approved the certification of the Town as having the adequate authority and capability

to carry out and fulfill its obligations as a DMA under Section 208 when, on information and belief, the Town has taken actions and entered into contractual agreements that expressly prohibit the Town from exercising its authority and fulfilling its obligations as the DMA.

53. The aforementioned actions of the EPA constitute a failure to comply with the agency's and administrator's obligations under, *inter alia*, 33 U.S.C.A. § 1288 of the CWA and have directly resulted in CWS incurring significant costs and expenses and have rendered uncertain CWS's own statutory and regulatory obligations as a public utility to its customers.

54. Accordingly, CWS is entitled to a declaratory judgment pursuant to 28 U.S.C.A. §§ 2201 and 2202 against the U.S. Environmental Protection Agency and the Administrator of the EPA. There exists an actual dispute and controversy between the parties which cannot be resolved absent declaratory relief by this Court. Declaratory judgment in the manner sought would terminate this uncertainty and breach of statutory duties by Defendant Administrator of the EPA. CWS is therefore entitled to a declaratory judgment, declaring the rights and legal relations of the parties as follows:

- A. The EPA's and Administrator of the EPA's approval of the annual certifications of the 1997 208 Plan is in violation of Section 208 and is therefore no longer valid to the extent that it recognizes as a DMA an entity lacking the requisite authority to act as such (*i.e.*, the Town);
- B. The EPA's and Administrator of the EPA's approval of the administration of the state and area wastewater management program by DHEC, the CMCOG, and the Town is contrary to the terms of 33 U.S.C.A. § 1288(b)(2)(C), and (3)(D)(i)-(ii);

- C. The EPA's and Administrator of the EPA's acceptance of the designation of the Town as the DMA and regional collection and transportation facility for the geographical service area encompassing CWS's I-20 System is invalid in view of the Town's affirmative actions that restrict or eliminate its authority to comply with the 208 Plan and accept wastewater from the I-20 System for transportation to and treatment at the City of Cayce RTF, under 33 U.S.C.A. § 1288(c);
- D. The 1997 208 Plan is invalid under the CWA to the extent that the EPA and the Administrator of the EPA have approved and certified the designation of the Town as a DMA and regional collection and transportation facility, based on the affirmative actions taken by the DMA Town, including entering into the Agreement with the City of Cayce and bond covenants that prohibit or restrict its authority to serve as the regional facility and comply with its duties and obligations as the DMA under the 208 Plan.

55. CWS is entitled to (1) a declaratory judgment as described herein, (2) a resulting preliminary and permanent injunction, as described below, (3) attorneys' fees, (4) costs, and (5) such other relief as is just, equitable and proper.

**FOR A SECOND CAUSE OF ACTION**  
**Declaratory Judgment Against the Town of Lexington**

56. The relevant allegations contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim herein, insofar as they are not inconsistent with the allegations of this Second Cause of Action.

57. On information and belief, the EPA and the Administrator of the EPA have annually accepted certification from DHEC of and approved the 208 Plan promulgated by the CMCOG for the Midland's region of South Carolina in which the I-20 System is located.

58. The 1997 208 Plan promulgated by the CMCOG, which is the operative WQM Plan for this region, contemplates the elimination of the treated wastewater discharge from the I-20 Plant into the Lower Saluda River by a connection of CWS's I-20 System to the regional collection and transportation facility operated by the DMA, Defendant Town, for eventual treatment and discharge by the City of Cayce. Such elimination is conditioned on the availability of an interconnection of the I-20 System to the Town's regional collection and transportation facility.

59. As the DMA and regional collection and transportation facility for this service area, the Town is required under the 208 Plan to make an interconnection available to CWS for the I-20 System, which would permit the elimination of the discharge from the I-20 Plant in compliance with the stated policy of the 1997 208 Plan for eliminating small public or private "temporary" wastewater treatment facilities.

60. On information and belief, the Town has issued bonded indebtedness with terms and conditions that prohibit or restrict its authority to carry out the provisions of the 208 Plan, as required by 33 U.S.C.A. § 1288(c)(2)(A) and (B), specifically those which require that the Town make available to CWS an interconnection which will permit the elimination of the discharge

from the I-20 Plant by receiving wastewater from the I-20 System for transportation to and treatment by the City of Cayce at the RTF.

61. Additionally, the Town entered into the Agreement with the City of Cayce that contains covenants prohibiting and restricting the exercise of the Town's authority to comply with the aforementioned provisions of the 208 Plan and 33 U.S.C.A. § 1288 by accepting the I-20 System's wastewater flow for transportation to and treatment by the City of Cayce at the RTF.

62. As a result of the Town contracting and covenanting away or otherwise taking actions that have served to prohibit and restrict its authority, the Town refuses to offer an interconnection of the CWS I-20 System to the Town's regional collection and transportation facilities and is therefore in violation of the 1997 208 Plan and its duties and obligations as the DMA and regional collection and transportation facility thereunder.

63. The Town of Lexington's actions and omissions constitute failures to comply with its obligations under, *inter alia*, 33 U.S.C.A. § 1288 of the CWA and the promulgated 1997 208 Plan of the CMCOG and have caused CWS to incur significant cost and expense and created uncertainty as to CWS's own statutory and regulatory obligations as a public utility to its customers.

64. Accordingly, CWS is entitled to a declaratory judgment pursuant to 28 U.S.C.A. §§ 2201 and 2202 against the Town of Lexington. There exists an actual dispute and controversy between the parties which cannot be resolved absent declaratory relief by this Court. Declaratory judgment in the manner sought would terminate this uncertainty and continued breach by the Town of Lexington of its obligations as a DMA and regional collection and

transportation facility. CWS is therefore entitled to a declaratory judgment, declaring the rights and legal relations of the parties as follows:

- A. The Town of Lexington is in violation of 33 U.S.C.A. § 1288 of the CWA and the 1997 208 Plan because it has entered into the Agreement with the City of Cayce and bond covenants or otherwise taken actions that expressly prohibit and restrict its authority to fulfill its duties and obligations as the DMA and regional collection and transportation facility and offer interconnection of the CWS I-20 System for the purpose of eliminating the treated wastewater discharge from the I-20 Plant into the Lower Saluda River;
- B. In the alternative to subpart (A), if the Town of Lexington is deemed to have not contracted or covenanted away or otherwise taken actions that have served to prohibit and restrict its authority to fulfill its duties and obligations as the DMA and regional collection and transportation facility, then the Town of Lexington should still be deemed to be in violation of 33 U.S.C.A. § 1288 of the CWA and the 1997 208 Plan because it has heretofore refused to offer interconnection of the CWS I-20 System, in direct violation of the 1997 208 Plan and its duties and obligations as DMA and regional collection and transportation facility for this region;
- C. Under a declaration of either alternative (A) or (B) of this paragraph above, CWS is entitled to a further declaration against the Town of Lexington that either:
  - 1. The Town of Lexington's status as the DMA for the CWS service area is invalid; or



2. Both the Town of Lexington's bond covenants issued for its share of the available allocated capacity of the City of Cayce RTF and the Agreement entered between the Town and the City of Cayce giving rise to the Town's investment in the available allocated capacity are illegal, unenforceable, and void as against public policy to the extent that they impair, interfere, conflict, or restrict the Town's ability to comply with the 1997 208 Plan and the Town's duties and obligations as the DMA and regional collection and transportation facility thereunder.

65. CWS is entitled to (1) a declaratory judgment as described herein, (2) a resulting preliminary and permanent injunction, as described below, (3) attorneys' fees, (4) costs, and (5) such other relief as is just, equitable and proper.

**FOR A THIRD CAUSE OF ACTION**

**Preliminary and Permanent Injunctive Relief Against the United States Environmental Protection Agency, the Administrator of the United States Environmental Protection Agency and the Town of Lexington**

66. The relevant allegations contained in the preceding and subsequent paragraphs are reasserted and reincorporated as fully as if set forth verbatim herein, insofar as they are not inconsistent with the allegations of this Third Cause of Action.

67. CWS has demonstrated a strong likelihood of success on the merits.

68. If the EPA, Administrator of the EPA, and Town of Lexington are permitted to continue their unlawful actions, CWS will suffer irreparable harm.

69. CWS has no adequate remedy at law.

70. The issuance of this preliminary and permanent injunction will not cause substantial harm to Defendants or those acting in concert with Defendants.

71. Absent injunctive relief, Congress's purpose and intent in enacting the CWA in the public interest will be thwarted.

72. Accordingly, CWS is entitled to preliminary and permanent injunctive relief against the EPA, the Administrator of the EPA, and Town of Lexington, in the alternative, as follows:

- A. An order invalidating the 1997 208 Plan approved by the EPA and the Administrator of the EPA to the extent that it certifies the Town of Lexington as the DMA for this region; or
- B. An order enjoining the Town to offer an interconnection of the I-20 System under the terms advanced by CWS and currently pending before the PSC or such other terms as the PSC may approve.

73. CWS is entitled to a preliminary and permanent injunction, as described above, (2) attorneys' fees, (3) costs, and (4) such other relief as is just, equitable and proper.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, having set forth its claims, Plaintiff prays as follows:

- a. For judgment to be entered in favor of CWS on all claims asserted herein;
- b. For a Declaratory Judgment in favor of CWS pursuant to 28 U.S.C.A. §§ 2201 and 2202 that:
  - i. The Town is in violation of 33 U.S.C.A. § 1288 and the 1997 208 Plan;
  - ii. The 1997 208 Plan is invalid to the extent that it has been approved and certified as designating Town as DMA; and
  - iii. In the alternative, either:

- 1) The Town is decertified as the DMA for the service area in which the I-20 System is located; or
  - 2) The Town's covenants in the bond issued for its share of the available allocated capacity of the City of Cayce RTF and the Agreement entered between the Town and the City of Cayce giving rise to the Town's investment in the available allocated capacity are illegal, unenforceable, and void as against public policy to the extent that they preclude the Town's discharge of its duties and obligations as DMA and regional collection and transportation facility provider;
- c. For preliminary and permanent injunctive relief in favor of CWS, in the alternative, that:
- i. Invalidates the 1997 208 Plan approved by the EPA and the Administrator of the EPA to the extent that it certifies Town as the DMA for the service area in which the I-20 System is located; or
  - ii. Enjoins Town to offer an interconnection of the I-20 System under the terms advanced by CWS and currently pending before the PSC, or such other terms as the PSC may approve;
- d. For this Court's retention of jurisdiction of this action for the purpose of supervising Defendants' compliance with the requirements of the CWA and any injunctive relief granted herein;
- e. For the costs of bringing this action;

- f. For reasonable attorneys' fees and costs of investigation and litigation, including expert witness fees, expended in bringing this action; and
- h. For such other and further relief as is just, equitable, and proper.

Respectfully submitted,

s/Chad N. Johnston  
John M.S. Hoefer (Federal Bar No. 1902)  
Randolph R. Lowell (Federal Bar No. 9203)  
Chad N. Johnston (Federal Bar No. 10813)  
**WILLOUGHBY & HOEFER, P.A.**  
930 Richland Street  
Post Office Box 8416  
Columbia, SC 29202-8416  
(803) 252-3300  
jhoefer@willoughbyhoefer.com  
rlowell@willoughbyhoefer.com  
cjohnston@willoughbyhoefer.com

*Attorneys for Plaintiff  
Carolina Water Service, Inc.*

December 11, 2015  
Columbia, South Carolina

**TABLE OF EXHIBITS**

<b>Exhibit Number</b>	<b>Document Name</b>
Exhibit A	1997 Section 208 Plan for the Central Midlands Region
Exhibit B	1994 NPDES Permit for the I-20 Regional WWTP
Exhibit C	January 7, 2003 Order of the Public Service Commission of South Carolina
Exhibit D	September 3, 2015 Application of Carolina Water Service to the Public Service Commission of South Carolina
Exhibit E	December 13, 1996 Order of the Public Service Commission of South Carolina
Exhibit F	Wastewater Services Agreement (Among City of Cayce, Town of Lexington, and Joint Municipal Water and Sewer Commission
Exhibit G	May 8, 2014 Town of Lexington Letter to Carolina Water Service
Exhibit H	July 16, 2015 Public Notice and Draft Renewal NPDES Permit for the I-20 Regional WWTP issued by SCDHEC
Exhibit I	September 4, 2015 Notice of Intent to Deny Draft Renewal NPDES Permit for the I-20 Regional WWTP issued by SCDHEC

# **EXHIBIT A**

4' 20.00

# The 208 Water Quality Management Plan for the Central Midlands Region

*Fairfield  
Newberry  
Lexington  
&  
Richland  
Counties*



*Adopted:  
February 27, 1997*

---

Prepared by the Central Midlands  
Council of Governments

The 208 Water Quality Management Plan  
for the  
Central Midlands Region

*Fairfield  
Newberry  
Lexington  
&  
Richland  
Counties*

February 1997

Prepared By:  
Central Midlands Council of Governments

Phone: 803/376-5390  
Fax: 803/376-5394



## Table of Contents

	Page
<b>Introduction</b>	01
Purpose And Need	01
Reason For Updating The Plan	02
Background	02
Authority And Jurisdiction	09
Current Issues	09
Planning Framework	10
<b>Regional Framework</b>	13
General Description Of The Region	13
Water Resources: Opportunities And Constraints	20
Public Water Systems	20
Water Quality Assessment & Segment Classification	25
Environmental Issues	29
Development Trends	30
Demographics	30
Institutional Designations & Responsibilities	32
<b>Administrative Procedures</b>	36
Public Participation	36
Plan Amendments	36
Comprehensive Plan Revisions & Annual Updates	40
Conformance Reviews	40
<b>Regional Policies</b>	43
Biosolids & Septage Collection And Disposal	43
Elimination of Discharges & Consolidation of Facilities	44
Location, Sizing, Staging And Level Of Treatment	44
Population Forecasts	46
Septic Tank And Other Individual Disposal Systems	47
Stormwater Management	47
Nonpoint Source Pollution	49
TMDL Allocation	50
Water Reuse	51
Water Supply	51
Wetlands	54
Management Agencies	55

<b>River Basin Assessment and Management Strategy</b>	59
Broad River River Basin	62
Existing Basin Inventory	62
Projected Growth	67
Water Quality Issues and Standards	69
Management and Policy Issues	70
Long Range Basin Planning	73
Catawba-Santee River Basin	76
Existing Basin Inventory	76
Projected Growth	80
Water Quality Issues and Standards	83
Management and Policy Issues	91
Long Range Basin Planning	93
Saluda-Edisto River Basin	95
Existing Basin Inventory	95
Projected Growth	110
Water Quality Issues and Standards	115
Management and Policy Issues	115
Long Range Basin Planning	141
<b>Plan Implementation</b>	146
Facilities Management	146
Non-Point Source Pollution Management	147
Financing Options	150
<b>References</b>	153
<b>Appendix</b>	156
<b>Glossary</b>	159

## List of Tables

	Page
1. Central Midlands Planning Area Land Use/Land Cover	16
2. State-owned Lands In Central Midlands Regional Planning Area	16
3. Drainage Basins And Watersheds	18
4. Freshwater Classifications	26
5. Riverine Summary Data	27
6. Use And Classification	29
7. Population Trends By County, 1980 - 2010	31
8. New Construction By County, 1992 - 1995	31
9. Stormwater Management Objectives	49
10. Broad River - River Basin & Watersheds	62
11. Population And Employment Projections	68
12. Estimated Existing And Projected Flow	69
13. Catawba-Santee - River Basin & Watersheds	76
14. Discharges By County	78
15. Population And Employment Projections	82
16. Estimated Existing And Projected Flow	82
17. Saluda-Edisto - River Basin & Watersheds	95
18. Discharges By County	100
19. Population And Employment Projections	112
20. Estimated Existing And Projected Flow	113

## List of Figures

	Page
1. Statewide System Demand For Public Water	21
2. Ground Water Contamination Sites in South Carolina, 1980 - 1994	54
3. Management Agency Areas - Richland & Lexington Counties	56
4. Management Agency Areas - Fairfield & Newberry Counties	57
5. Central Midlands Region - Watersheds	61
6. Existing Land Use	157
7. Future Land Use	158

## I. INTRODUCTION

With the passage of the Federal Water Pollution Control Act of 1972, 33 U.S.C.A. §§ 1251-1387 (PL 92-500; as amended PL 95-217, 1977; PL 100-4, 1987), Congress initiated major steps toward insuring future generations of the highest level of water quality possible. The Clean Water Act identified a number of planning programs to be undertaken at various levels of government. To maximize the efficient use of resources, Section 208 of the Act established an areawide approach to mitigating water pollution. Section 208 provided criteria to design local plans within a regional context based upon a comprehensive and integrated approach to water pollution abatement, which helped to ensure that the goals of the Act were achieved within the framework of local needs and requirements. The State of South Carolina continues to use regional planning agencies throughout the State as a means of administering the Act.

### Purpose and Need

In South Carolina, the Department of Health and Environmental Control (DHEC) regulates activities affecting water quality and is responsible for establishing classifications and standards to protect beneficial uses of streams, lakes, and estuaries in the state. The planning process identifies actions to maintain water quality standards and addresses water quality issues associated with regional development. In the Central Midlands planning area of South Carolina, the water quality planning process under Section 208 of the Federal Clean Water Act is the responsibility of the Central Midlands Council of Governments (CMCOG) as the designated water quality planning agency. CMCOG maintains and periodically updates the Water Quality Management Plan (WQMP) as it strives toward preserving and enhancing state water quality standards and classifications for both surface and ground water.

The purpose of the 1996 WQMP is to revise the information -- the Central Midlands planning area (Fairfield, Lexington, Newberry and Richland Counties -- from the time of the last revision of the plan made in 1984, and to present current issues in water quality planning and policies to guide such planning.

More importantly, this document will serve as a tool for local decision makers when addressing land use and its influence on water quality. A holistic focus of water quality planning will prevent a piecemeal approach to decision making that leads to conflicts between development and conserving natural resources.

This 1996 Water Quality Management Plan supercedes all previous comprehensive plan revisions, annual plan updates and all past plan amendments.

## **Reason For Updating The Plan**

The comprehensive revision of the WQMP was done in 1984 with several annual updates prepared thereafter. Long held assumptions made ten years ago regarding growth and environmental impacts now require revisiting. Also, since the adoption of the 1984 Plan, numerous plan amendments have been adopted which have fundamentally altered the direction and scope of the 1984 Plan and the planning process. As part of this comprehensive revision, the Plan will address current issues and will link knowledge and ideas regarding the balance of water quality and land development. Clean water is essential for health, safety, and welfare of the public. Prospective businesses and industries wanting to locate in the Central Midlands planning area require public sewer and water. With proper planning and policies, suitable locations for economic development can be identified that will not conflict with society's values of clean water and a healthy environment.

## **Background**

During the 1960s and 1970s, local needs for water and wastewater plans merged with concerns in environmental protection. Historically, many local governments were faced with limited financial and technological means to foster growth and economic development while concurrently addressing its impacts to the environment. Nationally, water quality degradation prompted the federal government to act. It is from these two separate issues that a federal initiative established a process for watershed planning and grant-in-aid construction program to reduce water pollution nationwide.

## **Federal Water Pollution Control Act of 1972**

The Federal Water Pollution Control Act (FWPCA) of 1972 - commonly known as the "Clean Water Act" (CWA) - was enacted by the US Congress to establish national goals for restoring and maintaining the physical, chemical, and biological integrity of the nation's waters. Section 208 of the Act established an areawide approach to maintaining water quality. Section 208 also provided criteria to designing local plans within a regional context, based upon a comprehensive and integrated approach to minimize water pollution. These criteria will ensure that the goals of the Act are achieved based on local needs and requirements. One of the guiding principles behind Section 208 is the responsibility of the local government to perform analyses and determine solutions to local problems. The statute gives considerable discretion to the

local governments in the water quality standards to recommend to the State for adoption and how to achieve them. South Carolina has continued using this regional approach to water quality management planning.

Two primary goals were established by the FWPCA: 1) Eliminate the discharge of pollutants into navigable waters by 1985, and 2) attain water quality which provides for the protection and propagation of fish, shellfish, and wildlife, and provides for recreation in and on the water by July 1, 1983. Although these goals were largely achieved, changes in the federal law (1977 and 1987), altered the direction and approach to meeting these goals. In general, the States have greater discretion to achieve both federal and state water quality objectives, allowing each State its own method and structure to reach them. Before the FWPCA, the Central Midlands Region had undertaken several previous studies which formed the foundation of its first 208 Plan.

#### **Prior Local Efforts, 1968 - 1971**

##### **Federal Housing Administration Plans, 1968 - 1969**

Prior to the enactment of the CWA, the Central Midlands area had undertaken several utility planning efforts. The first effort began in 1968-69 as the Federal Housing Administration (FHA) assisted local governments in planning for future utility infrastructure as housing needs expanded. These plans only addressed the non-urbanized areas as FHA was only concerned with the undeveloped and rural portions of the counties. Four plans were produced to address the water and sewer needs for the region over the next twenty years:

- Comprehensive Water and Sewerage Plan - Richland County, 1968;
- Comprehensive Water and Sewerage Plan - Lexington County, 1968;
- A Comprehensive Water and Sewer Planning Study - Newberry County, 1969;
- A Comprehensive Water and Sewer Planning Study - Fairfield County, 1969.

In summary, these plans recommended the following:

1. In Richland County, the City of Columbia should be the primary wastewater provider and expand as needed over time to serve outlying areas with a move toward a combined countywide system. In the interim, Chapin, Irmo and Eastover were to operate oxidation ponds until consolidated with the Columbia system.



2. In Lexington County, only Batesburg, Leesville and Lexington had facilities in the non-urbanized portion and were to upgrade and expand. Irmo and Swansea were recommended to develop more sophisticated systems (other than oxidation ponds) and expand to serve adjacent areas.

3. In Newberry County, the City of Newberry was to serve surrounding development as was the Town of Whitmire. The remainder of the County was to be served by the newly established Newberry County Water & Sewer Authority (1963).

4. In Fairfield County, the Town of Ridgeway was to recondition its facilities and prepare to serve areas outside the Town's limits with other areas using independent systems as needed.

These plans made the counties eligible for FHA funding and raised questions regarding future wastewater and water infrastructure needs. Although because of funding and program requirements, the exclusion of the region's urbanized areas, Columbia, West Columbia, Cayce, Springdale and the municipalities of Newberry and Winnsboro left empty an opportunity to promote any integrated and global strategy for optimizing resources for growth and infrastructure needs.

#### Housing and Urban Development Plans, 1971

Recognizing the limitations offered in the FHA plans, the Central Midlands Council of Governments undertook a second effort to update and expand the study of utility infrastructure problems. Three documents were produced under this effort:

Water and Sewer Plan for the Winnsboro Area, 1971;  
Water and Sewer Plan for the Newberry Area, 1971;  
Water and Sewer Plan for the Greater Columbia Area, 1971.

In summary, the plans recommended:

1. The Town of Winnsboro was to serve the town itself and surrounding development;
2. The City of Newberry was to serve itself and surrounding development including the area southwest of the City and Silverstreet. A new treatment plant was recommended at Bush River and Rocky Branch Creek;
3. The City of Columbia become the designated service provider throughout Richland County, excluding the area served by the East Richland County Public



Service District (ERCPD). Lexington, West Columbia and Cayce each were to have their own service areas with additional recommendation that West Columbia contract for wastewater treatment with the City of Columbia. Lexington and Cayce were to have their own treatment capability.

#### **Planning Under The Clean Water Act, 1976 - Present**

With the passage of the 1972 law, two programmatic issues arose: 1) completion of the planning requirements for grant-in-aid eligibility and 2) application of grant funding for construction of facilities. To receive funding for construction of new facilities, the region had to prepare a facilities plan that addressed the development of waste treatment plants, but at a minimum, how new facilities and their arrangement would improve the water quality standards in the area.

#### **Columbia Metropolitan Sewerage Facilities Plan, 1976**

To accomplish the task, the Columbia Metropolitan Sewerage Facilities Plan, 1976 was crafted. This plan was completed in conformance with Section 201 of the new 1976 Act and sought to describe the arrangement of treatment plants, lines and related infrastructure to serve the metropolitan area for the twenty years. The plan examined alternative waste management techniques for the best practical waste treatment technology over the life of the systems. The plan was prepared with the assistance of citizens, professional staff and consultants. Although later expanded to fully cover all four counties (amended 1980), the study area only addressed the metropolitan or urbanized area and five other municipalities in Lexington, Newberry and Fairfield Counties.

The basic plan recommended the City of Columbia expand its treatment capacity from 20 to 45 MGD; ERPSD expand to 48 MGD; Cayce expand to 7.6 MGD; a new plant for the Cedar Creek area and an interim plant near Lake Murray called Lands End to be later closed with waste transferred to the City of Columbia. The other municipalities (Batesburg, Leesville, Winnsboro, Newberry, Prosperity and Swansea) were to serve areas immediately adjacent as growth required.

### The Columbia Metropolitan Areawide Water Quality Management Plan, 1978

While the "201 Facilities Plan" addressed the point source issues, the areawide plan was designed to focus on broad regional water quality matters such as non-point sources, management and implementation issues. Although as a matter of process, the areawide water quality management plan was to be prepared first, the 201 element or "facilities plan" was prepared in 1976 and was folded into the 208 element producing, a single, comprehensive water quality management approach for water pollution issues for the region.

Specifically, Section 208 of the 1972 Act addresses the need for continuing areawide water quality management planning by local and state governments to develop and carry out solutions to water pollution problems. Its initial approach was to designate areas that are either urban/industrial complexes, heavily populated, and/ or environmentally sensitive. However, a federal court decision ordered that the new law applied to all land and waters in the nation.

The water quality management plan looks at the total environment contributing to the quality of both surface and ground water. Beyond point discharges treated in the 201 Plan are the broadly referred to non-point sources; that is diffuse sources of pollution such as stormwater runoff, sedimentation, septic tank seepage and poor agricultural/chemical practices.

### 1980 & 1982 Water Quality Management Plan Annual Updates

The principal recommendation outlined in 1980 update was to expand the planning boundaries to include all four counties in Central Midlands planning region as specified in planning council's state enabling legislation. The 1982 plan update outlined the status of outstanding sewer projects, addressed the issue of septic tank problems and prepared a separate document on administrative policies and procedures.

### The Columbia Metropolitan Sewer Facilities Plan 1983/84 Update ("Comprehensive Revision")

The 1983/84 plan was somewhat different from the previous 1976 and 1978 planning effort in two ways. First, it only focused on the metropolitan area instead of the complete four county plan area. At the time the majority of water quality issues did occur with the metropolitan area despite the need to resolve some long-standing issues in Newberry and Fairfield Counties. Another aspect to the planning effort was the

limited amount of planning funding available to undertake a comprehensive revision. This prompted a second major difference from the previous 70's effort. Since the 1976 201 Facilities Plan and 1978 208 Plan, a number of plan changes had occurred affecting facility design and regional management agency participation. Faced with limited funding and the impact of previous changes, CMRPC decided that this comprehensive revision was to be a combined plan; that is it mixed the 201 element with the 208 element. This approach was a positive step which remediated the limitations created from the first plan.

In many respects, the '83/84 Plan revision was a refinement of the 1976 and 1978 plans in that it directly assigned specific geographical areas or "management areas" to certain jurisdictions with responsibility to implement the plan. In general, the plan recommended:

1. Nine management areas which cover the urbanized portion of the metropolitan area.
2. Identified individual projects and their costs to be completed within set timeframes.
3. Established coordination mechanisms for plan implementation and steps for non-point source remediation efforts.

#### 1985 Water Quality Management Plan Annual Update

Following the adoption of 1983/1984 Comprehensive Revision, a 1985 annual update was prepared. It reported on the continuing planning efforts and reviewed the areawide plan by outlining the status of implementation steps taken by individual management agencies.

#### Since The 1983/84 Comprehensive Revision

Following the 208 Plan's adoption a number of changes occurred which altered the plan from its original blueprint to its current form. Of those changes, three developments have notably affected the provision of wastewater in the region and should be noted for their effects on the previous plan and any future plans.

### **Federal Perspective**

First were changes at the national level. During the mid-1980s, the federal government no longer provided funding for grant-in-aid construction but instead instructed each State to set up a revolving loan fund for local governments to use in the development of their infrastructure. With this action came a reduction in the level of construction efforts by many locals and a subsequent decline in federal priority for 208 planning. Several years later (1987), the federal government acted further to reduce its direct involvement by allowing each State to devise its own programmatic and planning approach for satisfying each state's own needs while fulfilling the overall provisions of the Clean Water Act. It is from this framework that the 1996 Water Quality Management Plan is prepared.

### **Key Plan Amendments**

A second fundamental change, but with a more local focus, was a 1986 plan amendment which designated Richland County as the management agency for the portion of the Wateree River Basin (Five, Twenty-five and Spears Creek Basins), where the plan had previously identified the City of Columbia as the provider. With the amendment was an action by Richland County selecting Wildewood Utilities as a franchise operator for providing service in this area. The net effect of this decision was that a private utility was to become a primary provider of sewer service for the northeast area of the County. Oversight regulation of Wildewood Utilities is performed by the SC Public Service Commission.

Lastly, the provision of service for the 12 & 14 Mile Creek Basin is expected to be fulfilled this year following a twenty year effort to develop a solution. The 12 & 14 Mile Creek basin is located in Lexington County and is the focus of development pressure. It is because of the absence of central sewer that the area remained largely undeveloped but the focal point of much debate and controversy. Initially planned with a treatment facility, Lorick's Ferry, to be built at the convergence of 12 & 14 Mile Creek, the effluent was recommended to discharge into the Saluda River. This alternative, though cost-effective, failed in the face of pressure by local environmental groups.

The alternative's demise created a vacuum for solutions which could fulfill the expectations of the Lower Saluda Corridor Plan, a subsequent planning effort sponsored by the State Water Resources Commission. In 1995, by a combined effort of the Town of Lexington, City of Cayce and the Lexington County Joint Municipal Water and Sewer Commission a solution was agreed upon by which the basin would be sewered by the Town of Lexington and the flow sent to Cayce for treatment. It is expected that this effort will provide the basis for sustained growth for the basin and form the structure for future service provided in the central portion of Lexington County.

In summary, the last remaining elements to the original 208 planning approach will

end or change with this latest update. The updated Water Quality Management Plan will be a policy plan designed to provide a framework for allocation and management decisions on water quality issues. Its policies will be shaped by the changing dynamics of economic conditions and the continuing attention to maintaining the water quality in the Central Midlands Region.

### **Authority And Jurisdiction**

In 1975, the Governor of South Carolina designated CMRPC as the area wide water quality management planning agency for the Columbia Metropolitan and Lake Murray area in accordance with Section 208 of CWA. Section 208 provides guidelines to develop and implement solutions to water quality problems by local and state governments, such as the Department of Health and Environmental Control and the Department of Natural Resources. DHEC, through a memorandum of agreement, has entered into contracts with CMRPC over the years for water quality planning and implementation activities specified as part of the §208 WQMP and their subsequent updates.

### **Current Issues**

Some of the current regional issues discussed in this plan include the following:

1. Groundwater quality - Evident in The 100 Largest Public Water Supplies in South Carolina - 1995, SCDNR, the Central Midlands planning area is fortunate as compared with other parts of the state in that only a small portion of its public drinking water comes from groundwater sources. This means that there is a lesser chance that drinking water supplies will be affected by groundwater contamination and current groundwater sources will be preserved for future use.

2. Individual septic systems - Have the potential for failure if not properly maintained. In the 1990 report, Handling And Disposal of Septage In The Central Midlands Region, CMRPC, it stated that a homeowner typically does not have their system properly maintained until it fails. The study found that 43% of all single family residences and mobile homes in the Central Midlands planning area use septic tank systems.

3. Wetlands protection and enhancement - This natural resource plays an important part in the filtration of sediment and excess nutrients, flood control, species habitat,

recreational opportunities, etc. In South Carolina, 24% of the geographic area of 4.7 million acres is considered wetlands. During the mid-1970s to the mid-1980s, South Carolina lost an estimated 61,000 acres of wetlands.

4. Non-point source (NPS) pollution - NPS pollution poses a significant impact to the water resources of the State. A 1993 Statewide Water Quality Assessment report prepared by SCDHEC found that 13% of the assessed river miles were determined to be only partially supporting or not supporting overall use because of nonpoint source pollution. Recent studies by the EPA (1993) indicate that most of the remaining water quality impairments to the nation's rivers, streams, and lakes result from non-point sources. Non-point sources of water pollution are those that cannot be traced to a specific discharge such as stormwater runoff from agricultural or urban land uses.

## **Planning Framework**

The planning framework is composed of three parts: principles, goals and policies. As will be described in more detail principles provide the framework using mutually accepted assumptions. Goals and policies are a further refinement of these assumptions, specifically outlining approaches and directions for fulfilling the intent of the principles.

### **Principles**

Principles are fundamental assumptions that provide a point of departure for the analysis or discussion of an issue. The following principles are the foundation for a comprehensive water quality management program in the Central Midlands planning area:

1. Good water quality is important to the health, safety and welfare of the citizens of the region.
2. Water quality is vulnerable to incremental and cumulative effects of development.
3. Water resources cannot be managed separately from the land resource; the two are linked.
4. Clean water enhances the overall "livability" of the region and helps to attract economic development.



5. Fewer large point source discharges are better than many small ones; they are more efficient, both financially and managerially.

6. Regional public wastewater systems are preferred over small private systems.

### **Goals**

Goals are the end results of a directed effort. Goals reflect the vision and aspirations that a community has for the future. Goals are achieved when the regional policies are built upon the underlying principles discussed above.

1. To plan and develop a timely, orderly and efficient arrangement of public sewer facilities and services to serve as a framework for urban and rural development in the Central Midlands planning area.

2. To establish regional policies in order to help maintain and improve the quality of water resources of the Central Midlands planning area.

3. To restore, protect, develop, and enhance the natural, scenic, historical, economic, and recreational qualities of lands with critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, shorelands, scenic vistas, and unique natural areas.

4. To promote the efficient management of water and wastewater distribution and collection systems through the elimination or consolidation of discharges and treatment facilities.

### **Policies**

Policies are the building blocks used to construct the water management plan and to reach the plan's goals. Policies provide a common, consistent basis for making decisions. Regional plan policies discussed in Part IV include the use of biosolids; the elimination of discharges; the location, sizing, staging, and level of treatment; the use of population forecasts; the use of septic tanks; stormwater management; Total Maximum Daily Load or "TMDL" allocation; water reuse; maintaining the water supply; and wetlands.

## Plan Components

There are two types of water plans – *output* plans and *process* plans. An *output* plan is a technical blueprint, specifying the quantity of water needed, construction schedules for treatment facilities, and financing alternatives for local governments. The *output* plan is inflexible. A *process* type plan defines general policies and goals and sets in motion an ongoing process. A *process* plan has inherent flexibility. It is a plan that can easily accommodate changing conditions.

This update of the WQMP is a departure from previous plans. The earlier plans were *output* type plans - inflexible in their implementation. They were incapable of changing nor did they provide a common, consistent basis for rational decisionmaking. This update of the plan will provide the necessary elements for decisionmakers to provide consistency for water and sewer planning activities.

This document is divided into six sections which include a explanation of the overall water quality framework including a general description of the planning area, institutional designations and responsibilities, administrative procedures, regional policies, basin management and plan implementation.



## Water Quality Assessment And Segment Classification

In an effort to evaluate the State's water quality, the Department of Health and Environmental Quality Control operates a permanent statewide network of primary ambient monitoring stations and flexible, rotating secondary and watershed monitoring stations. The ambient monitoring network is directed towards determining long-term water quality trends, identifying locations in need of additional monitoring efforts, and providing background data for planning and evaluating stream classifications and standards.

The monitoring data are also used in the process of formulating permit limits for wastewater discharges with the goal of maintaining State and Federal water quality standards and criteria in the receiving streams. These standards and criteria define the instream parameter concentrations which provide for protection and reproduction of aquatic flora and fauna, support the use classification of each waterbody, and serve as instream limits for the regulation of wastewater discharges or other activities. In addition, the data are used in the preparation of the biennial §305(b) report to Congress, which summarizes State waters with respect to use classification attainment by comparing the ambient monitoring network data to the State Water Quality Standards.

There are three classes of freshwaters identified by South Carolina regulations under "Water Classifications and Standards". Each classification consists of two parts: classified uses which must be protected, and water quality standards stringent enough to protect these uses. A description of these classes can be found in Table 4 on the following page.

In general, the quality of surface water resources (rivers & streams) in the Central Midlands planning area is mixed. Only 47% of the total river and stream miles assessed fully support overall use, including aquatic life use, recreational use, drinking water supply, and agricultural use. Table 5 lists the major watersheds within the Central Midlands planning area and the number of miles of full-support, partial-support, or non-support of overall use. The number of miles that either partially support or do not support overall use represents 53% of the total miles surveyed with an additional 1,088 miles that have not been assessed. Table 5 also lists the probable causes and sources of those segments with partial- or non-support. Several exceptional stream segments should be noted because the entire lengths fully support overall uses: Toms Creek in lower Richland County; and Black Creek in Lexington County.

Table 4: Freshwater Classifications

Class		Description
1. Outstanding Resource Water	ORW	Freshwaters or saltwaters which constitute an outstanding recreational or ecological resource or those freshwaters suitable as a source for drinking water supply purposes with treatment levels specified by the Department.
2a. Trout - Natural	TN	Freshwaters suitable for supporting reproducing trout populations and a cold water balanced indigenous aquatic community of fauna and flora. Suitable also for uses listed in Freshwaters.
2b. Trout - Put, Grow, & Take	TPGT	Freshwaters suitable for supporting growth of stocked trout populations and a balanced indigenous aquatic community of fauna and flora. Suitable also for uses listed in Freshwaters.
3. Freshwaters	FW	Freshwaters suitable for primary and secondary contact recreation and as a source for drinking water supply after conventional treatment in accordance with the requirements of the Department. Suitable for fishing and the survival and propagation of a balanced indigenous aquatic community of fauna and flora. Suitable also for industrial and agricultural uses.

Source: Water Classifications and Standards, SC DHEC, 1993.

Table 5: Riverine Summary Data - Use Support Levels in Miles

Watershed Name	Watershed #	Full Support	Partial Support	Non-Support	Not Assessed	Cause	Source
Broad R. & tribs.	047	14.29	0.02	57.08	0.0	Pathogens	Industrial point sources
Sandy R. & tribs.	063	7.4	0.0	119.43	0.0	Pathogens	NPS-runoff
Broad R. & tribs.	096	65.96	5.46	0	125.83	Pathogens	Industrial point sources
Lower Broad R. & tribs. (Crane Creek)	130	0.0	101.23	52.69	40.11	Pathogens	Industrial point sources
Little R. & tribs.	088	0.0	17.69	112.62	0.0	Pathogens	Agricultural NPS
Jackson Cr. & tribs.	112	0.0	0.0	48.05	0.0	Pathogens	Agricultural NPS
Cedar Cr. & tribs.	125	0.0	109.41	0.0	0.0	Pathogens	Industrial point sources
Tyger R. & tribs.	045	36.79	0.0	119.42	6.92	Pathogens	Industrial point sources
S. Fork Duncan Cr. & tribs	099	0.0	0.0	21.42	0.41	Pathogens	Municipal point sources
Lower Enoree R. & tribs.	102	0.0	0.0	117.98	2.85	Pathogens	Industrial point sources
Cane Cr. & tribs.	025	0.0	0.0	248.76	7.66	Pathogens & excess nutrients	Run-off
Rocky Cr. & tribs.	065	0.0	0.0	139.13	31.51	Pathogens	NPS
Wateree Lk. & tribs.	089	17.06	0.0	0.0	376.14		
Big Wateree Cr. & tribs.	097	1.94	0.0	0.0	60.95		
Wateree R. & tribs.	115	538.98	0.0	71.05	0.0	Nutrients	NPS
Swaney's Cr. & tribs.	122	30.03	0.0	77.41	0.0	Pathogens	NPS-pasture
Twenty-five Mile Cr. & tribs	128	17.03	228.13	3.5	0.0	Pathogens	NPS-urban
Spears Cr. & tribs.	138	71.42	29.16	28.7	0.0	Pathogens	Industrial point sources
Colonels Cr. & tribs.	149	91.18	0.02	0.0	0.0	Pathogens	Industrial point sources

Table 5: Riverine Summary Data - Use Support Levels in Miles (Continued)

Watershed Name	Watershed #	Full Support	Partial Support	Non-Support	Not Assessed	Cause	Source
Saluda R. & tribs. (Lk. Greenwood)	085	110.83	0.96	0.0	183.01	Nutrients	NPS-runoff
Saluda R. & tribs.	106	29.89	37.06	80.98	92.57	Pathogens	Municipal point sources
Little R. & tribs.	117	62.19	0.0	20.37	0.0	Pathogens	Pasture land runoff
Lk. Murray tribs.	135	0.0	0.0	8.71	73.91	Pathogens	Pasture land runoff
Hollow Cr. & tribs.	163	0.08	0.0	17.75	1.36	Pathogens	Source unknown
Lower Saluda R. & tribs. (12 & 14 Mile Creeks)	145	0.0	91.12	16.43	0.31	Pathogens & metals	Municipal point sources
Congaree R. & tribs.	164	246.36	9.04	4.71	4.4	Pathogens & turbidity	Municipal point sources
Congaree Cr. & tribs.	166	38.26	119.12	0.0	0.0	Pathogens, metals, & turbidity	Construction
Gills Cr. & tribs.	148	27.84	0.67	23.67	63.64	Organics & pathogens	Contaminated sediments & urban runoff
Sandy Run & tribs.	183	52.19	0.0	0.0	2.33		
Cedar Cr. & tribs.	158	145.26	38.91	0.0	0.0	Pathogens	Municipal point sources
Toms Cr. & tribs.	169	69.34	0.0	0.0	0.0		
Congaree R. & tribs.	172	84.93	0.0	0.0	12.78		
Upper N. Fork Edisto R. & tribs.	173	64.29	0.0	33.92	0.0	Pathogens	Agricultural NPS
N. Fork Edisto R. & tribs.	185	32.18	0.0	100.76	0.0	Metals	Source unknown
Black Cr. & tribs.	175	80.41	0.0	0.0	0.0		
N. Fork Edisto R. & tribs.	186	99.37	0.0	85.03	0.0	Metals	Source unknown
Bull Swamp Cr. & tribs.	187	83.71	0.0	19.23	1.93	Pathogens & Turbidity	Municipal point sources

Source: Statewide Water Quality Assessment, FY 1992-1993, A Report to Congress Pursuant to Section 305(b) of the Federal Water Quality Act, SCDHEC, Columbia, SC, 1994.



Table 6: Uses and Use Classifications.

Uses	Use Classifications
Fish and Wildlife	All classes
Domestic Water Supply	All Freshwater classes
Primary Contact Recreation	All classes
Secondary Contact Recreation	All classes
Agriculture	All Freshwater classes
Industrial	All Freshwater classes
Navigation	All classes
No degradation of existing uses	All classes
No degradation of natural conditions	Outstanding Resource Waters

Source: Statewide Water Quality Assessment, SC DHEC, 1994.

### Environmental Issues

An important theme of this plan is the balance between economic development and natural resources preservation. Natural resource preservation should not be construed as anti-development, nor should the term imply pro-environment. It suggests compatibility between the two which provides overall benefits to the well-being of citizens and their communities including social, economic, cultural, and environmental. This principle does not require total mitigation of adverse environmental impacts from development, since any construction would have an impact on the environment. Instead, it suggests that developers be sensitive to the natural environment and either avoid, remedy, or mitigate impacts when feasible. For every development project, there is an opportunity to improve or conserve natural resources.

Information from a resources inventory, such as the one found in the Columbia Metropolitan Water Quality Management Plan (1978) should be utilized to evaluate growth and development in the Midlands Region such as floodplains, critical wildlife habitat, high soil erosion potential, historical landmarks, wetlands, etc.

## Development Trends

From 1980 to 1990, the region's population grew by 10.1% from 462,030 to 508,798. Gains since then have been equally impressive. In terms of job creation, the region has also enjoyed growth. From 1980 to 1996, non-farm employment rose by 96,770 or 49% to a regionwide total of 293,220 persons. Driving the increase in population is the economic strength of the urbanized core. Employment in commercial trade and service, government and industry provide the basis for an expanding labor force. To meet this demand, housing construction has consistently risen as a whole in response.

Today, several key areas are engine for continued residential and commercial development: Town of Lexington, Northwest Richland County, Northeast Richland County, South of the Town of Winnsboro and along SC Hwy 76 near the City of Newberry. In each location, the provision of water and sewer coupled with an expanding commercial base has provided growing strength to the region's economy. As noted residential development has expanded to meet the pressures of demand particularly in Lexington and Richland Counties. Table 8 highlights these trends in housing.

It is forecasted that residential development will continue to expand significantly in Lexington County as regional water and sewer enable higher density development to occur. Richland County is also expected to follow in residential growth with Newberry and Fairfield Counties with lesser gains. Demand for commercial development is also expected to trend residential patterns and expand in all four counties, particularly in the metropolitan area as it gains in strength as the growth center for the central portion of the State.

## Demographics

Tables 7 & 8 illustrate the population and housing trends in the Central Midlands planning area. As shown, the largest portion of the population is found in Lexington and Richland Counties; these two counties account for nearly 90% of the region's total population. Long term projections show moderate growth for the region. Most of the population in Fairfield and Newberry Counties is centered around Winnsboro and the City of Newberry, respectively. Residents of these towns and the counties are, however, dependent upon Columbia and its urbanized area for more specialized consumer and medical services.

**Table 7: Population Trends By County, 1980-2010, Source: CMRPC 1996.**

County	1980	% change	1990	% change	2000	2010
Fairfield	20,700	+ 7.7%	22,295	+ 2.7%	22,900	23,500
Lexington	140,353	+ 19.0 %	167,611	+23.0 %	201,300	232,700
Newberry	31,242	+ 6.2 %	33,172	+ 4.6 %	34,700	36,200
Richland	269,735	+ 6.0 %	285,720	+ 13.0 %	312,600	337,100
Total Population (All Counties)	462,030	+ 10.1 %	508,798	+ 15.5 %	571,500	629,500

**Table 8: New Construction By County, 1992-1995, Source: CMRPC 1996.**

County	Type	1992	1993	1994	1995
Fairfield	Total Housing units	66	68	51	51
	Single family	66	68	51	49
	Multi-family	0	0	0	2
	Nonresidential	29	29	45	74
Lexington	Total Housing units	1,463	1,746	1,872	1,586
	Single family	1,463	1,524	1,434	1,158
	Multi-family	10	222	438	428
	Nonresidential	312	309	443	359
Newberry	Total Housing units	102	93	164	85
	Single family	98	93	116	85
	Multi-family	4	0	48	0
	Nonresidential	33	25	34	40
Richland	Total Housing units	1,710	2,221	1,902	2,179
	Single family	1,395	1,374	1,509	1,750
	Multi-family	315	847	393	429
	Nonresidential	615	919	797	839
Region Total	Total Housing units	3,341	4,128	3,989	3,901
	Single family	3,012	3,059	3,110	3,042
	Multi-family	329	1,069	879	859
	Nonresidential	989	1,282	1,319	1,312

## **Institutional Designations And Responsibilities**

### **General**

The institutional relationship between areawide planning and designated management agencies is designed to provide several benefits:

1. Areawide water quality management planning ensures an effective regional water quality management system is maintained. Since planning considers both point and nonpoint sources, local governments can consider the effects of both sources upon their water resource systems;
2. Individual facility permits and plans deal with construction, operation, and maintenance of collection, transport and treatment and places the responsibility for developing a cost effective local wastewater management system on local governments within limits of the regional areawide plan;
3. Assurance that similar activities in adjacent areas are compatible and that it should not be adversely impacted by activities in upstream areas; and
4. Promotes the orderly development of wastewater infrastructure for projected demands and fostering economic development.

The areawide planning process takes a broad perspective related to facility needs, scheduling, treatment levels and setting priorities for needed facilities. Management agencies, in addition to being responsible for implementing the regional plan, determine the need for and specific characteristics of wastewater treatment processes and the details of implementation with the framework of the regional plan.

### **Designated Water Quality Management Planning Agency**

As the designated planning agency, CMCOG is responsible for updating and amending the Areawide Water Quality Management Plan for the four county region. This responsibility includes, and has been limited to, since 1985 recommending needed sewer collection, transport and treatment systems. As part of the planning process, CMCOG signed a Memorandum of Agreement with the SC Department of Health and Environmental Control (DHEC) in 1985. Under this Agreement, CMCOG is responsible for reviewing all sewer projects proposed for construction in the region. This includes collector systems for residential, commercial, or industrial development;



transport or "trunk" lines; and all wastewater treatment systems, including land application.

It is noted in the agreement that CMCOG will specifically:

1. review permits and projects for conformance with the plan;
2. coordinate administrative requirements for amending the plan;
3. coordinate other state agency's certifications of permits;
4. monitor and assess wastewater projects;
5. work with designated management agencies on implementing the plan;
6. revise and update as required the Water Quality Management Plan

### **Environmental Planning Advisory Committee**

The Environmental Planning Advisory Committee (EPAC) is a successor to a former 300 member citizens advisory group which prepared the first water quality plan. The Committee is established by the CMCOG Board and acts in an advisory capacity only. It is composed of 22 voting members, generally representing the principal management agencies, environmental interests and local area citizen groups. The Chairman and Vice-Chairman are appointed by the Chairman of the CMCOG Board.

It is the purpose of the Committee to provide technical support to the Board on water quality issues and their impact on the Areawide Water Quality Management Plan. Issues or items are sent to the Committee by staff or the CMCOG Board as needed for implementing the regional plan. The committee is authorized to undertake needed studies, create working groups and conduct public forums to prepare its recommendations to the Board. Upon completion of its findings, the Committee prepares and submits a recommendation to the CMCOG, which acts and submits its findings to DHEC.

### **Management Agencies**

#### **Eligibility and Authority**

The role of the Management Agency is to implement the Regional Water Quality Management Plan for its designated management area. To become a Management Agency, the agency must be certified or "designated" by the State. In South Carolina, management agencies have been determined by the Attorney General's Office to be limited to municipalities, counties or special purpose districts. Eligibility for management agency status is set out in the Clean Water Act (§ 208(c)) and outlined as follows:

1. The authority to carry out the appropriate portions of the Regional Water Quality Management Plan developed under the Act.

2. The authority to effectively manage wastewater treatment works and related facilities serving the area in conformance with the regional plan;

3. The authority, directly or by contract, to design and construct new works and to operate and maintain new and existing works as required by the regional plan.

4. The authority to accept and utilize grants and funds from other sources for wastewater treatment management purposes. Management agencies, after designation, are the only agencies authorized to receive federal funds, though other agencies may receive funds through designated agencies.

5. The authority to raise revenues, including the assessment of wastewater treatment charges.

6. The authority to incur short- and long-term indebtedness.

7. The authority to assure, in implementation of the wastewater treatment management plan, that each participating community pays its proportionate share of treatment costs.

8. The authority to refuse wastewater for treatment from any municipal or subdivision thereof which does not comply with any provision of the Regional Water Quality Management Plan.

9. The authority to accept industrial wastewater for treatment and manage pretreatment programs.

## Management Agencies By Watershed

Provided below is a list of designated management agencies by watershed and county.

### Saluda-Edisto Watershed

City of Newberry	Newberry County W & S A	Town of Chapin
Richland County	Town of Batesburg-Leesville	Town of Lexington
City of Cayce	City of West Columbia	City of Columbia
Town of Swansea	East Richland PSD	Town of Eastover
Lexington County	Lexington County JMW & SC	Town of Springdale

### Broad River Watershed

Town of Whitmire	Newberry County W & S A	City of Newberry
Town of Winnsboro	Richland County	City of Columbia
East Richland PSD	Fairfield County	

### Catawba-Santee Watershed

Town of Winnsboro	Fairfield County	Town of Ridgeway
Richland County		

### 3. ADMINISTRATIVE PROCEDURES

#### Public Participation

Public participation in water quality planning activities is encouraged under 40 CFR Part 25 - Public Participation in Programs under the Clean Water Act. Public participation may include public notification, public consultation, public hearings, public meetings, or advisory groups. Part 25 does not mandate the use of these public participation mechanisms; rather it sets requirements for implementing the mechanisms. Under the Freedom of Information Act (Title 30 SCC § 1-10, et seq), meetings of public agencies must be conducted in a public forum and given advance notice of the time and place such meetings will occur. Public hearings and meetings of the CMCOG Board and the Environmental Planning Advisory Committee are open to the public.

Several paths are used to secure public participation for the plan's preparation: 1) organized interests participation through the advisory planning committee, 2) input from the membership of the CMCOG Board, comprising of local elected officials and citizen appointees, 3) solicited comments from area planning commissions and economic development agencies and 4) public meetings.

#### Plan Amendments

In the event that a proposal or project is determined to be inconsistent with the WQMP, an application may be made to CMCOG to amend the Plan. Amendments are classified as either major or minor. CMCOG shall determine whether a request is either a major or minor amendment. *All amendments must be sponsored by a Designated Management Agency or the CMCOG Board.*

#### Major Plan Amendments

**Major amendments** are defined as the following:

1. New wastewater treatment facilities with a design flow of 1.0 MGD, or >;
2. Existing WWTFs, which will be expanded by at least 50% of the current design capacity with respect to flow;

3. Changes in management agency status, condition or geographic management area such that the change significantly alters the provision of wastewater collection, transportation, treatment or potentially impairs water quality.

4. Proposed projects which conflict with the goals and objectives of the WQMP, such as those listed below, or specifically stated plan policies would require a plan amendment.

*The consolidation of small, privately owned WWTFs into larger regional WWTFs, owned and operated by designated 208 Management Agencies; or*

*When consolidation is not feasible, not to allow privately owned WWTFs to be expanded above the present permitted levels, unless they are operated and maintained by the designated 208 Management Agency for that planning area; or*

*Requiring central sewer to be used wherever possible, to provide an acceptable method of wastewater treatment and effluent disposal for projected residential, commercial, or industrial growth areas.*

#### **Minor Plan Amendments**

Minor amendments are defined as the following:

1. A new wastewater treatment facility with a design flow *less than* 1.0 MGD;
2. An existing WWTF which would be expanded by less than 50% of the current design capacity with respect to flow;
3. Changes in management agency status, condition or geographic management area such that the change does not significantly alter the provision of wastewater collection, transportation, treatment or potentially impairs water quality.
4. A proposed change in the current effluent disposal method, discharge point, or service area for an existing WWTF, that would be consistent with goals and objectives of the WQMP.

## Review Criteria

A review of the proposal will take into account all relevant information including, but not limited to, the following: cost effectiveness, ability to implement, impact on existing and proposed facilities, existing agreements or contracts, public health, environmental, compatibility with local or state adopted land use or infrastructure plans and economic development. While each criteria is to be considered, its relative weight will be based upon the merits of the each proposed amendment.

## Procedural Requirements

### Process

Once a determination has been made that a plan amendment is required, the applicant shall request in writing to initiate the amendment process. The applicant will also be responsible for all initial submission requirements and any additional information or studies requested during the amendment process by the EPAC or CMCOG. Unless otherwise directed by the Chairman of EPAC with concurrence from the Chairman of CMCOG Board, the Environmental Planning Advisory Committee will review all **proposed major amendments** and submit recommendations to the CMRPC Board for final action. **Proposed minor amendments** may be brought before EPAC at the request of the Chairman before going to the Board. The applicant should be present during the EPAC or Board meetings to discuss or present the amendment and respond to questions. Recommendations from EPAC to the CMCOG are to be one the following:

1. Approval;
2. Approval with Conditions;
3. Denial -- In cases of denial, the applicant may choose to revise their application to conform with the plan.

After the public information meeting, if one is held, all proposed amendments will be placed on the agenda of the Central Midlands Council Board. The EPAC Chairman, assisted by staff, will present the proposed amendment, recommendation of EPAC, and a summary of public comments. The applicant and other parties may be invited to attend the meeting, and may address the issue at the discretion of the Council. Action by the Central Midlands Council of Governments will take one of the following forms:

1. Approval;
2. Approval with Conditions;
3. Denial; or
4. Referred back to EPAC for further study.

DHEC and EPA, where required, must approve all amendments before they become part of the Regional Water Quality Management Plan.

### **Grievances**

Decisions of the Board of the Central Midlands Council of Governments are considered final and are given to the SC Department of Health & Environmental Control for concurrence.

### **Notice and Public Meeting Requirements**

An advertised public information meeting may be held for **any plan amendment** as determined by CMCOG, and will be scheduled following an EPAC recommendation, where required. The meeting may be held in the applicant's jurisdiction or at the offices of the Council. The meeting will be scheduled for a weekday evening and held in a handicapped accessible public building.

Public notice for such meetings will be advertisement published in the newspaper of general circulation in the region at least fifteen (15) days prior to the meeting. The applicant will provide a review copy of the proposal to the Council. The proposal and supporting documentation will be made available for public review during normal business hours. The advertisement will state where these copies are available.

The public information meeting will be conducted by the Chairman of EPAC or his designee and staff of the Council. The applicant should attend the public meeting to assist in responding to questions concerning the proposed amendment. Verbal and written comments will be received at the meeting. Additional written comments may be submitted up to seven (7) days following the public meeting or prior to the next regularly scheduled Council Board meeting.

### **Plan Amendment Submission Requirements**

At a minimum, before an application can receive consideration by CMCOG, the applicant may be required to provide information which, at a minimum where it applies, addresses the following:



1. Detailed description and scope of the project;
2. Preliminary engineering data regarding facility design and cost;
3. Financing strategy and/or feasibility analysis;
4. Potential fiscal or engineering impact on existing facilities, if any;
5. Associated environmental risks or impacts;
6. Project justification or need;
7. Summary examination of alternative options, where appropriate; and
8. Timing and phasing of the project or proposal.

Moreover, the burden of demonstrating the facts and merits of any plan amendment lies solely with applicant and is subject to whatever level of review issued by the CMCOG staff, EPAC or CMCOG Board.

#### **Comprehensive Plan Revisions & Annual Plan Updates**

For purposes of distinguishing future changes to the Plan, it is recommended that the Council undertake a comprehensive revision of the Plan every 10 years or when there has been a substantial and fundamental change in conditions in the 208 plan area. Under a comprehensive revision, all aspects of the plan are to revisited for validity and appropriateness. It is required that the CMCOG Board adopt the Plan and that public input has been taken as part of the revision process.

Annual plan updates are to be conducted at the end of each federal fiscal year. As part of the annual update, a summary of all significant changes in the plan will be identified, including a list of all major and minor plan amendments, significant or major shifts in the demographic or geographic characteristics of the region and modifications in the legal framework of the water quality planning process or state regulatory environment.

#### **Conformance Reviews**

Before DHEC can issue or re-issue a permit to construct or operate a wastewater treatment facility or related facilities in the 208 planning region, conformance with the Water Quality Management Plan must be determined.

DHEC, engineering consultants, or developers may submit the 208 conformance request form for review and concurrence. Upon receipt of the form, CMCOG staff reviews the information such as location of the project, disposal method, and any recommendations from the current 208 Plan.



Approval is generally granted to projects where it conforms to the plan goals and policies, consistent with the service strategy of the designated management agency and complies with state environmental regulations. Even if a project is not specifically supported by the current 208 Plan, the project may, if appropriate, be approved conditionally with the objective that compliance with the WQMP would follow in a timely manner. If the project is found not to be in conformance with the WQM Plan, the Plan must be amended.

#### **4. REGIONAL POLICIES**

##### **General**

Certain planning functions and water quality issues require a policy statement to provide a common, consistent basis for making decisions. Roles, functions and regulations have changed since 1985 which require that the WQMP respond to new directions in water quality planning. The WQMP should not be viewed as a static, all-encompassing statement but rather, a flexible document which provides policy direction and summarizes special studies. As a general foundation, the WQMP contains 10 policy directions ranging from land application of biosolids to wetlands which, in conjunction with the objectives of the WQMP, provide direction on water quality planning and issues. Most of the policies include an implementation procedure as part of the policy and framework discussion.

##### **Biosolids And Septage Collection & Disposal**

###### **Issue**

The US Environmental Protection Agency (EPA) has done extensive research on the land application of municipal sewage sludge (biosolids). Studies have shown that biosolids are low in pollutants, high in nutrients and organic matter, and highly suitable for recycling on agricultural and non-agricultural land. Where biosolids have been applied in accordance with regulations, problems that have occurred are rare and are generally related to inadequate field management and not biosolids quality. To be acceptable for agricultural use, sewage sludge must receive treatment to eliminate or greatly reduce pathogens and odors. The final use or disposal of wastewater sludge, or biosolids, is regulated under 40 CFR Part 503 at the Federal level, and the South Carolina Pollution Control Act (§ 48-1-10 et seq. S.C.C.A.), and State regulation R61-9.

###### **Policy**

The use of biosolids and septage in land application should be supported. Well-managed practices such as land application as a soil amendment or fertilizer supplement benefit the land by supplying nutrients to crop lands and disposing of a waste product in a safe manner. Regulation of biosolids disposal for land application or other beneficial uses should continue to be done at the state level by the DHEC. Disposal through landfilling or composting is acceptable as a secondary alternative, where it is economically more acceptable.

## **Elimination of Discharges & Consolidation of Facilities**

### **Issue**

Consolidation of wastewater treatment and/or discharge facilities is encouraged by the State and Section 208 of the CWA, where appropriate. There are dozens of small, privately owned WWTFs that utilize a lagoon or a wastewater pond. The WQMP may identify opportunities for facility consolidation. Generally, publicly owned larger treatment facilities can provide service more effectively while providing a higher degree of treatment than can be achieved through smaller facilities. Further, the consolidation of facilities may help to eliminate smaller facilities which may not be financially capable of operating properly or may be in violation of their discharge permits.

### **Policy**

Small, public or private domestic wastewater treatment facilities are considered temporary facilities. When a regional wastewater collection system, public or private, becomes available, these facilities will be required to connect to that system.

## **Location, Sizing, Staging, And Level of Treatment**

### **Issue**

In determining wastewater needs, the primary goal is to provide reasonable, feasible and economical wastewater service to any particular area. Consideration is given to the impact the treatment system will have on receiving waters, the ability to meet water quality standards and the impact a discharger may have on downstream dischargers. The need for a treatment system is based on growth and development which has been approved by local governments and is consistent with CMCOG's adopted regional water quality management plan goals.

### **Policy**

Location - Any proposed new or expanded facilities are to be reviewed for conformance with the Plan, such that:

## **Policy**

CMCOG recognizes the ecological and societal values which make wetlands an important natural resource and supports the concept of wetlands protection. All CMCOG plans will distinguish the value of wetlands as part of the planning process and it will encourage local governments to adopt wetlands preservation as part of its zoning and land development regulations. Furthermore, CMCOG promotes the use of wetlands for water quality enhancement activities. The use of artificial and constructed wetlands for resource management purposes, such as wastewater treatment, stormwater abatement, and wildlife management is encouraged. Although the destruction of wetlands is prohibited by law, local governments should call to the attention of developers the potential existence of wetlands in any land development and that damage to wetlands threatens public safety and the general welfare. It is necessary for local governments to ensure maximum protection for nontidal wetlands and those activities in nontidal wetlands and adjacent upland sites that may adversely affect nontidal wetlands and to encourage restoration of already degraded or destroyed wetlands systems.

## **Management Agencies**

### **Issue**

The foundation for the management agency approach lies with the basin or service area strategy for resolving water quality problems. Following the State's watershed water quality management strategy, the 208 Water Quality Management Plan recognizes that most water quality problems are often not confined to one management agency but "spillover" into others which require multijurisdictional solutions. Generally, these problems are complex and interrelated, forcing mutual cooperation and coordination from all parties affected. It is the role of the 208 WQM Plan and CMCOG to promote that cooperation and coordination.

### **General Responsibility**

Each management agency is to be responsible for implementing the Plan policies within its management area. Additionally, the following also applies to management agencies:

## **Policy**

### **1. Designation and De-designation**

Designation - Only municipalities, counties or special purpose districts are eligible for designation as a 208 management agency. All requests for new management agency applicants must: 1) satisfy the threshold requirements listed under Eligibility and Authority, 2) obtain approval of a 208 plan amendment and 3) receive a favorable recommendation from the Governor.

De-designation - A management agency may be de-designated under one of the following conditions: 1) no longer satisfies the threshold requirements listed under Eligibility and Authority, or 2) requests de-designation. De-designation of a management agency would require a plan amendment before forwarding to DHEC and the Governor. Any management areas de-designated will be redesignated as part of the 208 plan amendment. A petition for de-designation of a management agency for failure to meet the eligibility requirements may be initiated by any member government of CMCOG.

### **2. Provision of Service**

Areas of No Service - In areas where no existing wastewater service exists, the designated management agency is to determine an appropriate service delivery system among cost-effective alternatives which is in conformance with the policies of the WQMP.

Areas of Private Service - The Plan recognizes existing private wastewater systems as providers but encourages their eventual integration into larger more efficient public systems. In general, expansion of private systems are discouraged, unless no cost-effective alternative method for service is available. All private service area expansions require a plan amendment.

Municipal Annexation - Where a municipality annexes lands into another designated management agency's area, the municipality has the right to provide service to that area, provided no existing service is reasonably available and is shown to be the cost-effective means of providing service.

## Management and Policy Issues

### Management Agencies & Service Provision

**General Basin Policy:** There are fifteen (15) management agencies recommended for plan implementation in the basin. Generally, each management agency and its facilities is set up to be the major provider for each area and act as an general coordinator of wastewater collection, transportation and treatment. And, while other facilities identified in the plan may currently operate independently of a management agency's facilities or their related systems, all facilities within an agency's area may be identified for eventual consolidation and elimination for water quality, public health and cost-effectiveness objectives.

#### A. Management Agency: City of Newberry

**Management Agency Area:** City of Newberry and surrounding area.

**General Policy:** Under sole management agency direction, the City of Newberry is to implement the provisions of the plan for the prescribed management agency area with treatment at its Bush River facility.

Facility	Provider	Basin (s)	Permitted Capacity
Bush River	City of Newberry	3050109-150 (p)	3.2 MGD 1.6 MGD Planned

#### B. Management Agency: Town of Chapin

**Management Agency Area:** Town of Chapin and Northeast Lexington County

**General Policy:** Under sole management agency direction, the Town of Chapin is to implement the provisions of the plan for the prescribed management area with treatment at its Wateree Creek facility.

Facility	Provider	Basin (s)	Permitted Capacity
Wateree Creek	Town of Chapin	3050109-190 (p)	1.2 MGD

# **EXHIBIT B**

# Surface Water Discharge PERMIT

In Accordance With the  
National Pollutant Discharge Elimination System (NPDES)

This NPDES Permit Certifies That

*Carolina Water Systems, Inc*  
*I-20 Regional WWTP*

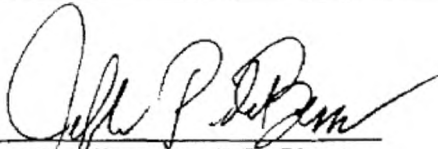
has been granted permission to discharge treated wastewater from a facility located at

*Laurel Meadows S/D off Leaphart Road*  
*Lexington County*

to receiving waters named

*Saluda River*

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, and III hereof. This permit is issued in accordance with the provisions of the Pollution Control Act of South Carolina (S.C. Code Sections 48-1-10 *et seq.*, 1976), Regulation 61-9 and with the provisions of the Federal Clean Water Act (PL 92-500), as amended, 33 U.S.C. 1251 *et seq.*, the "Act."

  
Jeffrey P. deBessonnet, P.E., Director  
Domestic Wastewater Division  
Bureau of Water Pollution Control

Issued: November 17, 1994

Expires: September 30, 1999

Effective: January 1, 1995

Permit No.: SC0035564

Modification Date April 25, 1996

South Carolina  
**DHEC**  
Department of Health and Environmental Control



## PART I

## A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. **► INTERIM LIMITS ◀** During the period beginning on the effective date of this permit and lasting until the Permit to Operate for the WWTP expansion is issued, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	(Pounds/Day)		(Other Units)		Daily Max	MONITORING REQUIREMENTS		
	Monthly Average	Weekly Average	Monthly Average	Weekly Average		Measurement Frequency	Sample Type	Sample Point
Flow	--	--	0.8 MGD	0.8 MGD	--	Daily	Continuous	Effluent
Biochemical Oxygen Demand (5 day)	200	300	30 mg/l	45 mg/l	--	1/week	24 Hr. Comp.	Effluent
Total Suspended Solids	600	900	90 mg/l	135 mg/l	--	1/week	24 Hr. Comp.	Effluent
NH <sub>3</sub> -N Summer (Mar-Oct)	--	--	M&R*	M&R*	--	1/month	24 Hr. Comp.	Effluent
NH <sub>3</sub> -N Winter (Nov-Feb)	--	--	M&R*	M&R*	--	1/month	24 Hr. Comp.	Effluent
Fecal Coliform	--	--	200/100 ml	--	400/100 ml	1/week	Grab	Effluent
Total Residual Chlorine-TRC	--	--	0.5 mg/l**	--	1.0 mg/l**	1/week	Grab	Effluent
Dissolved Oxygen	2.0 mg/l (a minimum at all times)					Daily	Grab	Effluent
pH	6.0 - 9.0 Standard Units					Daily	Grab	Effluent
			<u>Quarterly</u>					
Total Cadmium (Cd)	--	--	M&R*	--	M&R*	1/quarter	24 Hr. Comp.	Effluent
Total Copper (Cu)	--	--	M&R*	--	M&R*	1/quarter	24 Hr. Comp.	Effluent
Total Lead (Pb)	--	--	M&R*	--	M&R*	1/quarter	24 Hr. Comp.	Effluent
Total Zinc (Zn)	--	--	M&R*	--	M&R*	1/quarter	24 Hr. Comp.	Effluent

\*M&R = Monitor and Report

\*\* See Part I.D.1 (Schedule of Compliance)

2. **► FINAL LIMITS ◀** During the period beginning on the issuance date of the Permit to Operate for the WWTP expansion and lasting through the expiration date, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	(Pounds/Day)		(Other Units)			MONITORING REQUIREMENTS		
	Monthly Average	Weekly Average	Monthly Average	Weekly Average	Daily Max	Measurement Frequency	Sample Type	Sample Point
Flow	--	--	1.051 MGD	1.051 MGD	--	Daily	Continuous	Effluent
Biochemical Oxygen Demand (5 day)	262	394	30 mg/l	45 mg/l	--	1/week	24 Hr. Comp.	Effluent
Total Suspended Solids	786	1179	90 mg/l	135 mg/l	--	1/week	24 Hr. Comp.	Effluent
NH <sub>3</sub> -N Summer (Mar-Oct)	112	168	12.8 mg/l	19.2 mg/l	--	1/week	24 Hr. Comp.	Effluent
NH <sub>3</sub> -N Winter (Nov-Feb)	112	168	12.8 mg/l	19.2 mg/l	--	1/week	24 Hr. Comp.	Effluent
Fecal Coliform	--	--	200/100 ml	--	400/100 ml	1/week	Grab	Effluent
Total Residual Chlorine-TRC	--	--	0.5 mg/l	--	1.0 mg/l	1/week	Grab	Effluent
Dissolved Oxygen	2.0 mg/l (a minimum at all times)					Daily	Grab	Effluent
pH	6.0 - 9.0 Standard Units					Daily	Grab	Effluent
Total Cadmium (Cd)	--	--	0.24 mg/l	--	0.66 mg/l	1/month	24 Hr. Comp.	Effluent
Total Copper (Cu)	--	--	M&R*	--	M&R*	1/month	24 Hr. Comp.	Effluent
Total Lead (Pb)	--	--	0.11 mg/l	--	M&R*	1/month	24 Hr. Comp.	Effluent
Total Zinc (Zn)	--	--	M&R*	--	M&R*	1/month	24 Hr. Comp.	Effluent

\*M&R = Monitor and Report

PART I

Page 4 of 22

Permit No. SC0035564

3. There shall be no discharge of floating solids or visible foam in other than trace amounts nor shall the effluent cause a visible sheen on the receiving waters.
4. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: nearest accessible point after final treatment but prior to actual discharge or mixing with the receiving waters.
5. Samples shall be collected in accordance with Part I.E.8.
6. MR = Monitor and Report only.
7.
  - a. If the monthly average concentration limits for BOD<sub>5</sub> and Total Suspended Solids (TSS) is less than or equal to 30 mg/l, then for BOD and TSS, the arithmetic mean of the values of the effluent shall not exceed 15 percent of the arithmetic mean of the values of the influent.
  - b. If the monthly average concentration limits for BOD<sub>5</sub> is less than or equal to 30 mg/l and the monthly average concentration for TSS is greater than 30 mg/l, then for BOD, the arithmetic mean of the values of the effluent shall not exceed 15 percent of the arithmetic mean of the values of the influent.
  - c. If the monthly average concentration for BOD<sub>5</sub> is equal to 45 mg/l and the monthly average concentration for TSS is greater than 30 mg/l, then for BOD, the arithmetic mean of the values of the effluent shall not exceed 35 percent of the arithmetic mean of the values of the influent.

PART I  
 Page 5 of 22  
 Permit No. SC0035564

## B. EFFLUENT TOXICITY LIMITATIONS AND MONITORING REQUIREMENTS

### ►►FINAL LIMITS◄◄

1. During the period beginning on the issuance date of the Permit to Operate the expanded facility and lasting through the expiration date, the permittee is authorized to discharge from outfall serial number 001.

Such discharge shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	<u>Other Units (Specify)</u>		<u>Measurement</u>	<u>Sample</u>
	<u>Monthly</u>	<u>Daily</u>	<u>Frequency</u>	<u>Type</u>
	<u>Average</u>	<u>Maximum</u>		
Biological Monitoring (Whole Effluent Acute Toxicity Testing)		0	1/month	24 Hr. Composite

2. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following locations: at or near the discharge, but prior to mixing with the receiving waters.
3. See Part III. D. for additional toxicity requirements.

PART I

Page 6 of 22

Permit No. SC0035564

**C. OPERATION AND MAINTENANCE OF EQUALIZATION BASINS****1. Groundwater Monitoring Requirements**

- a. Each of the 2 groundwater monitoring wells around each of the three equalization basins (a total of 6 wells) shall be sampled by the permittee as specified below:

<u>PARAMETER</u>	<u>MEASUREMENT FREQUENCY</u>	<u>SAMPLE METHOD</u>
Total Phosphorus	Quarterly	Pump or Bailer Method
Ammonia	Quarterly	Pump or Bailer Method
Chloride	Quarterly	Pump or Bailer Method
Nitrate	Quarterly	Pump or Bailer Method
Alkalinity	Quarterly	Pump or Bailer Method
pH	Quarterly	Pump or Bailer Method
Sodium	Quarterly	Pump or Bailer Method
TDS	Quarterly	Pump or Bailer Method
Fecal Coliform	Quarterly	Pump or Bailer Method
Watertable Elevation	Quarterly	Pump or Bailer Method
Specific Conductance	Quarterly	Pump or Bailer Method

- b. Sample collection methods shall be in accordance with DHEC publication "Groundwater Sampling Methods" dated October, 1981, or the most recent revision.
- c. All groundwater monitoring wells must be properly maintained at all times.
- d. Groundwater sampling will begin the first calendar quarter after a Permit to Operate is issued for the groundwater monitoring wells

**2. Operation and Maintenance of Equalization Basins.**

- a. The oxidation ponds for the Oak Grove Estates, Spring Hill S/D, and Woodsen S/D were converted into equalization basins rather than being closed out or abandoned. These equalization basins will be operated in such a manner that odors and vector attraction will be minimized and groundwater contamination will be prevented.
- b. The Permittee will maintain all equipment and provide general site management at the equalization basin sites to include aerators and pumps as well as the basin dikes. The grass will be trimmed and the fences around the equalization basins will maintained in good repair so as to exclude the public from the site.

PART I  
Page 7 of 22  
Permit No. SC0035564

**D. SCHEDULE OF COMPLIANCE**

1. The following schedule shall be utilized to install dechlorination unit and meet the TRC limitations:
  - a. Submit approvable plans and specifications by May 1, 1995.
  - b. Start construction by July 1, 1995.
  - c. Complete construction by November 1, 1995.
  - d. Comply with the final effluent limits by December 1, 1995.
2. The permittee shall achieve compliance with the final effluent limitations specified for discharges in accordance with the following schedules:
  - a. When permitted construction flows equal or exceed 0.72 MGD (90% of the present design capacity), approvable plans and specifications for the expansion to 1.051 MGD will be prepared, submitted to the Department, and a Permit to Construct the expanded facility will be obtained.
  - b. When the average of the daily flows over a six consecutive month period equals or exceeds 0.76 MGD (95% of the present design capacity), construction of the expansion to 1.051 MGD will begin. Construction will be completed within 9 months after construction starts and the expanded facility will be in compliance with the final limits within 11 months after construction starts.
  - c. The Vanarsdale S/D (SC0030945) will be connected to this facility and will cease its discharge to the surface water when a Permit to Operate is issued for the sewer line that will connect the referenced subdivision to the facility.
3.
  - a. The Permittee shall be responsible for submission of plans and specifications for the connection to the regional sewer system. The plans and specifications shall be submitted no later than 90 days after the issuance date of the Permit to Construct for the regional sewer system.
  - b. Construction of the connection line between the regional sewer system and this facility shall begin in sufficient time to allow the elimination of the discharge from this facility to the Saluda River no later than 90 days after the Permit to Operate is issued for the regional sewer system. Construction may commence prior to the issuance date of the Permit to Operate for the regional sewer system.
  - c. Within 90 days after the issuance date of the Permit to Operate for the regional sewer system, the Permittee will connect to the regional sewer system and cease the discharge to the Saluda River. This Permit will expire on the date of issuance of the Permit to Operate the connection between this facility and the regional sewer system. In accordance with the Area Wide 208 Management Plan, this facility is considered as a temporary treatment facility that will be closed out when the regional sewer system is constructed and available.
4. Within 90 days after the effective date of this Permit, the Permittee will submit plans and specifications for constructing a minimum of three (3) groundwater monitoring wells at each of the following: Oak Grove Estates, the Springhill S/D, and the Woodsen S/D equalization basins. Within 120 days after approval of the plans and specifications, the Permittee will construct the groundwater monitoring wells, collect samples from each monitoring well, analyze said samples and submit the analysis results to the Department.

## PART I

Page 8 of 22

Permit No. SC0035564

5. No later than 14 calendar days following a date identified in the above schedule of compliance, the permittee shall submit either a report of progress or, in the case of specific actions being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

**E. MONITORING AND REPORTING****1. Representative Sampling**

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

**2. Flow Measurements**

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be present and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than  $\pm 10\%$  from the true discharge rates throughout the range of expected discharge volumes. The primary flow device must be accessible to the use of a continuous flow recorder. Where a flume is present, a separate stilling well for Department/EPA use must be provided if required by the Department.

**3. Reporting Monitoring Results****a. Effluent Monitoring**

Effluent monitoring results obtained each month shall be reported monthly on a Discharge Monitoring Report Form (EPA Form 3320-1). The first report is due postmarked no later than the 28th day of the month following the month this permit becomes effective.

**b. Groundwater Monitoring (if applicable)**

Groundwater monitoring results must be reported quarterly on a Groundwater Monitoring Report Form (DHEC 1938) postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on the 28th day of the 4th month following the month the plans and specifications for the monitoring wells are approved.

**c. Pretreatment Program Monitoring (if applicable)**

Data for monitoring the Pretreatment Program shall be submitted with the Discharge Monitoring Results. The data and the schedule for submittal is specified in Part III. A. (Pretreatment Requirements).

**d. Submittal of Reports**

One original and one copy of these, and all other reports required herein, shall be submitted to the:

S.C. Department of Health and Environmental Control  
Bureau of Water Pollution Control  
Enforcement Section  
2600 Bull Street  
Columbia, South Carolina 29201



**PART I**

Page 9 of 22

Permit No. SC0035564

**4. Test Procedures**

Test procedures for the analysis of pollutants shall conform to regulations published pursuant to State Environmental Laboratory Certification Regulation 61-81 and Section 304(h) of the Act, as amended. (Federal Register, October 16, 1973; Title 40, Chapter I, Sub-chapter D, Part 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants." Amended by Federal Register, December 1, 1976, October 8, 1991, and any other amendments that may be promulgated.)

**5. Recording of Results**

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. the exact place, date and time of sampling;
- b. the dates and times the analyses were performed;
- c. the person(s) who performed the analyses and the laboratory certification number where applicable;
- d. the analytical techniques or methods used; and
- e. the results of all required analyses.

**6. Additional Monitoring by Permittee**

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified herein, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form (EPA-3320-1). Such increased frequency shall also be indicated. Additional or accelerated monitoring may be required to determine the nature and impact of a non-complying discharge on the environment or to determine if a single non-complying sample is representative of the long term condition (monthly average).

**7. Records Retention**

All records and information resulting from the monitoring activities required by this permit including all records of analysis performed, calibration and maintenance of instrumentation, and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, or longer if requested by the Department. The permittee shall furnish to the Department, upon request, copies of records required to be kept by this permit.

**8. Definitions**

- a. "Monthly average", other than for fecal coliform, is the arithmetic mean of all samples collected in a calendar month period. The monthly average for fecal coliform bacteria is the geometric mean of all samples collected in a calendar month period. The monthly average loading is the arithmetic average of all individual loading determinations made during the month.
- b. "Weekly average", other than for fecal coliform, is the arithmetic mean of all the samples collected during a one-week period. The weekly average for fecal coliform is the geometric mean of all samples collected during a one-week period. For self-monitoring purposes, weekly periods in a calendar month are defined as three (3) consecutive seven day intervals starting with the first day of the calendar month and a fourth interval containing seven (7) days plus those days beyond the 28th day in a calendar month. The value to be reported is the single highest of the four (4) weekly averages computed during a calendar month. The weekly



## PART I

Page 10 of 22

Permit No. SC0035564

average loading is the arithmetic average of all individual loading determinations made during the week.

- c. "Daily maximum" is the highest average value recorded of samples collected on any single day during the calendar month.
- d. "Instantaneous maximum or minimum" is the highest or lowest value recorded of any sample collected during the calendar month.
- e. "Arithmetic Mean" of any set of values is the summation of the individual values divided by the number of individual values.
- f. "Geometric mean" of any set of values is the Nth root of the product of the individual values where N is equal to the number of individual values. The geometric mean is equivalent to the antilog of the arithmetic mean of the logarithms of the individual values. For purposes of calculating the geometric mean, values of zero (0) shall be considered to be one (1).
- g. "Department" is the South Carolina Department of Health and Environmental Control.
- h. "Act" is the Clean Water Act (Formerly referred to as the Federal Water Pollution Control Act) Public Law 92-500, as amended.
- i. "Grab Sample" is an individual discrete or single influent or effluent portion of at least 100 milliliters collected at a time representative of the discharge and over a period not exceeding 15 minutes and retained separately for analysis. Instantaneous flow measured at the time of grab sample collection shall be used to calculate quantity.
- j. "Composite Sample" is one of the following four types of composite samples as specified within this permit:
  - (1) An influent or effluent portion collected continuously over a specified period of time at a rate proportional to the flow.
  - (2) A combination of not less than eight (8) influent or effluent grab samples collected at regular (equal) intervals over a specified period of time, properly preserved, (See part I.E.4.) and composited by increasing the volume of each aliquot in proportion to flow. If continuous flow measurement is not used to composite in proportion to flow, the following method will be used: Take an instantaneous flow measurement each time a grab sample is collected. At the end of the sampling period, sum the instantaneous flow measurements to obtain a total flow to determine the partial amount (percentage) of each grab sample to be combined to obtain the composite sample.
  - (3) A combination of not less than eight (8) influent or effluent grab samples of equal volume but at variable time intervals that are inversely proportional to the volume of the flow. That is, the time interval between aliquots is reduced as the volume of flow increases.
  - (4) This is an optional method that may be used with prior Departmental approval if effluent flows, on a daily basis, do not vary more than  $\pm 15\%$ . A combination of not less than eight (8) influent or effluent grab samples of constant (equal) volume collected at regular (equal) time intervals over a specified period of time, while being properly preserved.

Continuous flow or the sum of instantaneous flows measured and averaged for the specified compositing time period shall be used with composite sample results to calculate quantity.

PART I

Page 11 of 22

Permit No. SC0035564

**9. Right of Entry**

The permittee shall allow the Commissioner of the Department of Health and Environmental Control, the Regional Administrator of EPA, and/or their authorized representatives:

- a. To enter upon the permittee's premises where a regulated facility or activity and effluent source is located in which any records are required to be kept under the terms and conditions of this permit; and,
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and to sample or monitor any substances or parameters at any location for the purpose of assuring permit compliance.

PART II  
Page 12 of 22  
Permit No. SC0035564

## PART II

### A. GENERAL REQUIREMENTS

#### 1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit non-compliance constitutes a violation of the Act and the South Carolina Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for the denial of a permit renewal application.

#### 2. Civil and Criminal Liability

- a. Any person who violates a term, condition or schedule of compliance contained within this permit is subject to the actions defined by Sections 48-1-320 and 48-1-330 of the South Carolina Pollution Control Act.
- b. Except as provided in permit conditions on "Bypassing" (Part II.C.2.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for non-compliance.
- c. It shall not be an acceptable defense of the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- d. It is the responsibility of the permittee to have a treatment facility that will meet the final effluent limitations of this permit. The approval of plans and specifications by the Department does not relieve the permittee of responsibility for compliance.

#### 3. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under Section 311 of the Act, the South Carolina Pollution Control Act or applicable provisions of the South Carolina Hazardous Waste Management Act and the South Carolina Oil and Gas Act.

#### 4. Permit Modification

- a. The permittee shall furnish to the Department within a reasonable time any relevant information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit.
- b. Upon sufficient cause, this permit may be modified, revoked, reissued, or terminated during its term, after public notice and opportunity for a hearing. Modifications deemed to be minor will not require public notice.
- c. The filing of a request by the permittee for a permit modification, or a notification of planned changes or anticipated non-compliance, does not stay any permit condition.

#### 5. Toxic Pollutants

Notwithstanding Part II.A.4. above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitations for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

PART II  
Page 13 of 22  
Permit No. SC0035564

**6. State Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

**7. Property Rights**

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

**8. Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

**9. Onshore and Offshore Construction**

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

**B. REPORTING REQUIREMENTS**

**1. Change in Discharge**

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any planned facility expansions, production increases, or process modifications which will result in a new or different discharge of pollutants must be reported by submission of a new NPDES application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the Department of such changes. Following such notice, the permit may be modified to specify and limit any pollutant not previously limited.

**2. Twenty-Four Hour Non-Compliance Reporting**

a. The permittee shall report any non-compliance with provisions specified in this permit which may endanger public health or the environment. The permittee shall notify the Department orally within 24 hours of becoming aware of such conditions. During normal working hours call 803/734-5300. After hour reporting should be made to the 24 hour Emergency Response telephone number 803/253-6488. The permittee shall provide the following information to the Department in writing, within five (5) days of becoming aware of such conditions:

1. A description of the discharge and cause of non-compliance; and,
2. The period of non-compliance, including exact dates and times; or, if not corrected, the anticipated time the non-compliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the non-complying discharge.

b. The following violations shall be included in a 24 hour report when they might endanger health or the environment:

1. An unanticipated bypass which exceeds any effluent limitation in this permit;
2. Any upset which exceeds any effluent limitation in the permit.

PART II

Page 14 of 22

Permit No. SC0035564

- c. As soon as the permittee has knowledge of or anticipates the need for a bypass, but not later than ten (10) days before the date of the bypass, it shall notify the Department and provide a determination of the need for bypass as well as the anticipated quality, quantity, time of duration, and effect of the bypass.

**3. Other Non-Compliance**

The permittee shall report in narrative form, all instances of non-compliance not previously reported under Section B, Paragraph B.2., at the time Discharge Monitoring Reports are submitted. The reports shall contain the information listed in Paragraph B.2.a.

**4. Transfer of Ownership or Control**

A permit may be transferred to another party under the following conditions:

- a. The permittee notifies the Department of the proposed transfer at least thirty (30) days in advance of the proposed transfer date;
- b. A written agreement is submitted to the Department between the existing and new permittee containing a specific date for the transfer of permit responsibility, coverage, and liability for violations up to that date and thereafter.

Transfers are not effective if, within thirty (30) days of receipt of proposal, the Department disagrees and notifies the current permittee and the new permittee of the intent to modify, revoke and reissue, or terminate the permit and to require that a new application be filed.

**5. Expiration of Permit**

The permittee is not authorized to discharge after the expiration date of this permit, unless a completed application for reissuance is submitted no later than one hundred eighty (180) days prior to the expiration date. Permission may be granted to submit an application later than this, but not later than the expiration date of the permit. In accordance with Section 1-23-370 of the code of laws of South Carolina, if a timely and sufficient application is made for any activity of a continuing nature, the existing permit does not expire until a final determination is made to renew or deny renewal of the existing permit.

**6. Signatory Requirements**

All applications, reports or information submitted to the Department shall be signed and certified.

- a. All permit applications shall be signed as follows:
  - 1. For a corporation: by a principal executive officer of at least the level of vice-president or by a duly authorized representative;
  - 2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or,
  - 3. For a municipality, State, Federal or other public agency: by either a principal executive officer or ranking elected official.
- b. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by duly authorized representation only if:
  - 1. The authorization is made in writing by a person described above and submitted to the Department;

PART II  
Page 15 of 22  
Permit No. SC0035564

2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

## **7. Availability of Reports**

Except for data determined to be confidential under Section 48-1-270 of the South Carolina Pollution Control Act, all reports prepared in accordance with the terms and conditions of this permit shall be available for public inspection at the offices of the Department and the Regional Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 48-1-340 of the South Carolina Pollution Control Act.

## **8. Changes in Discharges of Toxic Pollutants or Hazardous Substances**

- a. The permittee shall notify the Department as soon as it knows or has reason to believe that any activity has occurred or will occur which would result in the discharge in any outfall of:
  1. Any toxic pollutant(s) identified under Section 307(a) of the Act which exceed the highest of the following concentrations and are not limited in the permit.
    - 1 mg/l for antimony (Sb);
    - 0.500 mg/l for 2,4-dinitrophenol or 2-methyl, -4,6-dinitrophenol;
    - 0.200 mg/l for acrolein or acrylonitrile;
    - 0.100 mg/l for any other toxic pollutant; or,
    - Ten (10) times the maximum concentration value reported in the permit application.
  2. Any hazardous substance(s) identified under Section 311 of the Act as determined by Federal Regulation 40 CFR 117.
- b. The permittee must notify the Department as soon as it knows or has reason to believe that it has begun or expects to begin to use or manufacture as an intermediate or final product or by-product any toxic pollutant or hazardous substance which was not reported in the permit application.

## **C. OPERATION AND MAINTENANCE**

### **1. Facilities Operation**

- a. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance based on design facility removals, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls as determined by the laboratory certification program of the Department. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit. Maintenance of facilities, which necessitates unavoidable interruption of operation and degradation of effluent quality shall be scheduled during non-critical water quality periods and carried out in a manner approved by the Department.



## PART II

Page 16 of 22

Permit No. SC0035564

- b. The permittee shall provide for the performance of routine daily treatment plant inspections by the certified operator as defined in Part II.C.1. The inspection shall include, but is not limited to, areas which require a visual observation to determine efficient operations and for which immediate corrective measures can be taken using the O & M manual as a guide. All inspections shall be recorded and shall include the date, time and name of person making the inspection, corrective measures taken, and routine equipment maintenance, repair, or replacement performed. The permittee shall maintain all records of inspections at the permitted facility as required by Part I.E.7, and the records shall be made available for on-site review during normal working hours.
- c. The permittee shall provide for an operator, as certified by the South Carolina Board of Certification for Environmental Systems Operators, with a grade equal to or higher than the classification designated in Part III.B.1. The name and grade of the operator of record shall be submitted to the Department prior to placing the facility into operation. A roster of operators associated with the facility's operation and their certification grades shall also be submitted with the name of the "operator-in-charge". Any changes in operator or operators shall be submitted to the Department as they occur.
- d. The permittee shall maintain at the permitted facility a complete Operations and Maintenance Manual for the waste treatment plant. The manual shall be made available for on-site review during normal working hours. The manual shall contain operation and maintenance instructions for all equipment and appurtenances associated with the waste treatment plant. The manual shall contain a general description of the treatment process(es), operating characteristics that will produce maximum treatment efficiency and corrective action to be taken should operating difficulties be encountered.

**2. Bypassing**

Any intentional diversion from or bypass of waste streams from any portion of wastewater collection and treatment facilities which is not a designed or established operating mode for the facility is prohibited except (a) where unavoidable to prevent loss of life, personal injury or severe property damage, or (b) where excessive storm drainage or run-off would damage any facilities necessary for compliance with the effluent limitations and prohibitions of this permit and there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities or retention of untreated wastes. "Severe property damage" does not mean economic loss caused by delays in production.

**3. Duty to Mitigate, Halt or Reduce Activity**

The permittee shall take all reasonable steps to prevent, minimize or correct any adverse impact on public health or the environment, resulting from non-compliance with this permit. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with this permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided.

**4. Power Failures**

In order to maintain compliance with effluent limitations and prohibitions of this permit, the permittee shall either:

- a. In accordance with the Schedule of Compliance contained in Part I.D., provide an alternative power source sufficient to operate the wastewater control facilities;

or, if such alternative power source is not in existence, and no date for its implementation appears in Part I.D., have a plan of operation which will:

**PART II**

Page 17 of 22

Permit No. SC0035564

- b. Halt, reduce, or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

**5. Removed Substances**

Solids, sludges, filter backwash or other residuals removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent such materials from entering State waters and in accordance with guidelines issued pursuant to Section 405 of the Act, and the terms of a construction or NPDES and/or solid or hazardous waste permit issued by the Department (See Part III for specific disposal method approved).

**6. All Weather Access Road**

The permittee shall maintain an all weather access road to the wastewater treatment plant, and appurtenances at all times.



PART III  
Page 18 of 22  
Permit No. SC0035564

### PART III

#### A. PRETREATMENT REQUIREMENTS

##### 1. Pretreatment Regulations and Program Requirements

- a. All industrial users discharge wastewater into Permittee's system are required to comply with pretreatment provisions of the Act, as set forth in the General Pretreatment Regulations, 40 CFR Part 403, promulgated thereunder, the approved State Pretreatment Program, and the permittee's approved pretreatment program.
- b. This permit shall be modified, or alternatively revoked and reissued, to incorporate an approved POTW Pretreatment Program.
- c. Any application for authority to revise categorical pretreatment Standards to reflect POTW removal of pollutants in accordance with the requirements of 40 CFR 403.7 must be submitted to the Department at the time of application for POTW pretreatment program approval or at the time of permit expiration and reissuance thereafter.

##### 2. Prohibited Discharges

The Permittee shall not allow discharge of pollutant(s) into its treatment works by any non-domestic source(s), if such pollutant(s) may inhibit or interfere with the operation or performance of the works. Further, the Permittee shall not allow introduction of the following pollutants into its treatment works:

- a. Pollutant(s) which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
- b. Pollutant(s) which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges.
- c. Solid or viscous pollutant(s) in amounts which will cause obstruction to the flow in the POTW resulting in interference.
- d. Any pollutant, including oxygen demanding pollutants, (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- e. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40°C (104°F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.
- f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- h. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

Upon development of specific limits for these pollutant categories, either in an approved POTW Pretreatment Program or otherwise, such limits shall be deemed prohibitions for the purpose of Section 307(d) of the Act and shall be enforceable in lieu of the general prohibitions set forth above.

PART III  
Page 19 of 22  
Permit No. SC0035564

**B. ADDITIONAL OPERATIONAL REQUIREMENTS**

1. The wastewater treatment plant shall be assigned a classification of Group II-B (Biological) in the Permit to Construct which is issued by the Department. This classification corresponds to an operator with a grade of C.
2. The Permittee shall monitor all parameters consistent with conditions established by this Permit on the first (1st) Thursday of every calendar month, unless otherwise approved by this Department. Additional monitoring, as necessary to meet the frequency requirements of this Permit (Part I.A., I.B., and I.C., if applicable) shall be performed by the Permittee.

**C. SLUDGE REQUIREMENTS**

**1. Sludge Use and Disposal**

- a. The permittee shall comply with effluent standards and/or prohibitions established under Section 307(a) of the Clean Water Act (CWA) for toxic pollutants and with standards for sludge use and disposal established in 40 CFR Parts 122, 123, 258, 501 and 503 and under Section 405(d) of the CWA, within the time provided in the regulations that establish these prohibitions or standards for sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- c. This permit may be modified to address any standard for sludge use or disposal promulgated under Section 405(d) and Section 503 of the Clean Water Act or additional controls of a pollutant or practice not currently limited in this permit.
- d. It must be noted that 40 CFR Part 503 Standards for the Use or Disposal of Sewage Sludge, Federal Register Volume 58, No. 32, pages 9248 through 9415, dated February 19, 1993, is effective March 22, 1993. Therefore, where the Federal Regulation is more stringent than the existing State guidance, the new Federal Regulation will take precedence. Any sludge disposal permits issued by the Department will remain in effect and all conditions and requirements will apply; however, this does not relieve the permittee from complying with the conditions of 40 CFR Part 503.
  1. Compliance with the standards (40 CFR Part 503) shall be achieved as expeditiously as practicable, but in no case later than February 19, 1994.
  2. When compliance with the standard requires construction of new pollution control facilities, compliance with the standards (40 CFR Part 503) shall be achieved as expeditiously as possible but in no case later than February 19, 1995.
  3. All other requirements for the frequency of monitoring, recordkeeping, and reporting identified in 40 CFR Part 503, are effective on July 20, 1993.
  4. Until such time as a specific sludge disposal permit is issued under the provisions of 40 CFR Part 503, the direct enforceability (§ 503.3(b)) of the sludge standards requires that the permittee shall not use or dispose of sewage sludge through any practice for which requirements are established in 40 CFR Part 503, except in accordance with those requirements.

## PART III

Page 20 of 22

Permit No. SC0035564

5. Class I sludge management facilities (includes but is not limited to all facilities with pretreatment programs, Publicly Owned Treatment Works (POTW) with a design flow rate equal to or greater than 1 Million gallons per day, and POTW's that serve 10,000 people or more) shall submit the following to EPA Region IV (Attn: Regional Sludge Management Coordinator, Office of Water, EPA Region IV, 345 Courtland Street N.E., Atlanta Georgia, 30365.) with a duplicate copy to the Department:

- a. The information in 40 CFR Part 503.17(a) except the information in § 503.17(a)(3)(ii), 503.17(a)(4)(ii) and 503.17(a)(5)(ii), for the appropriate requirements on February 19 of each year.
- b. The information in 40 CFR Part 503.17(a)(5)(ii)(A) through (a)(5)(ii)(G) on February 19 of each year when ninety (90) percent or more of any of the cumulative pollutant loading rates in Table 2 of § 503.13 is reached at a site.

The requirements to send information to EPA Region IV will remain in effect until the State of South Carolina is delegated the sludge program under 40 CFR Part 123 or 40 CFR Part 501.

- e. 1. The permittee must obtain prior Departmental approval of planned changes in the facility when the alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use of disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- 2. The sludge disposal permit may be modified or revoked and reissued if there are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice) which occurred after the permit issuance which justify the application of permit conditions which are different from or absent in the existing permit.
- f. The sludge disposal permit may be terminated if there is a change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit.
- g. Periodic inspections will be conducted by Department authorized representatives to ensure compliance with State regulations and permit stipulations. Any necessary modification to this permit may be based upon these evaluations.
- h. Records of monitoring required by the permits related to sludge use and disposal activities must be kept at least five (5) years (or longer as required by 40 CFR Part 503).
- i. Sludge monitoring procedures shall be those specified in 1) 40 CFR Part 503; 2) 40 CFR Part 136; or 3) other procedures specified in the sludge permit (in that order of "preference" depending on the availability and applicability of a particular method at the time the sludge permit is issued).
- j. The permittee must provide sludge monitoring results on a form(s) approved by the Department.
- k. The permittee shall submit the results of all sludge monitoring if done more frequently than required by the sludge permit.
- l. The permittee should note that under 40 CFR 122.41(l), the "anti-backsliding" provision applies only to surface water dischargers. The "anti-backsliding" provision does not apply to sludge use and disposal activities.

PART III  
Page 21 of 22  
Permit No. SC0035564

## 2. Sludge Transportation and Disposal

Sludge solids will be removed from this facility and transported to the Land & Land Technology Inc. Land Application Site (ND0069761) under the following conditions:

- a. All containers for sludge collection and transportation shall be structurally sound in every respect and shall be so constructed as to prevent leakage or spillage of any kind while in the process of pumping, storage, or transit.
- b. Permitting of sludge hauling will be on a five (5) year basis coincidental with and part of this NPDES permit for the sludge generator. This transportation permit is effective immediately and expires with the expiration of this NPDES permit.
- c. The total volume of waste transported shall not exceed the available capacity of the disposal site.
- d. The hauling of sludge may be temporarily suspended or permanently revoked when, in the opinion of the South Carolina Department of Health and Environmental Control or any of its authorized representatives, the Permittee has failed to comply with the permitting, hauling, transportation, or disposal requirements of these guidelines.
- e. The Permittee is responsible for the handling, transportation, and disposal of all sludge from the various source(s) transported to the approved disposal site. This responsibility includes, but is not limited to spills, accidents, unauthorized leaks, or other hazards which may occur.

## D. WHOLE EFFLUENT TOXICITY TESTING REQUIREMENTS

### 1. Acute Toxicity Testing

- a. A 48-hour static acute toxicity test shall be conducted at the frequency noted on in Part I.B. Effluent Toxicity Limitations and Monitoring Requirements, using a control and 100% effluent. The Test shall be conducted using Ceriodaphnia dubia as the test organism and in accordance with "Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms, (EPA/600/4-85/013) and the Test Requirements in South Carolina Procedures for Pass/Fail Modifications of the Ceriodaphnia 48 Hour Acute Toxicity Test and Ceriodaphnia Survival and Reproduction Test " (SCDHEC, May 1989). The raw data and results shall be submitted in accordance with Part I.E. of the permit for each test. Two copies of toxicity reports are required to be submitted to DHEC. The test must be performed by a DHEC certified laboratory.
- b. If the test results indicate a significant difference in Ceriodaphnia dubia survival between the control and 100% waste concentration at the 95% confidence level ( $p=0.05$ ), the test shall be deemed a failure.
- c. If a test fails during the screening period (Interim Toxicity Limits Page where toxicity limitations are Monitor and Report Only), a toxicity evaluation plan shall be submitted to the Enforcement Section of the Bureau of Water Pollution Control within sixty (60) days of notification to the Department of test results.
- d. The permittee must indicate on the discharge monitoring report forms whether the test passes or fails. If the test fails, the number "1" shall be placed on the form. If the test passes, the number "0" shall be placed on the form.
- e. Twelve consecutive acceptable months of toxicity testing results may result in quarterly testing in lieu of monthly tests at the Department's discretion.

PART III  
Page 22 of 22  
Permit No. SC0035564

**E. OTHER GROUNDWATER OR LAND APPLICATION OF EFFLUENT REQUIREMENTS**

Not applicable to this permit.

**F. OTHER REQUIREMENTS**

**1. Reopener Clauses**

- a. This permit may be modified or revoked and reissued to incorporate new or modify existing toxicity limitations and monitoring requirements in the event toxicity testing or other studies conducted on the effluent or receiving waters indicate that detrimental effects may be expected in the receiving waters as a result of this discharge.
- b. This permit may be modified or revoked and reissued to incorporate new or modify existing metals limitations and monitoring requirements in the event toxicity testing, pretreatment limits, or other studies conducted on the effluent or receiving waters indicate that detrimental effects may be expected in the receiving waters as a result of this discharge.
- c. This permit may be modified or revoked and reissued to facilitate a reduction in the metals monitoring frequency if, after one year of testing, a reduction is deemed appropriate by the Department. This statement does not guarantee a reduction in the metals monitoring frequency.

# **EXHIBIT C**



IN RE: Application of Carolina Water Service, Inc. for..., 2003 WL 26623818...

---

2003 WL 26623818 (S.C.P.S.C.)  
Slip Copy

IN RE: Application of Carolina Water Service, Inc. for Approval of an Agreement with the Town of Lexington for Bulk Service Collection from the I-20 and Watergate Sewage Collection Facilities located in Lexington County, South Carolina

Docket No. 2002-147-S  
Order No. 2003-10

South Carolina Public Service Commission

January 7, 2003  
ORDER DENYING APPLICATION SEEKING APPROVAL OF PROPOSED CONTRACT

BY ORDER OF THE COMMISSION

### INTRODUCTION

This matter comes before the Public Service Commission of South Carolina ("Commission") on the application filed by Carolina Water Service, Inc. ("CWS") seeking approval of a proposed agreement with the Town of Lexington. The proposed agreement, known as "Wastewater Treatment and Transportation Service Agreement" ("Agreement"), provides for the Town of Lexington to provide bulk service treatment and collection from CWS's I-20 and Watergate sewer collection facilities. Further, CWS and the Town of Lexington have reached a compromise agreement, for which CWS seeks approval should this Commission not approve the Agreement, which provides for the sale of CWS's Watergate sewer system to the Town of Lexington for the sum of \$2,524,500.00 and approval of the 208 Plan Amendment designating the I-20 wastewater treatment facility as a permanent treatment facility. The application was filed pursuant to [S.C. Code Ann. Section 58-5-210 \(1976\)](#); 26 [S.C. Code Regs. 103-503](#) and [103-541](#) (1976 and Supp. 2001); and Commission Order No. 93-402 in Docket No. 91-641-W/S dated May 11, 1993, and Commission Order No. 94-484 in Docket No. 93-738-W/S dated May 31, 1994.

The Commission's Executive Director instructed CWS to publish a prepared Notice of Filing regarding the application. Further, the Executive Director instructed CWS to furnish by U.S. Mail a copy of the Notice of Filing to all customers which would be affected by the application. CWS complied with the instructions of the Executive Director and provided affidavits of publication and mailing to attest to compliance. The purpose of the Notice of Filing was to advise interested persons of the nature of the application and to provide directions on the manner and time in which interested persons could seek to participate in any proceedings regarding the application. Following the publication and mailing of the Notice of Filing, Petitions to Intervene as formal parties of record were received from the Consumer Advocate for the State of South Carolina; Midlands Utility, Inc.; and Brenda Bryant.<sup>1</sup>

Two hearings on the application were noticed and held. First, a night hearing was held on September 17, 2002, at the Oak Grove Elementary School, which is located in or adjacent to CWS's I-20 service area. The purpose of the night hearing was to afford interested customers of CWS the opportunity to present their views relative to the application to the Commission. The hearing on the application was concluded on September 19, 2002, with the remainder of the hearing being conducted in the Commission's hearing room located in the Commission's offices at Synergy Business Park, Saluda Building, 101 Executive Center Drive, Columbia, South Carolina. The formal parties of record presented their respective cases at the hearing on September 19, 2002. At both sessions of the hearing, the Honorable Mignon Clyburn, Chairman, presided. William F. Austin, Esquire, E. Crosby Lewis, Esquire, and Kelly Rainsford, Esquire represented CWS. Elliott F. Elam, Jr., Esquire represented the Consumer Advocate for the State of South Carolina. John F. Beach, Esquire represented Midlands Utility, Inc. Brenda Bryant appeared *pro se*. Florence P. Belser, Deputy General Counsel, represented the Commission Staff. CWS called as witnesses Robert G. Burgin, Jr., Susan Fortino, Clifford O. Koon, Jr., Gary D. Shambaugh, and Lowell C. ("Butch") Spires. Keith Parnell testified on behalf of Midlands Utility, Inc., and Brenda Bryant testified on her own behalf. The Commission Staff presented the testimony of Jeff deBessonet, a subpoenaed witness.

### FINDINGS OF FACT

Having observed the witnesses at the hearings and having examined the testimony and exhibits presented, taking into account the burden of persuasion by the parties, the Commission makes the following Findings of Fact by a preponderance of the evidence:

1. CWS is a wholly-owned subsidiary of Utilities, Inc. which is incorporated under the laws of the State of Illinois and is certified to do business in South Carolina.
  2. CWS owns and operates wastewater treatment facilities and sewer systems in the I-20 and Watergate Subdivisions and is a public utility as defined by [S.C. Code Ann. Section 58-5-10\(3\)](#) (Supp. 2001) and as such is subject to the jurisdiction of the Commission pursuant to [S.C. Code Section 58-5-210 \(1976\)](#) and other relevant statutory provisions and other applicable rules and regulations of the Commission.
  3. The Central Midlands Council of Governments (“COG”) is authorized pursuant to Section 1288 of the Federal Water Pollution Control Act (i.e., [33 U.S.C.A. Section 1251 et seq.](#), also known as the “Clean Water Act”) to prepare an area wide waste management plan, also known as a 208 Plan.
  4. In 1993, the COG amended its 208 Plan by adopting the COG 12 and 14 Mile Creek 1993 208 Plan Amendment, which encompasses the areas served by the I-20 and the Watergate sewer systems in Lexington County.
  5. Also, in 1993 and under the amended 208 Plan, the COG was to select a Designated Management Agency (“DMA”) to carry out the amended regional plan in the 12 and 14 Mile Creek area. Several entities, both public entities and private utilities, sought this designation. In soliciting support for its selection, the Mayor of Lexington and the Lexington Town Council by letter dated January 8, 1993, and sent to the COG and the South Carolina Department of Health and Environmental Control (“SC DHEC”), committed that if the Town of Lexington were selected as the DMA that it would not charge existing customers for the cost of the system.
  6. In conformance with its duties under [33 U.S.C.A. Section 1288](#), the COG, acting through its Environmental Planning Advisory Committee (“EPAC”) requested confirmation as to how the Town of Lexington and the joint applicant, the City of West Columbia, proposed to handle several aspects of the Plan, including the rates with which the Town of Lexington proposed to finance the project.
  7. In response to the EPAC’s request, the Town of Lexington and the City of West Columbia prepared and sent to the EPAC a letter dated February 17, 1993, in which, among other commitments, they promised to treat all five existing non-industrial dischargers fairly and equitably and to charge reasonable rates. The issue of the rates to be charged to those non-industrial dischargers that became a part of a Regional Sewer System was one of the considerations being addressed by this February 17, 1993, response. In addition to fair and equitable treatment, the Town of Lexington and the City of West Columbia stated that “[b]ulk users would not be charged a tap fee for existing customers.” This statement confirmed the statements from the January 8, 1993 letter in which the Mayor of Lexington and the Lexington Town Council stated that [w]e have a workable plan to fund the permanent solution. This is a combination of escrowed tap fees, the pre-construction sale of taps and SC State Revolving Loan Fund. We intend for the permanent solution to be funded by the future users of the system and not by current customers or the citizens of Lexington County (a real possibility if the County System provides the service as they have the authority to issue General Obligation Bonds to be paid off by all the citizens in the county and not just the affected area). We do not have the authority to issue General Obligation Bonds for sewer service.
- These referenced letters dated January 8, 1993, January 29, 1993, and February 17, 1993, are part of the 208 Plan Amendment.
8. After receipt of the commitments contained in the letters referenced in Findings of Fact Nos. 5, 6, and 7, the COG designated the Town of Lexington and the City of West Columbia as Joint Designated Management Agencies to construct and operate the 12 and 14 Mile Creek Regional Sewer System (“Regional Sewer System”).
  9. Thereafter, the City of West Columbia withdrew as one of the Joint Designated Management Agents, and the Town of



Lexington was allowed to continue as the sole DMA.

10. The South Carolina Department of Health and Environmental Control ("SC DHEC"), which also has authority over CWS in that SC DHEC regulates CWS' wastewater discharges from CWS's I-20 and Watergate treatment facilities through the issuance to CWS of National Pollutant Discharge Elimination System Permits ("NPDES Permit"), and pursuant to the 208 Plan, added a condition to CWS's I-20 and Watergate NPDES Permits that provided that CWS would be required to interconnect these two systems to the Regional Sewer System once notified by SC DHEC that the Regional Sewer System was available for the interconnection.

11. On May 11, 1998, the COG and SC DHEC entered into a Memorandum of Agreement whereby the COG was empowered to review compliance with the 208 Plan and to certify conformance to SC DHEC.

12. CWS requested re-issuance of its NPDES Permit for the Watergate treatment facility as CWS's NPDES Permit was scheduled to expire on September 30, 1998 or within 120 days after notification that the Regional Sewer System was available.

13. In March, 1999, CWS requested re-issuance of its I-20 NPDES Permit which was scheduled to expire in September, 1999, or within 90 days after notification that the Regional Sewer System was available.

14. With the exception of the completion of that portion of the 12 Mile Creek line that would be used to transport the waste from the Town of Lexington's Coventry Woods Wastewater Treatment Facility, the Town of Lexington has substantially completed all of the Regional Sewer System. That portion of the Regional Sewer System which could serve CWS's I-20 Systems was permitted to operate by SC DHEC on or about April, 1999, and that portion of the Regional System that could serve CWS's Watergate System was permitted on or about July, 1999.

15. In June, 1999, pursuant to an inquiry from SC DHEC, the staff of the COG, as part of the NPDES Permit re-issuance certification process, certified to SC DHEC that CWS's I-20 system was not in conformance with the 208 Plan.

16. On August 18, 1999, CWS petitioned the technical subcommittee of the COG, known as EPAC, and requested that EPAC recommend to the COG that the COG reverse its staff's June certification of non-conformance and hold that CWS was in conformance with the amended 208 Plan on the grounds that CWS had been requesting, without success, information from the Town of Lexington necessary for negotiating a proposed agreement since November, 1996.

17. The Town of Lexington did not give CWS the necessary information needed to determine whether the proposed rates were reasonable. Further, without the terms of an agreement, CWS could not obtain a ruling from the Commission regarding the agreement. Based on these grounds, CWS requested that the EPAC recommend to the COG that the COG hold CWS in conformance with the 208 Plan for a period of time to allow CWS to obtain the rates and data necessary to negotiate a connection agreement with the Town of Lexington and to request approval from the Commission.

18. The EPAC recommended to the COG that the COG grant CWS's request, and on September 23, 1999, the COG granted CWS's request, reversed the staff's earlier decision of non-conformance, and held that CWS was in conformance with the 208 Plan until November 22, 1999.

19. On June 22, 2000, after determining that the parties were at an impasse in the negotiations, the COG requested that the Town of Lexington provide CWS with "a proposed agreement" which CWS would submit to the Commission for a ruling as to whether CWS should enter into the Town of Lexington's agreement. The COG again extended the 208 Plan conformance certification for CWS for a period of three (3) years or for a period ending six months following the Commission's final order on the proposed connection agreement, whichever date should first occur.

20. CWS filed an application seeking Commission approval of the proposed agreement, and that application was assigned to PSC Docket 2000-425-S. After a public hearing and the filing of testimony and exhibits and one week before the scheduled hearing in that docket, the Town of Lexington and CWS negotiated a compromise agreement. The compromise agreement reached by the Town of Lexington and CWS provided for an amendment to the 208 Plan.

21. The COG agreed to amend the 208 Plan in accordance with the compromise agreement. Under the compromise agreement, CWS's I-20 treatment facility would become a permanent regional wastewater treatment facility and would be updated to tertiary treatment with capacity expanded by 190,000 gallons per day. CWS would sell the Watergate wastewater collection system<sup>2</sup> to the Town of Lexington, and the rates charged by the Town of Lexington to those customers would be capped at \$34.00 per residential equivalent for a period of three years. The Town of Lexington's Coventry Woods treatment plant would remain open and in operation for a period of five years.

22. The application for a 208 Plan Amendment to account for the substantive terms of the compromise agreement was filed with the COG. The COG approved the Amendment, but SC DHEC would not approve the COG's action and refused to submit the Amendment to the EPA. The COG, CWS, and the Town of Lexington appealed the SC DHEC action to the Administrative Law Judge Division, and the case is pending before Judge John Geathers.

23. In a matter collateral to the case of the Compromise Agreement pending before Judge Geathers, Judge Ralph K. Anderson, III issued an order requiring CWS to present to the Commission the Agreement that is presently before the Commission.

24. The Agreement presently before the Commission for consideration is the same agreement submitted to the Commission in Docket 2000-425-S, except for the rates contained in the Agreement. The rate for treatment in the Agreement in the instant docket is \$3.45 per thousand gallons. Previously, in September, 1999, the Town of Lexington proposed wholesale rates of \$2.52 per thousand for the Watergate customers and \$1.51 per thousand for the I-20 customers. Those rates were withdrawn, and the Town of Lexington, on February 10, 2000, proposed an "all-in-rate" of \$4.26 per thousand gallons.

25. CWS is of the opinion that the rate of \$3.45 per thousand is not an appropriate rate for the agreement because the terms of the rate violate the promises that were made and given to CWS in 1993. Specifically, the proposed rates would require the CWS ratepayers to subsidize the regional system, and the rates do not reflect the cost of serving the CWS customers.

26. Based upon the current rate contained in the Agreement and CWS's approved collection system charge established by the Commission by Order No. 94-484 and Order No. 2001-887 in Docket No. 93-738-W/S and 2000-207-W/S, respectively, CWS has estimated that the average monthly sewer bills will change from the currently-approved flat-rate of \$28.86 per month to approximately \$48.25 per month for CWS's I-20 customers and to \$45.63 per month for CWS's Watergate customers.

27. As is, the Town of Lexington's rate study supports a rate of \$3.38 per thousand gallons, not the \$3.45 per thousand rate offered to CWS. The wholesale rate includes an extra strength surcharge, and there is no basis on which to assume that CWS's flow into the regional system would justify an extra strength surcharge.

28. The Town of Lexington's rate study is based upon plant function only and does not consider the total and available capacity in the regional system. Therefore, wholesale customers are charged for facilities which are not utilized to provide their service, and wholesale customers are paying for facilities and capacity costs for future growth.

29. The Town of Lexington's rate study used to develop the \$3.45 per thousand rate was developed by an allocation of conveyance cost, and the \$3.45 per thousand rate was developed without including flows or projections of flows from the Watergate and I-20 customers. Leaving out the flows generated by the Watergate and I-20 customers results in an overstated, or higher, rate.

30. In the Town of Lexington's rate study, approximately eight million dollars is projected to be spent on the regional system for the period 2002 through 2007. The regional system is inclusive of the Town of Lexington's own collection system, operations, and treatment plant. The costs for the capital improvements listed in the Town of Lexington's rate study are for capacity and for future growth, such as line extensions, renewals, and replacements, within the Town of Lexington's own collection system. The capital improvements listed in the Town of Lexington's rate study neither provide additional benefit nor are the improvements required to provide service to the CWS customers.

31. The Agreement has no formula or basis for calculating future rates and no guarantees with regard to future service. Further, the Agreement requires approval from the Town of Lexington before the CWS systems can be sold and also requires

approval from the Town of Lexington before CWS could request to expand its service territory. In short, the Agreement is structured to provide the Town of Lexington with the ultimate control of the contract and the system.

### CONCLUSIONS OF LAW

1. The Commission has jurisdiction of this matter by virtue of [S.C. Code Ann. Section 58-5-210 \(1976\)](#) and other relevant code sections and 26 [S.C. Regs. 103-503 \(1976\)](#) and [103-541 \(Supp. 2001\)](#).

2. 26 [S.C. Code Regs. 103-541](#) provides

[n]o utility shall execute or enter into any agreement or contract with any person, firm, partnership, or corporation or any agency of the Federal, State or local government which would impact, pertain to, or effect said utility's fitness, willingness, or ability to provide sewer service, including but not limited to the collection or treatment of said sewerage, without first submitting said contract in form to the Commission and obtaining approval of the Commission.

3. The Commission concludes that the Agreement is not in the public interest and should therefore be denied. If the Agreement was approved, the proposed rate to be charged to the individual customers would be excessive and would result in "rate shock" for the customers in the I-20 and Watergate service areas. The evidence from this proceeding has shown that if the Agreement is approved, customers in the I-20 service area would see an average monthly charge of \$48.25, which is an average increase of \$19.39 per month per customer. If the Agreement is approved for the customers in the Watergate service area, those customers would see an average monthly charge of \$45.63, which is an average increase of \$16.77 per month per customer.

4. We further conclude that the Agreement, including the proposed rate, to be unfair, unsupportable, and unreasonable because the record demonstrates that the proposed rate contained in the contract is not reflective of the true allocated cost of serving the CWS customers. Under the Agreement and proposed rate of \$3.45 per thousand gallons, the customers of CWS would be charged for facilities which are not utilized to provide their service, as well as charged for facilities and capacity for future growth. Importantly, the proposed wholesale rate would require the CWS customers to subsidize the services provided to the Town of Lexington's current and future customers. Thus, the Agreement includes a rate which is in direct conflict with and contrary to the commitment made by the Town of Lexington in 1993, namely that the Town of Lexington would not charge existing customers for the cost of the Regional System. While the record contains no proof of the true allocated costs for CWS to tie into the Regional System, the record does contain evidence that the proposed rate of \$3.45 per thousand gallons does reflect that wholesale customers such as CWS would be paying for facilities which are not utilized to provide the service to the wholesale customer as well as paying for facilities and capacity costs for future growth. The Town of Lexington is asking for CWS as a wholesale or bulk customer to support and subsidize capacity that is there for future growth and expansion. Such a scenario is not in the public interest and is not in the interest of the CWS ratepayers. This position is inconsistent with the accounting standards for regulated utilities. To subject the customers of CWS to such improper accounting would be inconsistent with the workings of this Commission.

5. Finally, we deny the Agreement because it contains various provisions which are inconsistent with the laws and regulations governing public utilities which are under the jurisdiction of the Commission. In particular, Article IV, Section 4.01 and Article IV, Section 4.11 would cede to the Town of Lexington determinations which are the province of this Commission. This Commission has been granted its regulatory authority over public utilities by the South Carolina General Assembly. This Commission cannot allow parties to a contract to attempt to take away the authority granted to this Commission.

6. We also deny the Compromise Agreement offered by CWS and the Town of Lexington. As with the Agreement, there is no evidence to indicate that the proposed rate under the Compromise Agreement is reflective of the true allocated costs to serve the CWS Watergate customers. Further, while the rate under the Compromise Agreement is capped for three years, there is no evidence to support that the rate after the initial three year period would be reflective of the actual costs to serve those customers.

IN RE: Application of Carolina Water Service, Inc. for..., 2003 WL 26623818...

---

**ORDER**

Based upon the above-stated Findings of Fact and Conclusions of Law, it is hereby ordered that:

1. The application of CWS for approval of a proposed Wastewater Treatment and Transportation Service Agreement with the Town of Lexington is denied.
2. CWS's request for approval of a Compromise Agreement with the Town of Lexington, including the sale of the Watergate wastewater collection system to the Town of Lexington, is denied.
3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Mignon L. Clyburn, Chairman

ATTEST:

Gary E. Walsh, Executive Director

Footnotes

- 1 A Petition to Intervene Out of Time was received from the South Carolina Department of Health and Environmental Control ("SC DHEC"), but the Commission denied SC DHEC's Petition to Intervene Out of Time by Order No. 2002-604, dated August 27, 2002.
- 2 According to witness Koon, the Watergate Wastewater collection system is composed of the lines, pipes, mains, easements, valves, pumps, and service rights.

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.

# **EXHIBIT D**

**BEFORE**

**THE PUBLIC SERVICE COMMISSION OF**

**SOUTH CAROLINA**

**DOCKET NO. 2015-\_\_\_\_-S**

IN RE:

Application of Carolina Water Service,  
Inc. for Approval to Apply an Existing  
Bulk Sewage Treatment Service Rate of  
the Town of Lexington to the I-20 Service  
Area

**APPLICATION**

Carolina Water Service, Inc. (“Applicant” or “CWS”), pursuant to S.C. Code Ann. § 58-5-210 (1976) and 10 S.C. Code Regs. 103-503 (2012), requests this Commission’s approval to apply an existing bulk sewage treatment charge by the Town of Lexington (“Town”) to Utility’s customers in its I-20 Service Area in Lexington County. In support of this Application, Applicant would respectfully show as follows:

1. Applicant is a public utility currently authorized to operate water and wastewater systems under the jurisdiction of the Commission in Lexington County, as well as the counties of Aiken, Beaufort, Georgetown, Orangeburg, Richland, Sumter, Williamsburg and York. Its corporate charter is presently on file with the Commission and an appropriate bond has been posted with same. A schedule of rates and charges for Applicant’s sewer service has previously been approved by Commission Order No. 2014-207, issued March 4, 2014, in Docket No. 2013-275-WS.

2. Applicant currently provides sewer service to customers in the Kingston Harbor subdivision, which is located in an unincorporated area of Lexington County. The wastewater

generated by the CWS's customers in the Kingston Harbor subdivision is transported by CWS to the Town for treatment pursuant to a bulk sewage treatment agreement between the Town and CWS. This bulk service agreement, *inter alia*, provided for a monthly bulk service rate of \$3.45 per thousand gallons of metered wastewater flow and allowed increases in said rate subject to a "most-favored nations" clause which requires that the Town's future bulk service rate for wholesale service to CWS for the Kingston Harbor subdivision not exceed the lowest bulk treatment charge imposed by the Town on any other wholesale customer it may serve. This bulk service agreement between CWS and the Town was approved by this Commission in Order No. 2008-69, issued February 1, 2008, in Docket No. 2007-280-S. A copy of the bulk sewage treatment agreement between CWS and the Town previously approved by the Commission is attached hereto and incorporated herein by reference as Exhibit "A." Currently, the Town is charging CWS \$4.06 per thousand gallons of metered wastewater flow, which reflects an increase in the original rate of 17.69% since inception of bulk service under Exhibit "A."

3. Although the Applicant does not have an agreement with the Town for the provision of additional bulk sewer service for its I-20 service area under the terms and conditions set out in Exhibit "A," Utility is willing to immediately enter into such an agreement for the provision of wholesale wastewater service for its I-20 service area at the current rate of \$4.06 per thousand gallons of wastewater flow, thereby enabling Utility to eliminate the discharge from its I-20 wastewater treatment facility into the Lower Saluda River. This discharge is currently permitted under National Pollutant Discharge Elimination System ("NPDES") Permit No. SC0035564 issued to CWS by the South Carolina Department of Health and Environmental Control ("DHEC").

4. Members of the South Carolina General Assembly have publicly called upon CWS to eliminate the discharge under NPDES Permit No. SC0035564. Further, Applicant is currently expending resources defending against a lawsuit in the United States District Court which alleges, among other things, that elimination of the discharge by interconnection with the Town is a current requirement of NPDES Permit No. SC0035564.<sup>1</sup> However, there is currently pending before DHEC for public comment a draft renewed NPDES permit which would require CWS to upgrade its I-20 WWTF to treat wastewater to a higher standard and thereby allow CWS to continue its discharge into the Lower Saluda River.<sup>2</sup>

5. Approval for CWS to apply the bulk rate to service provided to its customers in its I-20 service area would be contingent upon (a) the Town agreeing to impose the same terms and conditions to the provision of bulk sewer service to CWS's I-20 service areas as are now approved by the Commission for the bulk sewer service provided by the Town to CWS's Kingston Harbor service area under Exhibit "A" and (b) an interconnection of CWS's I-20 system to the Town's system.

6. Applicant submits that the current wholesale rate of \$4.06 per thousand gallons of metered wastewater provided for by Exhibit "A" is a just and reasonable rate given that it has previously been approved by this Commission for CWS customers in other portions of

---

<sup>1</sup> This allegation is disputed by CWS as it has consistently asserted, and continues to assert, that no interconnection of its I-20 System with the Town's bulk transportation facilities may be undertaken absent the agreement of the Town and the approval of this Commission as provided for under South Carolina law. *See, e.g.*, S.C. Code Ann. § 58-5-210 (1976); 10 S.C. Code Regs. 103-503, 103-541 (2012).

<sup>2</sup> This draft permit, a copy of which is attached as Exhibit "B," continues to recognize the exclusive authority of the Commission under South Carolina law to determine whether a bulk service arrangement between a jurisdictional utility and a governmental wholesale sewer provider is in the public interest. The Applicant is ready, willing, and able to invest the necessary capital to make the upgrades required under the draft permit and to continue discharging to the Lower Saluda River if that is necessary.



Lexington County and constitutes a bulk service rate no higher than that imposed by the Town on any other bulk service customer it may currently have. Applicant further submits that a limitation on increases in the wholesale rate not to exceed increases imposed by the Town on its wholesale customer which has the lowest bulk treatment charge offered by the Town ensures the continued justness and reasonableness of the rate in the future.

7. In view of the foregoing, Applicant is informed and believes that the public convenience and necessity will be served by the approval of this Application, the effectiveness of which approval to be contingent upon the Town's willingness to provide wholesale service in accordance with the terms and conditions of Exhibit "A" hereto and to permit the related interconnection. If these contingencies are met, the imposition of such rate will have no impact on current customer charges. Accordingly, the bulk treatment charges contemplated by this Application are just and reasonable.

WHEREFORE, having fully set forth its Application, CWS prays that the Commission (a) approve for imposition in the I-20 service area the terms, conditions, rates and charges approved by the Commission for bulk service under the agreement between CWS and the Town in Order No. 2008-69; (b) condition such approval upon the Town's agreement to provide wholesale service to CWS for that purpose in accordance with Exhibit "A" hereto and an interconnection; (c) waive hearing on the within matter or review same on an expedited basis if no intervention is filed; and (d) grant CWS such other and further relief as the Commission may deem just and proper.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

s/Benjamin P. Mustian

John M. S. Hoefer

Randolph R. Lowell

Benjamin P. Mustian

**WILLOUGHBY & HOEFER, P.A.**

Post Office Box 8416

Columbia, SC 29202-8416

(803) 252-3300

jhoefer@willoughbyhoefer.com

rlowell@willoughbyhoefer.com

bmustian@willoughbyhoefer.com

*Attorneys for Applicant Carolina Water  
Service, Inc.*

Columbia, South Carolina

This 3<sup>rd</sup> day of September, 2015

# **Exhibit A**

COPY

WHEREAS, certain real property proposed to be developed as the Catawba Trail Subdivision is partially situated within the Town Management Area and partially within the CWS Area, also as shown on Exhibit 1 ("Subdivision"); and

WHEREAS, the developer of the Subdivision has requested that CWS provide service to the Subdivision, including the portion of same that is not within the CWS Area, also as shown on Exhibit 1; and

WHEREAS, CWS desires and is willing to provide sewer service to the Subdivision and to the other portions of the Town Management Area not currently within the CWS Area, as shown on Exhibit 1; and

WHEREAS, the Watergate System does not have sufficient treatment capacity for CWS to treat the additional wastewater flow which would be generated in the Subdivision and in other parts of the Town Management Area not within the CWS Area and CWS will therefore require bulk sewage treatment service for that purpose; and

WHEREAS, the Town is capable of providing bulk sewer treatment service to CWS for the purposes described hereinabove; and

WHEREAS, the Town is willing to charge CWS for bulk sewage treatment service in a manner equal to and uniform with the manner it charges other bulk service customers of the Town; and

WHEREAS, in the event that CWS is unable to obtain the necessary governmental approvals to provide service in the areas contemplated herein, the Town would be willing to acquire from CWS the right to serve the Subdivision under certain terms and conditions as set forth below.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants set forth hereinafter, CWS and the Town agree as follows:

Section I.

Terms and Conditions of Service

1. Town agrees to provide bulk sewage treatment service to CWS for wastewater flow generated in the Subdivision and in the other portions of the Town Management Area not now within the CWS Area ("Bulk Service Area") as is shown on Exhibit 2 attached hereto and incorporated herein by reference. The initial charge for this bulk sewage treatment service shall be \$3.45 per thousand gallons of sewage as metered by the Town through a single, mutually acceptable master meter to be purchased and installed by or on behalf of CWS and at no expense to the Town at a mutually acceptable location. This master meter shall, at all times, be subject to applicable standards for operation, maintenance, and accuracy. This rate is the most favorable bulk rate provided by the Town to its other existing bulk customer, Saluda County. This rate shall be available for a period of one (1) full year from the date of interconnection of the CWS collection and transportation facilities with the Town's transportation facilities, but is subject to change by the Town thereafter pursuant to such procedures as may be binding upon it. Notwithstanding anything contained herein to the contrary, CWS shall not be charged a rate in excess of the lowest rate made available by the Town to any other bulk sewer customer. The Town shall be entitled to provide its bulk service to CWS utilizing wastewater treatment facilities owned by the Town or utilizing bulk treatment services of third party providers. The Town represents and warrants that it is currently capable of providing bulk treatment service to CWS for the Subdivision. It is acknowledged and understood, however, that the availability of

bulk treatment service for other parts of the Bulk Service Area is dependent upon the Town's existing, or ability to acquire additional, bulk treatment capacity.

2. The charge provided for in Section I.1, shall be paid by CWS to Town monthly, based upon a monthly sewage master meter reading taken by Town. Payment shall be due within thirty (30) days following written notification by Town to CWS regarding its monthly determination of sewage flow through the master meter.

3. CWS shall, at its expense, transport sewage from the Bulk Service Area to the master meter to the Town for further transportation and for treatment.

4. CWS shall, at its expense, maintain such collection lines, pumping stations, transportation lines or mains, and any and all other facilities required to transport the sewage from the Bulk Service Area to the master meter in accordance with the rules and regulations of the South Carolina Department of Health and Environmental Control and all other governmental agencies having jurisdiction over such collection and transportation.

5. The Town will maintain and operate the master meter and its transportation system and will provide sewage treatment in accordance with the rules and regulations of the South Carolina Department of Health and Environmental Control and all other governmental agencies having jurisdiction over such transportation and treatment.

6. As detailed plans are submitted to CWS by developers for sewage facilities proposed to be constructed for sewage service in the Bulk Service Area, CWS shall forward a copy of these drawings for the Town's review and approval. This approval will not be unduly withheld and the Town will complete this review process within 30 days of submission of the required documentation by CWS.

7. The Town shall monthly submit to CWS, and at such other times as the Town and CWS shall agree, reports showing the volume of sewage flow, measured in gallons, as recorded by the master meter as provided in Section I.1 above. CWS shall have the right of access at all reasonable times to observe, examine, and inspect the master meter. CWS shall also have the right to inspect at reasonable times, all books, records, and other information related to bulk sewage flow received by the Town and bulk sewage service charges imposed by the Town therefor.

8. CWS shall construct, or cause to be constructed, at no cost to the Town, the interconnection of CWS's facilities in the Bulk Service Area to the Town's master meter. This connection shall be subject to supervision, inspection and approval by the Town. The Town agrees that there will be no 'tap fees' or similar charges due from CWS to the Town at the time of interconnection, but that CWS shall collect and pay to the Town any tap fees due the Town from customers in the Bulk Service Area at such time as they establish service with and from CWS.

9. The CWS collection and transportation system serving the Bulk Service Area shall at all times be maintained, operated, and kept in a state of repair which shall meet all rules and regulations of the South Carolina Department of Health and Environmental Control and all other governmental entities having jurisdiction over it.

10. CWS shall be solely responsible for collecting all charges or fees attributable to service within the Bulk Service Area. Its failure to collect any service charges or fees shall not relieve CWS from paying to the Town the monthly charges set forth in this Agreement.



Section II.

Rates and South Carolina Public Service Commission Approval

1. The parties acknowledge that CWS will charge its customers for service under CWS's rate schedule approved by the South Carolina Public Service Commission ("SCPSC") and in effect from time to time, including provisions authorizing CWS to pass-through to its customers on a pro rata basis without markup the costs to CWS of receiving the Town's bulk sewage service, including the per gallon charge and any tap or similar fees imposed by the Town and described above. The parties further acknowledge that the terms and conditions of this Agreement must be approved by the SCPSC, including but not limited to, approval of service by CWS in the Bulk Service Area.

2. The Town agrees to actively participate and cooperate with CWS to secure SCPSC approval of the within Agreement.

3. It is understood by the parties that if SCPSC refuses to grant the necessary approvals for CWS to provide service in the Bulk Service Area in accordance with the terms and conditions hereof, then CWS shall have no obligation to accept, and the Town no obligation to provide, bulk sewage service in the Bulk Service Area. In that event, the Town may then proceed with acquiring the right to provide retail sewage service in the Subdivision in accordance with the terms and conditions of Section IV hereinbelow.

4. Notwithstanding anything contained herein, this Agreement shall not constitute an agreement or offer on the part of CWS to provide sewage service. The parties acknowledge and agree that the provision of sewer service by CWS shall be subject to separate agreement between

CWS and any person or entity desiring service in the Bulk Service Area, including any property owner, real estate developer, contractor or potential customer.

### Section III.

#### General Provisions

1. In the event CWS disputes the accuracy of any master meter reading, it must notify the Town within thirty (30) days of receipt of a billing by the Town. Upon receipt of such notification by CWS, the Town will promptly undertake to ascertain, through appropriate calibration testing, whether the master meter is functioning properly in accordance with manufacturer standards and specifications. All master meter readings not disputed within thirty (30) days of CWS's receipt of a billing by the Town are final and not subject to any dispute. In the event CWS timely disputes a billing by the Town, it shall pay to the Town the disputed amount billed unless other mutually agreeable arrangements are made between the parties. If it is determined that the billing is in error, then CWS will be reimbursed by the Town for any difference within thirty (30) days of such a determination. If it is determined that the Town's master meter is not working properly, the Town will be responsible for any repair or replacement costs. In the event of any unresolved dispute concerning the master meter performance, the parties agree to select a mutually acceptable independent testing company qualified to perform appropriate tests on the master meter. The decision of this mutually-selected testing company the master meter performance shall be final and binding upon the parties. If the master meter is determined to be accurate within tolerance ranges acceptable within the utility industry or to utility regulators, then CWS will pay the testing costs. If the master meter is determined to be inaccurate or outside the tolerance ranges, then the Town shall pay for the testing costs.

2. Any notice to be given to any party shall be by certified mail to the addresses shown below. These addresses may be changed by either party giving proper written notice to the other:

Town:  
Town of Lexington  
Post Office Box 397  
Lexington, South Carolina 29071  
Attn: T. Randall Halfacre, Mayor

CWS:  
Carolina Water Service, Inc.  
Attn: Ms. Lisa Crossett  
Vice President and Chief Operating Officer  
2335 Sanders Road  
Northbrook, IL 60062

with a copy to:  
Mr. Bruce T. Haas  
Regional Director  
Carolina Water Service, Inc.  
P.O. Box 4509  
West Columbia, SC 29171-4509

Delivery when made by registered or certified mail shall be deemed complete upon mailing.

Delivery by overnight courier shall be deemed complete when delivered.

3. This Agreement is effective for twenty (20) years commencing on the date upon which bulk sewage commences flowing through the master meter.

4. This Agreement may be assigned by either party upon written notice to the other party. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. If either party materially fails or defaults in keeping, performing, or abiding by these Agreement terms and provisions, then the non-defaulting party shall give written notice to the defaulting party specifying the nature of the default. If the defaulting party does not cure the

default within thirty (30) days after the date of written notice, then this Agreement, at the option of the non-defaulting party, shall terminate. Neither party shall be relieved of liability to the other for damages sustained by virtue of any party wrongfully exercising this provision. This paragraph is not intended to replace any other legal or equitable remedies available to any non-defaulting party under South Carolina law, but it is in addition thereto.

6. Except as provided in this Agreement, neither party to this Agreement shall be liable to the other for failure, default or delay in performing any of its obligations hereunder, if such failure, default or delay is caused by strikes or other labor problems, by forces of nature, unavoidable accident, fire, acts of the public enemy, interference by civil authorities, acts or failure to act, decisions or orders or regulations of any governmental or military body or agency, office or commission, delays in receipt of materials, or any other cause, whether of similar or dissimilar nature, not within the control of the party affected and which, by the exercise of due diligence, such party is unable to prevent or overcome, except as otherwise provided for herein. Should any of the foregoing events occur, the parties hereto agree to proceed with diligence to do what is reasonable and necessary so that each party may perform its obligations under this Agreement.

7. The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance by either party shall not be construed as a general waiver or relinquishment on its part of any such provisions, but the same shall, nevertheless, be and remain in full force and effect.

8. This Agreement sets forth the complete understanding between CWS and the Town and no prior agreements or communications, whether oral or written, shall be deemed a part hereof. Any amendments hereto to be effective must be made in writing and signed by the

parties hereto.

9. This Agreement shall be governed by the laws of the State of South Carolina.

10. If this Agreement is not executed prior to August 15, 2007, then the terms and conditions contained herein will be waived, with no further obligations or responsibilities to either party.

#### Section IV

##### Acquisition of CWS Taps Within the Subdivision

1. Should the SCPSC fail to grant the approvals required under Section II hereinabove, the Town shall become entitled to serve customers in the Subdivision upon satisfaction of the remaining terms and conditions of this Section IV.

2. The Town shall pay to CWS the sum of One Thousand Seven Hundred Fifty and no/100ths (\$1,750.00) Dollars for each person or entity who becomes a customer of the Town in the Subdivision. This figure represents one-half (1/2) of the Capital Contribution Fee ("CCF") that the Town currently imposes upon new sewer customers connecting to the Town's sewer system. Should the Town increase its CCF, the amount due to CWS hereunder shall increase proportionately.

3. The Town shall pay the foregoing sum to CWS as and when it receives a CCF for sewage service to a person or entity in the Subdivision.

[Signatures to begin on the following page.]

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed and have been duly authorized by their respective governing bodies on the date above first written.

**Town of Lexington**

James W. Duckett, Jr.  
By: James W. Duckett, Jr.  
Its: Administrator

Witness/Attest:

1) Bryce Childbrand  
2) Bill Cunningham

**Carolina Water Service, Inc.**

Carl Daniel  
By: Carl Daniel  
Its: Vice President

Witness/Attest:

1) Bruce J. Haas  
2) Anthony Jeffcoat

# **Exhibit B**

# PUBLIC HEARING ON TUESDAY, AUGUST 25, 2015



Bureau of Water

TOPIC: Reissuance of NPDES permit with discharge to  
Saluda River

**NOTICE NUMBER:** 15-137-H

**NOTICE DATE:** JULY 16, 2015

**PROPOSAL:** Reissue NPDES permit for the **Carolina Water Service, Inc., I-20 Wastewater Treatment Plant** (0.8 MGD facility) with discharge to the Saluda River, Permit #SC0035564. This would include elimination of the proposed 1.051 MGD permit page and addresses conditions for elimination of the discharge in the future.

**PERMIT APPLICANT:** Carolina Water Service (CWS) Inc, 150 Foster Brothers Drive, West Columbia, SC

**PROJECT LOCATION:** The facility is located near Laurel Meadows Subdivision off Leaphart Road in Lexington County. See the draft permit on the DHEC website, at <http://www.scdhec.gov/publicnotices/>.

**NOTICE PURPOSE:** DHEC proposes to reissue or issue the discharge permits for disposal of treated wastewater from the Permit Applicants listed above. See the individual draft permits on the DHEC website at <http://www.scdhec.gov/environment/water/eqpnbow.htm>, then select "NPDES & POTW Pretreatment Program Permits", and then select one of the NPDES permit names and numbers listed above.

**HEARING PURPOSE:** DHEC is seeking public input on this proposed permit reissuance, and invites interested people to a public hearing and/or to provide written comments on this surface water discharge permit.

## HEARING DETAILS:

-Tuesday, August 25, 2015 at 6:30 PM, DHEC Building, 3rd Floor, Peebles Auditorium, 2600 Bull Street, Columbia, SC 29201.

-Enter DHEC building from the main entrance on Bull Street side. All visitors will need to sign in to obtain a visitor's badge for the hearing.

**HOW TO COMMENT?** Provide comments at the hearing or give written comments to DHEC's point of contact Andrew Edwards: Bureau of Water, 2600 Bull Street, Columbia, SC 29201, [edwardaj@dhc.sc.gov](mailto:edwardaj@dhc.sc.gov), phone 803-898-1271. Written comments (e-mail OK) must be received no later than close of business **Tuesday, September 1, 2015**. Please identify the notice number (15-137-H) along with written comments. Any individuals with disabilities or special needs who wish to participate or review DHEC's files should contact Andrew Edwards, two weeks before the hearing date to discuss any special aids or services required.

**MORE INFO?** DHEC's project file is available for review at the above address and copies can be obtained for a fee by contacting our Freedom of Information Office (2600 Bull Street, Columbia, SC 29201, 803-898-3882). An e-copy of the proposed permit can be found at: <http://www.scdhec.gov/Publicnotices>

**MISCELLANEOUS:** DHEC is not involved in zoning, land use, or property value issues (please contact your local County or Municipal officials for questions or concerns on these issues). All people signing the hearing roster or providing written comments will receive a summary response to comments and permit decision information when DHEC makes a permit decision.



**DRAFT 6/30/2015**

# Surface Water Discharge Permit

In Accordance With the  
National Pollutant Discharge Elimination System (NPDES)

This NPDES Permit Certifies That

*Carolina Water Service, Inc.  
I-20 Regional WWTP*

has been granted permission to discharge treated wastewater from a facility located at

*Laurel Meadows Subdivision off Leaphart Road  
Lexington County*

to receiving waters named

*Saluda River*

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, III, IV and V hereof. This permit is issued in accordance with the provisions of the Pollution Control Act of South Carolina (S.C. Code Sections 48-1-10 et seq., 1976), Regulation 61-9 and with the provisions of the Federal Clean Water Act (PL 92-500), as amended, 33 U.S.C. 1251 et seq., the "Act."

\_\_\_\_\_  
Jeffrey P. deBessonnet, P.E., Director  
Water Facilities Permitting Division  
Bureau of Water

Issued:

Expires<sup>1</sup>:

Effective:

Permit No.: SC0035564

<sup>1</sup> This permit will continue to be in effect beyond the expiration date if a complete timely re-application is received pursuant to Regulation 61-9.122.6 and signed per Regulation 61-9.122.22



**DRAFT 6/30/2015**Page 2 of 32  
Permit No. SC0035564**TABLE OF CONTENTS**

<b>PART I. Definitions .....</b>	<b>3</b>
<b>PART II. Standard Conditions .....</b>	<b>6</b>
A. Duty to Comply .....	6
B. Duty to Reapply .....	6
C. Need to Halt or Reduce Activity Not a Defense .....	6
D. Duty to Mitigate .....	7
E. Proper Operation and Maintenance .....	7
F. Permit Actions .....	8
G. Property Rights .....	8
H. Duty to Provide Information .....	8
I. Inspection and Entry .....	8
J. Monitoring and Records .....	9
K. Signatory Requirement .....	10
L. Reporting Requirements .....	12
M. Bypass .....	16
N. Upset .....	17
O. Misrepresentation of Information .....	17
<b>Part III. Limitations and Monitoring Requirements .....</b>	<b>19</b>
A. Effluent Limitations and Monitoring Requirements .....	19
B. Whole Effluent Toxicity Limitations and Monitoring Requirements .....	22
C. Groundwater Requirements .....	22
D. Sludge Disposal Requirements .....	23
E. Land Application Requirements .....	24
F. Instream Biological Assessment .....	24
<b>Part IV. Schedule of Compliance .....</b>	<b>25</b>
<b>Part V. Other Requirements .....</b>	<b>26</b>
A. Effluent Limitations and Monitoring Requirements .....	26
B. Effluent Toxicity Limitations and Monitoring Requirements .....	26
C. Groundwater Requirements .....	26
D. Sludge Disposal Requirements .....	26
E. Land Application .....	28
F. Pretreatment .....	28
G. Additional Operational Requirements .....	29
H. Wastewater Design Flow .....	30
I. Water Treatment Plant Notification .....	30

**DRAFT 6/30/2015**Part I  
Page 3 of 32  
Permit No. SC0035564**PART I. Definitions**

Any term not defined in this Part has the definition stated in the South Carolina Pollution Control Act (PCA) or in "Water Pollution Control Permits", R.61-9 or its normal meaning.

- A. The "Act", or CWA shall refer to the Clean Water Act (Formerly referred to as the Federal Water Pollution Control Act) Public Law 92-500, as amended means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et seq. Specific references to sections within the CWA will be according to Pub. L. 92-500 notation.
- B. The "arithmetic mean" of any set of values is the summation of the individual values divided by the number of individual values.
- C. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- D. A "composite sample" shall be defined as one of the following four types:
  - 1. An influent or effluent portion collected continuously over a specified period of time at a rate proportional to the flow.
  - 2. A combination of not less than 8 influent or effluent grab samples collected at regular (equal) intervals over a specified period of time and composited by increasing the volume of each aliquot in proportion to flow. If continuous flow measurement is not used to composite in proportion to flow, the following method will be used: An instantaneous flow measurement should be taken each time a grab sample is collected. At the end of the sampling period, the instantaneous flow measurements should be summed to obtain a total flow. The instantaneous flow measurement can then be divided by the total flow to determine the percentage of each grab sample to be combined. These combined samples form the composite sample.
  - 3. A combination of not less than 8 influent or effluent grab samples of equal volume but at variable time intervals that are inversely proportional to the volume of the flow. In other words, the time interval between aliquots is reduced as the volume of flow increases.
  - 4. If the effluent flow varies by less than 15 percent, a combination of not less than 8 influent or effluent grab samples of constant (equal) volume collected at regular (equal) time intervals over a specified period of time. (This method maybe used with prior Department approval.)

All samples shall be properly preserved in accordance with Part II.J.4. Continuous flow or the sum of instantaneous flows measured and averaged for the specified compositing time period shall be used with composite results to calculate mass.

- E. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of

**DRAFT 6/30/2015**Part I  
Page 4 of 32  
Permit No. SC0035564

measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

- F. "Daily maximum" other than for bacterial indicators (i.e. fecal coliform, E. coli and enterococci) is the highest average value recorded of samples collected on any single day during the calendar month. Daily average for bacterial indicators means the highest arithmetic average of bacterial samples collected for each bacterial indicator species (i.e. fecal coliform, E. coli and/or enterococci) in any 24 hour period during a calendar month.
- G. "Daily minimum" is the lowest average value recorded of samples collected on any single day during the calendar month.
- H. The "Department" or "DHEC" shall refer to the South Carolina Department of Health and Environmental Control.
- I. The "geometric mean" of any set of values is the  $N^{\text{th}}$  root of the product of the individual values where N is equal to the number of individual values. The geometric mean is equivalent to the antilog of the arithmetic mean of the logarithms of the individual values. For purposes of calculating the geometric mean, values of zero (0) shall be considered to be one (1).
- J. A "grab sample" is an individual, discrete or single influent or effluent portion of at least 100 milliliters collected at a time representative of the discharge and over a period not exceeding 15 minutes and retained separately for analysis.
- K. The "instantaneous maximum or minimum" is the highest or lowest value recorded of all samples collected during the calendar month.
- L. The "monthly average", other than for fecal coliform, E. coli and enterococci, is the arithmetic mean of all samples collected in a calendar month period. Monthly average (for bacterial indicators only) means the calendar month (i.e., 28 days, 29 days, 30 days, or 31 days) geometric mean of all bacterial samples collected [for each of the bacterial indicator species (i.e., E. coli, enterococcus, and/or fecal coliform)] during that calendar month. The monthly average loading is the arithmetic average of all daily discharges made during the month.
- M. "POTW" means a treatment works as defined by section 212 of the Clean Water Act, which is owned by a state or municipality (as defined by section 502[4] of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature or a regional entity composed of two (2) or more municipalities or parts thereof. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality, as defined in section 502(4) of the CWA, which has jurisdiction over the Indirect Discharges to and the discharge from such a treatment works.
- N. "Practical Quantitation Limit (PQL)" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. It is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed. It is also referred to as the reporting limit.
- O. "Privately owned treatment works" means any device or system which both is used to treat wastes from any facility whose operator is not the operator of the treatment works and is not a POTW.

**DRAFT 6/30/2015**Part I  
Page 5 of 32  
Permit No. SC0035564

- P. "Quarter" is defined as the first three calendar months beginning with the month that this permit becomes effective (unless otherwise specified in this permit) and each group of three calendar months thereafter.
- Q. "Quarterly average" is the arithmetic mean of all samples collected in a quarter.
- R. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- S. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- T. "Weekly average", is the arithmetic mean of all the samples collected during a one-week period. For self-monitoring purposes, weekly periods in a calendar month are defined as three (3) consecutive seven-day intervals starting with the first day of the calendar month and a fourth interval containing seven (7) days plus those days beyond the 28<sup>th</sup> day in a calendar month. The value to be reported is the single highest of the four (4) weekly averages computed during a calendar month. The weekly average loading is the arithmetic average of all daily discharges made during the week.
- U. "Ultimate Oxygen Demand" (UOD) is the oxygen consumed by aquatic microbes in metabolizing the remaining organic and nitrogenous matter in the effluent from the permittee's wastewater treatment plant. This demand is expressed in pounds per day and is calculated by multiplying the effluent biochemical oxygen demand (BOD<sub>5</sub>) concentration by the F-ratio and adding that to 4.57 times the effluent ammonia (NH<sub>3</sub>-N) concentration and multiplying the sum by the flow and the constant 8.34. The UOD loading is the arithmetic average of all individual loading determinations made during the sampling period.

$$\text{U.O.D. (lbs/day)} = [\{\text{BOD}_5(\text{mg/l}) * \text{F-ratio}\} + \{\text{NH}_3\text{-N}(\text{mg/l}) * 4.57\}] * \text{Flow(MGD)} * 8.34$$

$$\text{F-ratio} = 1.5$$

**Legend (See Effluent Limitations and Monitoring Requirements)**

Abbreviation	Meaning/Definition
BOD <sub>5</sub>	5-Day Biochemical Oxygen Demand
TSS	Total Suspended Solids
DO	Dissolved Oxygen
TRC	Total Residual Chlorine
NH <sub>3</sub> -N	Ammonia Nitrogen
24 Hr C	24 Hour Composite
Cont.	Continuous
Cal	Calculated
Eff.	Effluent

**DRAFT 6/30/2015**Part II  
Page 6 of 32  
Permit No. SC0035564**PART II. Standard Conditions****A. Duty to Comply**

The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. The Department's approval of wastewater facility Plans and Specifications does not relieve the permittee of responsibility to meet permit limits.

1. a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. It is the responsibility of the permittee to have a treatment facility that will meet the final effluent limitations of this permit. The approval of plans and specifications by the Department does not relieve the permittee of responsibility for compliance.
2. Failure to comply with permit conditions or the provisions of this permit may subject the permittee to civil penalties under S.C. Code Section 48-1-330 or criminal sanctions under S.C. Code Section 48-1-320. Sanctions for violations of the Federal Clean Water Act may be imposed in accordance with the provisions of 40 CFR Part 122.41(a)(2) and (3).
3. A person who violates any provision of this permit, a term, condition or schedule of compliance contained within a valid NPDES permit, or the State law is subject to the actions defined in the State law.

**B. Duty to Reapply**

1. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. Any POTW with a current effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department. (The Department shall not grant permission for applications to be submitted later than the expiration date of the existing permit)
2. If a privately owned treatment works as defined in Part I.N, wishes to continue an activity regulated by this permit after the expiration date of this permit, the privately owned treatment works must apply for and obtain a new permit. A privately owned treatment works with a currently effective permit shall submit a new application 180 days before the existing permit expires, unless permission for a later date has been granted by the Department. The Department may not grant permission for applications to be submitted later than the expiration date of the existing permit.

**C. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**DRAFT 6/30/2015**Part II  
Page 7 of 32  
Permit No. SC0035564**D. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**E. Proper Operation and Maintenance**

1. The permittee shall at all times properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective performance based on design facility removals, adequate funding, adequate operator staffing and training and also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Power Failures.

In order to maintain compliance with effluent limitations and prohibitions of this permit, the permittee shall either:

- a. provide an alternative power source sufficient to operate the wastewater control facilities;
  - b. or have a plan of operation which will halt, reduce, or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.
3. The permittee shall develop and maintain at the facility a complete Operations and Maintenance Manual for the waste treatment facilities and/or land application system. The manual shall be made available for on-site review during normal working hours. The manual shall contain operation and maintenance instructions for all equipment and appurtenances associated with the waste treatment facilities and land application system. The manual shall contain a general description of: the treatment process(es), the operational procedures to meet the requirements of (E)(1) above, and the corrective action to be taken should operating difficulties be encountered.
4. The permittee shall provide for the performance of daily treatment facility inspections by a certified operator of the appropriate grade as specified in Part V. The inspections shall include, but should not necessarily be limited to, areas which require visual observation to determine efficient operation and for which immediate corrective measures can be taken using the O & M manual as a guide. All inspections shall be recorded and shall include the date, time, and name of the person making the inspection, corrective measures taken, and routine equipment maintenance, repair, or replacement performed. The permittee shall maintain all records of inspections at the permitted facility as required by the permit, and the records shall be made available for on-site review during normal working hours.
5. A roster of operators associated with the facility's operation and their certification grades shall be submitted to the DHEC/Bureau of Water/Water Pollution Control Division. For existing facilities, this roster shall be submitted within thirty (30) days of the effective date of this permit. For new facilities, this roster must be submitted prior to placing the facility into operation. Additionally, any changes in



**DRAFT 6/30/2015**Part II  
Page 8 of 32  
Permit No. SC0035564

operator or operators (including their certification grades) shall be submitted to the Department as they occur.

**6. Wastewater Sewer Systems**

- a. Purpose. This section establishes rules for governing the operation and maintenance of wastewater sewer systems, including gravity or pressure interceptor sewers. It is the purpose of this section to establish standards for the management of sewer systems to prevent and/or minimize system failures that would lead to public health or environmental impacts.
- b. Applicability. This section applies to all sewer systems that have been or would be subject to a DHEC construction permit under Regulation 61-67 and whose owner owns or operates the wastewater treatment system to which the sewer discharges.
- c. General requirements. The permittee must:
  - (1) Properly manage, operate, and maintain at all times all parts of its sewer system(s), to include maintaining contractual operation agreements to provide services, if appropriate;
  - (2) Provide adequate capacity to convey base flows and peak flows for all parts of the sewer system or, if capital improvements are necessary to meet this standard, develop a schedule of short and long term improvements;
  - (3) Take all reasonable steps to stop and mitigate the impact of releases of wastewater to the environment; and
  - (4) Notify the Department within 30 days of a proposed change in ownership of a sewer system.

**F. Permit Actions**

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**G. Property Rights**

This permit does not convey any property rights of any sort, or any exclusive privilege nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

**H. Duty to Provide Information**

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

**I. Inspection and Entry**

## DRAFT 6/30/2015

Part II  
Page 9 of 32  
Permit No. SC0035564

The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the Department), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and Pollution Control Act, any substances or parameters at any location.

### J. Monitoring and Records

1. a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Flow Measurements

Where primary flow meters are required, appropriate flow measurement devices and methods consistent with accepted scientific practices shall be present and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of not greater than 10 percent from the true discharge rates throughout the range of expected discharge volumes. The primary flow device, where required, must be accessible to the use of a continuous flow recorder.

- c. The permittee shall maintain all records of inspections at the permitted facility as required by the permit, and the records shall be made available for on-site review during normal working hours.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by R.61-9.503 or R.61-9.504), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
3. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;

**DRAFT 6/30/2015**Part II  
Page 10 of 32  
Permit No. SC0035564

- c. The date(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
4. a. Analyses for required monitoring must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal specified in R.61-9.503, unless other test procedures have been specified in the permit
- b. Unless addressed elsewhere in this permit, the permittee shall use a sufficiently sensitive analytical method for each sample that achieves a value below the derived permit limit stated in Part III. For the purposes of reporting analytical data on the Discharge Monitoring Report (DMR):
- (1) Analytical results below the PQL from methods available in 40 CFR 136 or otherwise specified in the permit shall be reported as zero (0), provided the PQL is below the value specified in Part V.G.5 and the result is also below the PQL. Zero (0) shall also be used to average results which are below the PQL. When zero (0) is reported or used to average results, the permittee shall report, in the "Comment Section" or in an attachment to the DMR, the analytical method used, the PQL achieved, and the number of times results below the PQL were reported as zero (0).
  - (2) Analytical results above the PQL from methods available in 40 CFR 136 or otherwise specified in the permit shall be reported as the value achieved, even if the PQL is below the value specified in Part V.G.5. When averaging results using a value containing a < the average shall be calculated using the value and reported as < the average of all results collected.
3. (a) Mass value for a pollutant collected using a grab sample shall be calculated using the 24-hour totalized flow for the day the sample was collected (if available) or the instantaneous flow at the time of the sample and either the concentration value actually achieved or the value as determined from the procedures in (1) or (2) above, as appropriate. Grab samples should be collected at a time representative of the discharge.
- (b) Mass value for a pollutant collected using a composite sample shall be calculated using the 24-hour totalized flow measured for the day the sample was collected and either the concentration value actually achieved or the value as determined from the procedures in (1) or (2) above, as appropriate.
5. The PCA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000 or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment provided by the Clean Water Act is also by imprisonment of not more than 4 years.

**K. Signatory Requirement**

## DRAFT 6/30/2015

Part II  
Page 11 of 32  
Permit No. SC0035564

1. All applications, reports, or information submitted to the Department shall be signed and certified.
  - a. Applications. All permit applications shall be signed as follows:
    - (1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
      - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
      - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
    - (3) For a municipality, State, Federal, or other public agency or public facility: By either a principal executive officer, mayor, or other duly authorized employee or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
      - (a) The chief executive officer of the agency, or
      - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator, Region IV, EPA).
  - b. All reports required by permits, and other information requested by the Department, shall be signed by a person described in Part II.K.1.a of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - (1) The authorization is made in writing by a person described in Part II.K.1.a of this section;
    - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,
    - (3) The written authorization is submitted to the Department.
  - c. Changes to authorization. If an authorization under Part II.K.1.b of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II.K.1.b of this section must be submitted to

## **DRAFT 6/30/2015**

Part II  
Page 12 of 32  
Permit No. SC0035564

the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

- d. Certification. Any person signing a document under Part II.K.1.a or b of this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. The PCA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than two years per violation, or by both.

### **L. Reporting Requirements**

#### **1. Planned changes**

The permittee shall give written notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in R 61-9.122.29(b); or
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Part II.L.8 of this section.
- c. The alteration or addition results in a significant change in the permittee's sewage sludge or industrial sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan (included in the NPDES permit directly or by reference);

#### **2. Anticipated noncompliance**

The permittee shall give advance notice to DHEC/Bureau of Water/Water Pollution Control Division of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

#### **3. Transfers**

This permit is not transferable to any person except after notice to DHEC/Bureau of Water/NPDES Administration Section. The Department may require modification or revocation and reissuance of the permit to change the name of permittee and incorporate such other requirements as may be necessary

## DRAFT 6/30/2015

Part II  
Page 13 of 32  
Permit No. SC0035564

under the Pollution Control Act and the Clean Water Act. (See section 122.61; in some cases, modification or revocation and reissuance is mandatory.)

- a. Transfers by modification. Except as provided in paragraph b of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under R.61-9.122.62(e)(2)), or a minor modification made (under R.61-9.122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.
- b. Other transfers. As an alternative to transfers under paragraph a of this section, any NPDES permit may be transferred to a new permittee if:
  - (1) The current permittee notifies the Department at least 30 days in advance of the proposed transfer date in Part II.L.3.b(2) of this section;
  - (2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - (3) Permits are non-transferable except with prior consent of the Department. A modification under this subparagraph may also be a minor modification under section 122.63.

#### 4. Monitoring reports

Monitoring results shall be reported at the intervals specified in the permit. Monitoring periods are calculated beginning with the permit effective date, unless otherwise stated elsewhere in this permit. If the permit is modified, the effective date of the modification is used to begin calculation of the monitoring period for those items that are part of the modification unless otherwise stated elsewhere in this permit.

- a. Monitoring results (with the exception of any Annual Reporting requirements under section 503.18, section 503.28, section 503.48 or section 504.18) must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

##### (1) Effluent Monitoring:

Effluent monitoring results obtained at the required frequency shall be reported on a Discharge Monitoring Report Form (EPA Form 3320-1). The DMR is due postmarked no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. One original and one copy of the Discharge Monitoring Reports (DMRs) shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data & Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

##### (2) Groundwater Monitoring:

## **DRAFT 6/30/2015**

Part II  
Page 14 of 32  
Permit No. SC0035564

Groundwater monitoring results obtained at the required frequency shall be reported on a Groundwater Monitoring Report Form (DHEC 2110) or the format the analyzing laboratory utilizes, postmarked no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. One original and one copy of the Groundwater Monitoring Report Form (DHEC 2110) shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data & Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

(3) Sludge Monitoring:

Sludge monitoring results obtained at the required frequency shall be reported in a laboratory format postmarked no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. Two copies of these results shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data & Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

(4) All other reports required by this permit shall be submitted at the frequency specified elsewhere in the permit to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data & Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

- b. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in R.61-9.503, R.61-9.504, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
  - c. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
5. Twenty-four hour reporting
- a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally to local DHEC office within 24 hours from the time the permittee becomes aware of the circumstances. During normal working hours call:



**DRAFT 6/30/2015**Part II  
Page 15 of 32  
Permit No. SC0035564

<b>County</b>	<b>DHEC Region</b>	<b>Phone No.</b>
Anderson, Oconee	Upstate BEHS Anderson	864-260-5585
Abbeville, Greenwood, Laurens, McCormick	Upstate BEHS Greenwood	864-227-5915
Greenville, Pickens	Upstate BEHS Greenville	864-372-3273
Cherokee, Spartanburg, Union	Upstate BEHS Spartanburg	864-596-3327
Fairfield, Lexington, Newberry, Richland	Midlands BEHS Columbia	803-896-0620
Chester, Lancaster, York	Midlands BEHS Lancaster	803-285-7461
Aiken, Barnwell, Edgefield, Saluda	Midlands BEHS Aiken	803-642-1637
Chesterfield, Darlington, Dillon, Florence, Marion, Marlboro	Pee Dee BEHS Florence	843-661-4825
Clarendon, Kershaw, Lee, Sumter	Pee Dee BEHS Sumter	803-778-6548
Georgetown, Horry, Williamsburg	Pee Dee BEHS Myrtle Beach	843-238-4378
Berkeley, Charleston, Dorchester	Low Country BEHS Charleston	843-953-0150
Beaufort, Colleton, Hampton, Jasper	Low Country BEHS Beaufort	843-846-1030
Allendale, Bamberg, Calhoun, Orangeburg	Low Country BEHS Orangeburg	803-533-5490

After-hour reporting should be made to the 24-Hour Emergency Response telephone number 803-253-6488 or 1-888-481-0125 outside of the Columbia area.

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and, if the noncompliance has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

- b. The following shall be included as information which must be reported within 24 hours under this paragraph.

- (1) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See R.61-9.122.41(L)(6)(ii)(A).
- (2) Any upset which exceeds any effluent limitation in the permit.
- (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours (See R 61-9.122.44(g)). If the permit contains maximum limitations for any of the pollutants listed below, a violation of the maximum

**DRAFT 6/30/2015**Part II  
Page 16 of 32  
Permit No. SC0035564

limitations shall be reported orally to the DHEC/Bureau of Water/Water Pollution Control Division within 24 hours or the next business day.

(i) Total Residual Chlorine (TRC)

- c. The Department may waive the written report on a case-by-case basis for reports under Part II.L.5.b of this section if the oral report has been received within 24 hours.

6. Other noncompliance.

The permittee shall report all instances of noncompliance not reported under Part II.L.4 and 5 of this section and Part IV at the time monitoring reports are submitted. The reports shall contain the information listed in Part II.L.5 of this section.

7. Other information.

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

8. Domestic treatment works

All Permittees must provide adequate notice to the Department of the following:

- (1) [Reserved]
- (2) Any substantial change in the volume or character of pollutants being introduced into that Permittee's facility by a source introducing pollutants into the Permittee's facility at the time of issuance of the permit.
- (3) For purposes of this paragraph, adequate notice shall include information on:
  - (i) The quality and quantity of effluent introduced into the Permittee's facility, and
  - (ii) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the Permittee's facility.

M. Bypass

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II.M.2 and 3 of this section.

2. Notice.

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass to DHEC/Bureau of Water/Water Facilities Permitting Division.
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in

**DRAFT 6/30/2015**Part II  
Page 17 of 32  
Permit No. SC0035564

Part II(L)(5) of this permit (24-hour reporting).

3. Prohibition of bypass

- a. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II.M.2 of this section.

- b. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in Part II.M.3.a of this section.

N. Upset

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part II.N.2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated; and
  - c. The permittee submitted notice of the upset as required in Part II.L.5.b(2) of this section.
  - d. The permittee complied with any remedial measures required under Part II.D of this section.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

O. Misrepresentation of Information

1. Any person making application for a NPDES discharge permit or filing any record, report, or other document pursuant to a regulation of the Department, shall certify that all information contained in such document is true. All application facts certified to by the applicant shall be considered valid conditions of the permit issued pursuant to the application.

**DRAFT 6/30/2015**

Part II  
Page 18 of 32  
Permit No. SC0035564

2. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the Department pursuant to the State law, and the rules and regulations pursuant to that law, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to 48-1-320 or 48-1-330.

**Part III. Limitations and Monitoring Requirements****A. Effluent Limitations and Monitoring Requirements**

1. **Interim Limits:** During the period beginning on the effective date and lasting through September 30, 2018, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

Following limits are based on the average design flow of: 0.8 MGD							
Effluent Characteristics	Discharge Limitations				Monitoring Requirements		
	Pounds per Day		Other Units		Measurement Frequency	Sample Type	Sample Point
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum			
Flow	---	---	MR MGD	MR MGD	Daily	Cont.	Eff.
BOD <sub>5</sub>	200	400	30.0 mg/l	60.0 mg/l	1/Week	24 Hr C	Eff.
TSS	600	1200	90.0 mg/l	180.0 mg/l	1/Week	24 Hr C	Eff.
NH <sub>3</sub> -N (Mar-Oct)	MR	MR	MR mg/l	MR mg/l	1/Week	24 Hr C	Eff.
NH <sub>3</sub> -N (Nov-Feb)	MR	MR	MR mg/l	MR mg/l	1/Week	24 Hr C	Eff.
TRC ①	3.33	6.67	0.5 mg/l	1.0 mg/l	1/Week	Grab	Eff.
DO	---	---	2.0 mg/l Minimum at all times		Week Days	Grab	Eff.
pH	---	---	6.0 - 9.0 Standard Units		Week Days	Grab	Eff.
Total Phosphorus ①	MR	MR	MR mg/l	MR mg/l	1/Week	24 Hr C	Eff.
UOD ②	MR	MR	---	---	1/Month	Calc.	Eff.

① See Part V.G.5.

② See Part I.U.

DRAFT 6/30/2015

Part III  
Page 19 of 32  
Permit No. SC0035564

2. **Final Limits:** During the period beginning on October 1, 2018, and lasting until the expiration date, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

Following limits are based on the average design flow of: 0.8 MGD							
Effluent Characteristics	Discharge Limitations				Monitoring Requirements		
	Pounds per Day		Other Units				
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Point
Flow	---	---	MR MGD	MR MGD	Daily	Cont.	Eff.
BOD <sub>5</sub>	118	238	17.8 mg/l	35.7 mg/l	1/Week	24 Hr C	Eff.
TSS	600	1200	90.0 mg/l	180.0 mg/l	1/Week	24 Hr C	Eff.
NH <sub>3</sub> -N (Mar-Oct)	133	267	20.0 mg/l	40.0 mg/l	1/Week	24 Hr C	Eff.
NH <sub>3</sub> -N (Nov-Feb)	133	267	20.0 mg/l	40.0 mg/l	1/Week	24 Hr C	Eff.
TRC ①	3.33	6.67	0.5 mg/l	1.0 mg/l	1/Week	Grab	Eff.
DO	---	---	5.0 mg/l Minimum at all times		Week Days	Grab	Eff.
pH	---	---	6.0 - 9.0 Standard Units		Week Days	Grab	Eff.
Total Phosphorus ①	MR	MR	MR mg/l	MR mg/l	1/Week	24 Hr C	Eff.
UOD ②	591.5	1183	---	---	1/Month	Calc.	Eff.

① See Part V.G.5.

② See Part I.U.

DRAFT 6/30/2015

Part III  
Page 20 of 32  
Permit No. SC0035564

## DRAFT 6/30/2015

Part III  
Page 21 of 32  
Permit No. SC0035564

3. **Final Limits:** During the period beginning on the effective date of this permit, and lasting until the expiration date, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

If each E. coli daily maximum (as defined by R.61-68.B.29) during a calendar month reporting period is **less than or equal to** 349 MPN/100 ml **or** the provisions of R.61-68.E.14(c)(12), included as "Bacteria Supplemental Data Sheet" at the end of Part V of this permit, were **not** met, then the following limits apply:

Effluent Characteristics	Discharge Limitations		Monitoring Requirements		
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Point
E. coli (MPN/100ml)	126	349	1/Week	Grab	Effluent

Otherwise, report "Conditional Monitoring-Not Required" on the Discharge Monitoring Report (DMR) form for this portion (Part III.A.3) of the permit, and report all E. coli data for this monitoring period in 4 below.

4. **Final Limits:** During the period beginning on the effective date of this permit, and lasting until the expiration date, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

If any E. coli daily maximum (as defined by R.61-68.B.29) during a calendar month reporting period is **greater than** 349 MPN/100 ml **and** in each instance the provisions of R.61-68.E.14(c)(12), included as "Bacteria Supplemental Data Sheet" at the end of Part V of this permit, **were** met, then the following limits apply:

Effluent Characteristics	Discharge Limitations		Monitoring Requirements		
	Monthly Average	Individual Sample Maximum	Measurement Frequency	Sample Type	Sample Point
E. coli (MPN/100ml)	126	800 ①	1/Week	Grab	Effluent

① For this reporting period only.

Otherwise report "Conditional Monitoring-Not Required" on the Discharge Monitoring Report (DMR) form for this portion (Part III.A.4) of the permit, and report all E. coli data for this monitoring period in # above. In addition, if data is reported in item 4, the "Bacteria Supplemental Data Sheet" contained in Part V of this permit **must** be attached to the Discharge Monitoring Report (DMR) and signed by the authorized DMR representative, documenting compliance with the provisions of R.61-68.E.14(c)(12). If this attachment is not included with the DMR submittal, the permittee may **not** use this portion (Part III.A.4) for reporting E. coli data.

**Note for 3 and 4 above:** Sample results reported should include all data collected for this monitoring period including any additional E. coli samples that might be collected under the provisions of R.61-68.E.14(c)(12).

**DRAFT 6/30/2015**Part III  
Page 22 of 32  
Permit No. SC0035564**B. Whole Effluent Toxicity Limitations and Monitoring Requirements**

Not applicable to this permit.

**C. Groundwater Requirements****1. Operation and maintenance of equalization basins****a. Groundwater Monitoring Requirements**

- (1) Each of the below identified equalization basins shall be sampled by the permittee as specified:

Facility Name	BOW Site ID Number	Number of Monitoring Wells	Monitoring Frequency
Spring Hill SD	#00674	2	Semi-Annual
Woodsen SD	#00675	2	Semi-Annual

- (2) Each of the four (4) groundwater monitoring wells identified above shall be sampled by the permittee as specified below:

Parameter	Measurement Frequency	Sample Method
Ammonia (NH <sub>3</sub> )	Semi-Annually	Pump or Bailer Method
Nitrate (N)	Semi-Annually	Pump or Bailer Method
Field pH	Semi-Annually	Pump or Bailer Method
TDS	Semi-Annually	Pump or Bailer Method
Total Phosphorus	Semi-Annually	Pump or Bailer Method
Chloride	Semi-Annually	Pump or Bailer Method
Alkalinity	Semi-Annually	Pump or Bailer Method
Sodium	Semi-Annually	Pump or Bailer Method
Fecal Coliform	Semi-Annually	Pump or Bailer Method
Field Specific Conductance	Semi-Annually	Pump or Bailer Method
Depth to Groundwater (Report within 0.01 feet)	Semi-Annually	Tape
Groundwater Elevation (Report within 0.01 feet above mean sea level)	Semi-Annually	Tape



## DRAFT 6/30/2015

Part III  
Page 23 of 32  
Permit No. SC0035564

- (3) For purposes of Groundwater Monitoring, the following measurement frequency table shall be utilized:

Measurement Frequency	Sampling Period	Reporting Deadline
Quarterly (Samples must be taken at least 60 days apart.)	January 1 <sup>st</sup> – March 31 <sup>st</sup>	April 28 <sup>th</sup>
	April 1 <sup>st</sup> – June 30 <sup>th</sup>	July 28 <sup>th</sup>
	July 1 <sup>st</sup> – September 30 <sup>th</sup>	October 28 <sup>th</sup>
	October 1 <sup>st</sup> – December 31 <sup>st</sup>	January 28 <sup>th</sup>
Semi-Annually	January 1 <sup>st</sup> – March 31 <sup>st</sup>	April 28 <sup>th</sup>
	July 1 <sup>st</sup> – September 30 <sup>th</sup>	October 28 <sup>th</sup>
Annually	October 1 <sup>st</sup> – December 31 <sup>st</sup>	January 28 <sup>th</sup>

- (4) [Reserved]
- (5) Sample collection methods shall be in accordance with the EPA Region 4 Groundwater Sampling Operation Procedure, EPA publication SESDPROC 301-R3, effective March 6, 2013 or most recent version of the EPA Region 4 Groundwater Sampling Operation Procedure.
- (6) All groundwater monitoring wells must be properly maintained at all times and are to yield a representative sample of the aquifer. If the groundwater elevation drops to a level that prevents the collection of a sample for two consecutive sampling periods, then this well shall be considered as “rendered unusable.” In accordance with Regulation 61-71, any monitoring well which is destroyed, rendered unusable, or abandoned, shall be reported to the Department, and shall be properly abandoned, revitalized, or replaced. The permittee shall revitalize or replace the dry well within six months after recording the second dry sampling period.
- (7) If a deleterious impact to the groundwaters of the State from the permitted use or disposal practices is documented through groundwater monitoring levels exceeding the standards set forth in R.61-68 or a significant adverse trend occurs, then it will be the obligation of the permittee as directed by the Department to conduct an investigation to determine the vertical and horizontal extent of groundwater impact. The Department may require remediation of the groundwater to within acceptable levels for groundwater as set forth in R.61-68.
- (8) The oxidation ponds for the Oak Grove Estates, Spring Hill subdivision, and Woodsen subdivision were converted into equalization basins rather than being closed out or abandoned. These equalization basins will be operated in such a manner that odors and vector attraction will be minimized and groundwater contamination will be prevented.
- (9) The Permittee will maintain all equipment and provide general site management at the equalization sites to include aerators and pumps as well as the basin dikes. The grass will be trimmed and the fences around the equalization basins will be maintained in good repair so as to exclude the public from the site.

### D. Sludge Disposal Requirements

**DRAFT 6/30/2015**

Part III  
Page 24 of 32  
Permit No. SC0035564

1. If in the future the facility must dispose of sludge or solids, the Permittee must apply to the Bureau of Water for a sludge disposal permit or approval and obtain written permission prior to actual removal of sludge.

E. Land Application Requirements

Not applicable to this permit.

F. Instream Biological Assessment

Not applicable to this permit.

**DRAFT 6/30/2015**Part IV  
Page 25 of 32  
Permit No. SC0035564**Part IV. Schedule of Compliance****A. Schedule(s)**

1. The existing facility is designated by the 208 Plan as a temporary treatment facility to be connected to the currently operational Town of Lexington (Town) regional sewer (i.e., force main sewer transferring flow from Lexington to Cayce). Such connection would eliminate the discharge to the Saluda River. To connect to the Town, DHEC recognizes that the Public Service Commission (PSC) must approve an agreement related to connection to the regional sewer line. No later than November 30, 2016, the permittee shall either submit to the PSC a request for interconnection to the Town's system or provide a justification as to why pursuit of PSC approval is not warranted at that time.
2. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedules:
  - a. The following schedule shall be utilized to upgrade the treatment facility to meet the more stringent Dissolved Oxygen and Ultimate Oxygen Demand limitations:
    - (1) Submit an administratively and technically complete preliminary engineering report for facility upgrade as required by applicable regulations by November 1, 2015, or if the facility can meet the final limits without an upgrade, submit a written request by November 1, 2015 to place the final limits into effect. If final limits are placed into effect, the remaining schedule dates noted in (2) through (5) below, will no longer be applicable.
    - (2) Submit administratively and technically complete construction permit application (DHEC Form 1970) for facility upgrade as required by applicable regulations by May 1, 2016.
    - (3)
      - (a) Start construction for facility upgrade by September 1, 2016.
      - (b) On or before September 1, 2017 submit an interim report of progress toward completion of construction, indicating a projected completion date.
    - (4) Complete construction for facility upgrade by September 1, 2018.
    - (5) Comply with the final effluent limits by October 1, 2018.
3. The UOD final limit may be subject to a permit modification if changes are made to either the dissolved oxygen model or to the allocation of UOD reductions in conjunction with other dischargers.
4. The permittee shall achieve compliance with the Whole Effluent Toxicity limitations specified for discharges in accordance with the following schedules:

Not applicable to this permit.
5. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each scheduled date.

**DRAFT 6/30/2015**Part V  
Page 26 of 32  
Permit No. SC0035564**Part V. Other Requirements****A. Effluent Limitations and Monitoring Requirements**

1. There shall be no discharge of floating solids or visible foam in other than trace amounts, nor shall the effluent cause a visible sheen on the receiving waters.
2. a. Effluent samples taken in compliance with the monitoring requirements specified in Part III, shall be taken at the following location(s): nearest accessible point after final treatment but prior to actual discharge or mixing with the receiving waters.  
  
b. Influent samples taken in compliance with the monitoring requirements specified in Part III, shall be taken at the following location(s): nearest accessible point prior to any primary treatment unit (e.g. after the bar screen and before primary treatment).
3. Samples shall be collected in accordance with Part I.
4. MR = Monitor and Report only.

**B. Effluent Toxicity Limitations and Monitoring Requirements****1. Acute Toxicity**

Not applicable to this permit.

**2. Chronic Toxicity**

Not applicable to this permit.

**3. Biological Assessment**

Not applicable to this permit.

**C. Groundwater Requirements**

See Part III.C.

**D. Sludge Disposal Requirements**

1. [Reserved]
2. a. The permittee must obtain prior Departmental approval of planned changes in the facility when the alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use of disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.  
  
b. The sludge disposal permit may be modified or revoked and reissued if there are material and substantial alterations or additions to the permitted facility or activity (including a change or changes

**DRAFT 6/30/2015**Part V  
Page 27 of 32  
Permit No. SC0035564

in the permittee's sludge use or disposal practice) which occurred after the permit issuance which justify the application of permit conditions which are different from or absent in the existing permit.

3. The sludge disposal permit may be terminated if there is a change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit.
4. Periodic inspections will be conducted by Department authorized representatives to ensure compliance with State regulations and permit stipulations. Any necessary modification to this permit may be based upon these evaluations.
5. Records of monitoring required by the permits related to sludge use and disposal activities must be kept at least five (5) years (or longer as required by 40 CFR Part 503 or R.61-9.503).
6. Sludge monitoring procedures shall be those specified in 1) R.61-9.503; 2) 40 CFR Part 503; 3) 40 CFR Part 136; or 4) other procedures specified in the sludge permit (in that order of "preference" depending on the availability and applicability of a particular method at the time the sludge permit is issued).
7. The permittee shall submit the results of all sludge monitoring if done more frequently than required by the sludge permit. The permittee may be required to maintain specific records at the facility and on request may also be required to furnish them to the Department.
8. Odor Control Requirements

The permittee shall use best management practices normally associated with the proper operation and maintenance of a sludge wastewater treatment site, any sludge storage or lagoon areas, transportation of sludges, and all individual activities permitted under R.61-9.503 to ensure that an undesirable level of odor does not exist.

- a. The permittee is required to prepare an odor abatement plan for the sewage sludge treatment sites, any sludge storage or lagoon areas, and land application or surface disposal sites. It must be noted this state regulation that went into effect on June 27, 2003, and continues in effect, required permittees that land-apply sludge to prepare the plan by December 24, 2003. Otherwise, the permittee had until June 27, 2004 to prepare the plan and this requirement remains in effect. The plan must have included the following topics:
  - (1) Operation and maintenance practices which are used to eliminate or minimize undesirable odor levels in the form of best management practices for odor control.
  - (2) Use of treatment processes for the reduction of undesirable odors;
  - (3) Use of setbacks.
  - (4) Contingency plans and methods to address odor problems for the different type of disposal/application methods used.
- b. Unless otherwise requested, prior to issuance of a new or expanded land application disposal permit (either NPDES or ND), the Department may review the odor abatement plan for compliance with this Part (503.50). The Department may require changes to the plan as appropriate.

**DRAFT 6/30/2015**Part V  
Page 28 of 32  
Permit No. SC0035564

- c. No permittee may cause, allow, or permit emission into the ambient air of any substance or combinations of substances in quantities that an undesirable level of odor is determined to result unless preventative measures of the type set out below are taken to abate or control the emission to the satisfaction of the Department. When an odor problem comes to the attention of the Department through field surveillance or specific complaints, the Department may determine, in accordance with section 48-1-120 of the Pollution Control Act, if the odor is at an undesirable level by considering the character and degree of injury or interference to:
- (1) The health or welfare of the people;
  - (2) Plant, animal, freshwater aquatic, or marine life;
  - (3) Property; or
  - (4) Enjoyment of life or use of affected property.
- d. After determining that an undesirable level of odor exists, the Department may require:
- (1) the permittee to submit a corrective action plan to address the odor problem,
  - (2) remediation of the undesirable level of odor within a reasonable timeframe, and
  - (3) in an order, specific methods to address the problem.
- e. In accordance with R.61-9.503.50(e), if the permittee fails to control or abate the odor problems addressed in this section within the specified timeframe, the Department may revoke disposal/application activities associated with the site or the specific aspect of the sludge management program.

**E. Land Application**

Not applicable to this permit.

**F. Pretreatment**

1. [Reserved]
2. Prohibited Discharges

The Permittee shall prohibit in the discharge of pollutant(s) into its treatment works by any non-domestic source(s), if such pollutant(s) may inhibit or interfere with the operation or performance of the works. Further, the Permittee shall prohibit the introduction of the following pollutants into its treatment works:

- a. Pollutant(s) which create a fire or explosion hazard in the Permittee's facility, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
- b. Pollutant(s) which will cause corrosive structural damage to the Permittee's facility, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges.

**DRAFT 6/30/2015**

Part V  
Page 29 of 32  
Permit No. SC0035564

- c. Solid or viscous pollutant(s) in amounts which will cause obstruction to the flow in the Permittee's facility resulting in interference.
- d. Any pollutant, including oxygen demanding pollutants, (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the Permittee's facility.
- e. Heat in amounts which will inhibit biological activity in the Permittee's facility resulting in Interference, but in no case heat in such quantities that the temperature at the Permittee's facility exceeds 40°C (104°F) unless the Department, upon request of the Permittee, approves alternate temperature limits.
- f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the Permittee's facility in a quantity that may cause acute worker health and safety problems.
- h. Any trucked or hauled pollutants, except at discharge points designated by the Permittee.

Upon development of specific limits for these pollutant categories, either in an approved Pretreatment Program or otherwise, such limits shall be deemed prohibitions for the purpose of Section 307(d) of the Act and shall be enforceable in lieu of the general prohibitions set forth above.

**G. Additional Operational Requirements**

- 1. The wastewater treatment plant is assigned a classification of Group II-B (Biological) in the Permit to Construct which is issued by the Department. This classification corresponds to an operator with a grade of C.
- 2. The wastewater treatment plant is assigned a Reliability Classification of Class I, in accordance with Section 67.400 "Reliability Classifications" of the Standards for Wastewater Facility Construction: R.61-67.
- 3. For parameters with a sample frequency of once per month or greater, the Permittee shall monitor (at least one sample) consistent with conditions established by this Permit on the first (1<sup>st</sup>) Thursday of every calendar month, unless otherwise approved by the Department. (For example; with a once per week (01/07) sampling frequency, the permittee shall monitor one weekly sample on the day of the week noted during the monthly DMR reporting period.)

For parameters with a sampling frequency of less than once per month (if any), the permittee shall monitor these parameters on specific date noted above on any of the months during the appropriate reporting period unless otherwise approved by the Department. (For example, with a once per quarter (1/90) sampling frequency, the permittee may monitor on the day of the week noted in either the first, second or third month in the quarterly reporting period.)

For parameters requiring multiple samples for a single test the Permittee may collect the samples on any date during the reporting period, unless otherwise approved by the Department. The permittee must notify the Department of the planned sampling dates upon request.

In accordance with R.61-9.122.41(j)(1)(iii), the Department may waive compliance with the permit requirement for a specific sampling event for extenuating circumstances. Additional monitoring, as

## DRAFT 6/30/2015

Part V  
Page 30 of 32  
Permit No. SC0035564

necessary to meet the frequency requirements of this Permit (Part III.A., III.B., and III.C., if applicable) shall be performed by the Permittee.

4. [Reserved]
5. For the parameters listed that are not quantifiable using EPA-approved analytical methods, the practical quantitation limit (PQL) using the analytical method stated below shall be considered as being in compliance with the limit provided. In cases where the limit is not quantifiable using EPA approved analytical methods, appropriate biological monitoring requirements are incorporated into the permit.

For purposes of reporting, the Permittee shall use the reporting threshold equivalent to the PQL listed below and conduct analyses in accordance with the method specified below:

Parameter	Analytical Method	PQL
Total Residual Chlorine	SM4500Cl B, C, D, F or G	0.050 mg/l
Total Phosphorus	365.1 (Rev. 2.0 1993), 365.3, 365.4, or SM 4500 P, E, or F	0.050 mg/l

The Permittee can however use another analytical method (40 CFR Part 136 approved) from a SCDHEC certified laboratory with a PQL equal to or lower than the PQL listed above. If the permittee is using a PQL below the PQL listed above, then for purposes of reporting, the lower PQL shall be used in accordance with Part II.J.4.b.

### H. Wastewater Design Flow

- a. For the purposes of identification of the treatment capacity (under R.61-67.300.A.8), the design flow is 0.8 MGD.
- b. For NPDES billing (under R.61-30.B(2)(b)), the "actual flow" limit for this wastewater treatment facility shall be identified as the design flow of 0.8 MGD.

### I. Water Treatment Plant Notification

The permittee shall notify the following downstream water treatment plants of any emergency condition, plant upset, bypass or other system failure, which has the potential to affect the quality of water withdrawn for drinking purposes:

- (1) Intake # S32102 - City of West Columbia, Sunset Plant
- (2) Intake # S32109 - City of Cayce

This notification should be made as soon as possible and in anticipation of such event, if feasible, without taking away any response time necessary to attempt to alleviate this situation.



**DRAFT 6/30/2015**

Part V  
 Page 31 of 32  
 Permit No. SC0035564

**BACTERIA SUPPLEMENTAL DATA SHEET**

**MONITORING PERIOD**

YEAR MO DAY		YEAR MO DAY	
FROM		TO	

Select the current daily maximum limit	<input type="checkbox"/> 349 MPN/100 ml (E.coli) <input type="checkbox"/> 104 MPN/100 ml (Enterococci) <input type="checkbox"/> 501 MPN/100 ml (Enterococci) <input type="checkbox"/> 43 MPN/100 ml (Fecal coliform)
--	---

1. Report data and sample time for daily maximum bacteria value greater than the permitted limitation.

Sample Result (MPN/100 ml) §	Sample Date (mm/dd/yyyy)	Sample Time (24 Hr. Format)	Parameter
	/ /	: hrs	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform

§ Sample result above must be less than or equal to 800 MPN/100 ml for E. coli and Enterococci or less than or equal to 200 MPN/100 ml for Fecal Coliform to use this form.

2. Two additional bacterial samples collected within 48 hours of the original sample result (of item #1) that exceeded the daily maximum limitation.

Sample Number	Sample Result (MPN/100 ml)	Sample Date (mm/dd/yyyy)	Sample Time (24 Hr. Format)	Parameter
1.		/ /	: hrs	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform
2.		/ /	: hrs	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform

The two additional sample results in item #2, do not exceed the daily maximum bacteria limits in the permit and were collected within 48-hours of the original sample result of item #1.

☐ Yes

☐ No\*

3. Report the total number of bacterial samples collected in the previous twelve months: \_\_\_\_\_  
 (If requested, this data must be provided to the Department to verify this information)

4. Choose one of the following:

- a. ☐ The number from item #3 above is less than 120; and no more than one (1) bacterial sample exceeded the daily maximum limit in the previous twelve (12) months, and that value is identified in item #1 above.

**DRAFT 6/30/2015**

Part V  
Page 32 of 32  
Permit No. SC0035564

- b. ☐ The number in item #3 above is 120 samples or more, and no more than four (4) individual bacterial samples exceeded the daily maximum limit in the previous twelve (12) months, and those values were:

Sample Number	Sample Result (MPN/100 ml)	Sample Date (mm/dd/yyyy)	Parameter
1.	Same as Item #1 above	Same as Item #1 above	Same as Item #1 above
2.		/ /	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform
3.		/ /	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform
4.		/ /	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform

- c. ☐ Neither (a) **nor** (b) above is true\*.

5. The following statements are true:

- The disinfection equipment and wastewater solids handling system were fully functional and operating during this monitoring period.
- There is neither an existing Consent Order nor Administrative Order is associated with the facility's operation of this disinfection system.
- The laboratory data included with this report is sufficiently sensitive to accurately represent the effluent bacteria concentrations. No values for the monitoring period were reported as ">" greater than.

\* If you check any of the starred boxes or if statements 5(a), (b) or (c) are not true, you cannot use this form.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Name: \_\_\_\_\_

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

**Note:** The bacteria supplemental data sheets are required only in the event the permittee reports bacteria data under Part III.A.4.

# **EXHIBIT E**

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 96-235-W/S - ORDER NO. 96-859

DECEMBER 13, 1996

IN RE: Application of Carolina Water Service, ) ORDER DENYING  
Inc. for Approval of a Transfer of the ) ISSUANCE OF  
I-20 and Lake Murray Systems to the ) CERTIFICATE OF  
Town of Lexington, South Carolina. ) PUBLIC INTEREST

This matter comes before the Public Service Commission of South Carolina ("the Commission") on the Application filed by Carolina Water Service, Inc. ("CWS" or "the Company") in which CWS requested the Commission to approve the transfer to the Town of Lexington, South Carolina ("the Town") of water distribution, water storage, and wastewater collection systems and certain related real and personal property which are used for the distribution and storage of water and the collection of wastewater in certain subdivisions in the Company's I-20 service area and in the Company's Lake Murray service area. The Company's Application was filed pursuant to S.C. Code Regs. 103-504 and 103-704 (1976).

By letter dated July 19, 1996, the Commission's Executive Director instructed CWS to publish a prepared Notice of Filing, once, in newspapers of general circulation in the area affected by the Application. The Executive Director also directed the Company to furnish a copy of the Notice of Filing to each customer. The Company complied with the instructions of the Executive Director

DOCKET NO. 96-235-W/S - ORDER NO. 96-859  
DECEMBER 13, 1996  
PAGE 2

---

and supplied an Affidavit of Publication and a Certificate of Service as proof of compliance. The purpose of the Notice of Filing was to inform interested persons of the Company's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Petitions to Intervene were filed by Midlands Utility, Inc. ("Midlands"); the Consumer Advocate for the State of South Carolina ("the Consumer Advocate"); Concerned Citizens Against Carolina Water, Inc. ("CCACW"); Brenda Bryant; B. Reed Bull, Jr.; and W.J.S., Inc. ("W.J.S").

On September 30, 1996, the Commission held a public night hearing at the Oak Grove Community Center in Lexington County, South Carolina. The purpose of the night hearing was to allow customers of CWS in the I-20 and Lake Murray service areas to present their views to the Commission regarding the Company's Application.

On November 6, 1996, at 10:30 a.m., the Commission convened a public hearing in the Commission's hearing room at 111 Doctors Circle in Columbia, South Carolina. The Honorable Guy Butler, Chairman, presided. CWS was represented by Robert T. Bockman, Esquire; Midlands and W.J.S were represented by Frank R. Ellerbe, III, Esquire; the Consumer Advocate was represented by Elliott F. Elam, Jr., Esquire; Concerned Citizens was represented by Jonathan Harvey, Esquire; and Brenda Bryant and B. Reed Bull, Jr. each appeared pro se. At the beginning of the hearing, an attorney from the Office of the Attorney General for the State of South Carolina

DOCKET NO. 96-235-W/S - ORDER NO. 96-859  
DECEMBER 13, 1996  
PAGE 3

---

("the Attorney General") stated an oral Motion to Intervene. Counsel for the Attorney General stated that by inadvertence the Attorney General's Office failed to file a Petition to Intervene in these proceedings. The Commission granted the Attorney General's Motion to Intervene, and the Attorney General's Office was represented by Assistant Attorney General Christie Barrett.

In support of its Application, CWS presented the testimony of Carl Daniel, Regional Vice President for several operating subsidiaries of Utilities, Inc., the parent company of CWS, and Sidney F. Varn, Jr., Director of Public Works and Engineering for the Town of Lexington. At the request of the Consumer Advocate, CWS also made available to testify Carl Wenz, Vice President - Regulatory Matters of Utilities, Inc. Midlands presented the testimony of Keith Parnell, Operations Manager of Midlands. CCACW called as witnesses Jodi Steigerwalt, Director of Business Filings for the Office of the Secretary of State for South Carolina; Donna Morrow; L.C. Greene, Town Administrator for the Town of Lexington; Mike Burkhold of Burkhold Planning and Management; Brenda Bryant; and Keith Murphy, Regional Director for CWS in South Carolina. Brenda Bryant also testified as an individual intervenor. B. Reed Bull, Jr. also testified.

#### APPLICABLE LAW

S.C. Code Ann. Reg. 103-504 (1976) provides in relevant part that "[n]o existing public utility supplying sewerage disposal to the public ... shall hereafter sell, acquire, begin the construction or operation of any utility system, or of any

DOCKET NO. 96-235-W/S - ORDER NO. 96-859  
DECEMBER 13, 1996  
PAGE 4

---

extension thereof, without first obtaining from the Commission a certificate that the sale or acquisition is in the public interest ... " (Emphasis added.)

S.C. Code Ann. Reg. 103-704 (1976) provides in relevant part that "[n]o existing public utility supplying water to the public ... shall hereafter sell, acquire, begin construction or operation of any utility system, or of any extension thereof, without first obtaining from the Commission a certificate that the sale or acquisition is in the public interest ... " (Emphasis added.)

#### DISCUSSION

The question before the Commission in this case is whether the sale of the CWS water distribution and wastewater collection systems, and associated property, in the Company's I-20 and Lake Murray subdivisions is "in the public interest."

Numerous customers from the I-20 and Lake Murray service areas appeared before the Commission and offered testimony at the night hearing and the hearing held at the Commission. The customers who appeared before the Commission were strongly opposed to the proposed transfer to the Town of Lexington. A common complaint or concern from the consumers was the prospect of the Town of Lexington setting rates for water and sewer. The I-20 and Lake Murray services areas are beyond the municipal limits of the Town of Lexington. Rates for water and sewer service provided by the Town of Lexington are set by the Lexington Town Council. The customers in the present CWS I-20 and Lake Murray services areas would not have a representative or councilman on the Lexington Town

DOCKET NO. 96-235-W/S - ORDER NO. 96-859  
DECEMBER 13, 1996  
PAGE 5

---

Council. Based on the testimony presented, the customers are concerned about a lack of representation on the town council when it comes time to set rates. Certainly, the customers could appear before the town council and express their opinions, but the customers are very concerned that they have no influence, such as by vote, over the town council.

The Company presented testimony that the Town of Lexington had agreed to "freeze" or hold the present rates for a period of 12 to 18 months. While the Commission has no reason to doubt that the Town will hold its rates for that period, the Commission is also aware that it has no authority over the Town to enforce this "freeze" on rates. Further, the Commission is concerned about what would happen to the rates after the "freeze" expires. According to the Company's presentation, the Town asserts that the rates may go down after 18 months. The Town asserts that enlarging the customer base will allow the Town to spread the costs further and that economies of scale will allow the Town to reduce rates. However, with regard to the CWS service area, neither the Town nor CWS has presented a feasibility study or rate study to support this testimony. Other than an assurance from the Town that it will freeze rates for a period of 12 to 18 months, CWS has not provided the Commission with any reliable information regarding what will happen after that initial 12 to 18 month period.

The prospect of higher rates was also a significant concern of the consumer witnesses. According to the testimony of several consumer witnesses at the night hearing, the Town's "out-of-town"



DOCKET NO. 96-235-W/S - ORDER NO. 96-859  
DECEMBER 13, 1996  
PAGE 6

---

rates will result in increased bills from what they are currently paying. Donna Morrow testified that the Town's "out-of-town" rates would result in an immediate increase in her water and wastewater bills.

The Commission notes with interest the results of the balloting of customers in the I-20 and Lake Murray service areas. Pursuant to Commission Order No. 96-694, dated October 7, 1996, the Commission ordered the customers in the I-20 and Lake Murray service areas to be balloted to determine the wishes of the customers regarding the proposed transfer. Of the completed ballots returned to the Commission by the deadline, 61% opposed the transfer. The Commission also notes that not one customer testified before the Commission in support of or to speak in favor of the transfer.

Additionally, the Commission is concerned about the uncertainty of the effect of the transfer upon the customers of CWS who are outside the I-20 and Lake Murray service areas. CWS has made no showing as to the effect or potential effect on the remaining CWS customers from the loss of the customer base from the transfer of the I-20 and Lake Murray services areas. The Consumer Advocate through his cross examination elicited what the Commission feels demonstrates uncertainty as to what may be experienced by the remaining CWS customers. This uncertainty leaves the Commission with questions as to whether the remaining customers would be subjected to severe upward pressures on their rates.

DOCKET NO. 96-235-W/S - ORDER NO. 96-859  
DECEMBER 13, 1996  
PAGE 7

---

The Commission is aware that CWS has some of the highest rates among regulated water and wastewater utilities in the state. Mrs. Bryant offered testimony that the rates charged by CWS are among the highest in the state. The Commission is also aware that CWS is one of the largest water and wastewater utilities in the state in terms of number of customers. Generally, economies of scale are such that a company with a large number of customers should be able to serve those customers at lower costs than a small company with a small number of customers. Based on the comparison of rates to the number of customers, economies of scale do not appear to be working in favor of customer in the case of CWS. Furthermore, CWS has not attempted to make any demonstration on what impact the proposed transfer would have on the customer base remaining with CWS after the transfer. To sever approximately 3,000 customers from the present CWS customer base would significantly alter the customer base which could have a severe impact on the remaining customers.

#### CONCLUSION

The Commission, vested with the power and jurisdiction to supervise and regulate the rates and service of every public utility in this State pursuant to S.C. Code Ann. §58-3-140 (Supp. 1995), is the duly constituted agency to determine whether the proposed transfer is "in the public interest." In making its determination, the Commission must consider all interested parties to the transaction, which in this case includes the Company, the Town of Lexington, and the customers of CWS, which necessarily includes those customers who are subject to the transfer and those

DOCKET NO. 96-235-W/S - ORDER NO. 96-859  
DECEMBER 13, 1996  
PAGE 8

---

customers who would remain with CWS after the transfer. As direct financial beneficiaries of the transfer, CWS and the Town desire approval of the transfer. The consumers who appeared before the Commission to present testimony were all opposed to the transfer.

Upon careful consideration of this matter, the Commission is left with several areas of concern. The Commission is concerned that the customers in the I-20 and Lake Murray service areas would not have representation in rate setting matters. The Commission is concerned that as a result of the transfer, the customers of the I-20 and Lake Murray service areas would face higher bills than what they are currently paying. That concern is further increased with the uncertainty of what may happen to those customers after the 12 to 18 month "freeze" on rates that the Town has proposed. Also of concern to the Commission is the effect of the transfer on the CWS customers outside the I-20 and Lake Murray service areas; CWS has not adequately addressed how its customers outside the I-20 and Lake Murray services areas would be affected by the transfer to the Town.

As the Applicant requesting approval of the proposed transfer, CWS has the burden of proof to demonstrate that the transfer is "in the public interest." Based on the record before the Commission, the Commission finds and concludes that the Company did not meet its burden of proof in establishing that the transfer is "in the public interest." Therefore, the Commission cannot issue a certificate that the sale is in the public interest.

DOCKET NO. 96-235-W/S - ORDER NO. 96-859  
DECEMBER 13, 1996  
PAGE 9

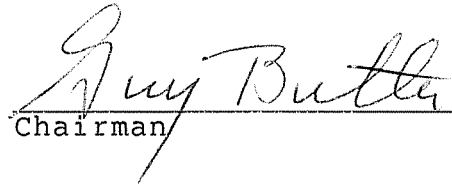
---

IT IS THEREFORE ORDERED THAT:


1. The Commission cannot issue a certificate that the proposed sale is in the public interest as required by S.C. Code Ann. Reg. 103-504 and 103-704 (1976).

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)

# **EXHIBIT F**

**WASTEWATER SERVICES AGREEMENT**

**AMONG**

**CITY OF CAYCE, SOUTH CAROLINA,**

**TOWN OF LEXINGTON, SOUTH CAROLINA**

**AND**

**JOINT MUNICIPAL**

**WATER AND SEWER COMMISSION**

**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE**  
**FEDERAL ARBITRATION ACT, 9 U.S.C. § 1 ET SEQ.,**  
**OR IN THE ABSENCE OF A FINDING OF INTERSTATE COMMERCE, TO**  
**S.C. CODE ANNOTATED §15-48-10 ET SEQ.**

## Table of Contents

Background and Findings .....	1
-------------------------------	---

### ARTICLE I DEFINITIONS

Section 1.01 Definitions .....	8
--------------------------------	---

### ARTICLE II GENERAL REPRESENTATIONS AND COVENANTS; TERM

Section 2.01 Representations of Seller .....	16
Section 2.02 Ownership and Sale of the Cayce Wastewater Facilities.....	16
Section 2.03 New Plant Construction and Surface Water Discharge Rights.....	16
Section 2.04 Representations of Each Purchaser.....	17
Section 2.05 Purchaser’s Rate Covenant .....	18
Section 2.06 Cooperation in Issuance of Obligations by Each Purchaser .....	18
Section 2.07 Cooperation in Issuance of Obligations by Seller.....	19
Section 2.08 Term of Agreement; Supersedes Prior Agreements .....	19

### ARTICLE III SALE AND PURCHASE OF WASTEWATER SERVICES AND ALLOCATED CAPACITY

Section 3.01 All Requirements; New Plant Construction; Agreed Upon Additional Capacity; Improvement Bond Commitment and Use of Proceeds; Lump Sum Payment .....	21
Section 3.02 Sale of Wastewater Services; Delivery Sites of Wastewater to Seller; Flow Limited and Increases; Exceeding Allocated Capacity; Wastewater Characteristics and Limitations. ....	22
Section 3.03 Payment for Wastewater Services; Calculation of Revenue Requirement; Absolute Obligation.....	24
Section 3.04 Annual Budget and Adjustments to Revenue Requirement; Accounting for Charges and Establishing Cayce Wastewater Facilities Renewal and Replacement Fund; Investment Earnings; Lexington Deferred Credit....	25
Section 3.05 Capital Costs Not Related to Increases of a Purchaser’s Allocated Capacity in Cayce Wastewater Facilities Except Transmission Lines ....	26

Section 3.06	Transmission Line Operation and Maintenance; Upgrade Agreements ..27
Section 3.07	Transmission Line Improvements and Repairs; Costs Not Related to Increases of Transmission Line Capacity .....28
Section 3.08	Measurement of Wastewater Flows.....29
Section 3.09	Operation and Maintenance of Seller’s Wastewater System.....29
Section 3.10	Books and Records .....30
Section 3.11	Priority of Pledge; Additional Obligations .....30
Section 3.12	Annual Budget .....31
Section 3.13	Sale of Services Related to Wastewater and Allocated Capacity .....31

#### ARTICLE IV FUTURE EXPANSION OF CAYCE WASTEWATER FACILITIES

Section 4.01	Expansion of the Cayce Wastewater Facilities to Provide Additional Capacity, Excluding the Transmission Lines .....34
Section 4.02	Installation of Additional Transmission Lines.....35

#### ARTICLE V EVENTS OF DEFAULT; REMEDIES

Section 5.01	Events of Default; Remedies .....37
Section 5.02	Failure to Pay; Loss of Allocated Capacity .....38

#### ARTICLE VI FORCE MAJEURE

Section 6.01	Effects of Force Majeure .....40
--------------	----------------------------------

#### ARTICLE VII ISSUANCE OF IMPROVEMENT BONDS AND DEBT SERVICE RESERVE FUNDS ESTABLISHED THEREFOR

Section 7.01	Improvement Bonds.....41
Section 7.02	State Clean Water Revolving Fund Loan; Loan Allocation .....41
Section 7.03	Debt Service Reserve Fund.....42



# ARTICLE VIII MISCELLANEOUS

Section 8.01	Dispute Resolution; Binding Arbitration; Waiver of Jury Trial; Jurisdiction and Venue.....	43
Section 8.02	Notices .....	44
Section 8.03	Authority/Beneficiaries.....	44
Section 8.04	Severability .....	45
Section 8.05	Counterparts.....	45
Section 8.06	Governing Law .....	45
Section 8.07	Amendments .....	45
Section 8.08	No Adverse Presumption .....	45
Section 8.09	Third Parties.....	45
Section 8.10	Captions .....	45
Section 8.11	Further Assurances .....	45

**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE  
FEDERAL ARBITRATION ACT, 9 U.S.C. § 1 ET SEQ.,  
OR IN THE ABSENCE OF A FINDING OF INTERSTATE COMMERCE,  
TO S.C. CODE ANNOTATED §15-48-10 ET SEQ.**

This **WASTEWATER SERVICES AGREEMENT** made as of this 28th day of August, 2009, by and among the **CITY OF CAYCE, SOUTH CAROLINA** ("Seller" or "Cayce"), the **TOWN OF LEXINGTON, SOUTH CAROLINA** ("Lexington") and the **JOINT MUNICIPAL WATER AND SEWER COMMISSION** ("Commission"). Lexington and Commission may also be referenced as a "Purchaser" and, together, as "Purchasers."

**BACKGROUND AND FINDINGS**

(A) Cayce is a municipal corporation of the State of South Carolina chartered on September 7, 1914, located in Lexington County, South Carolina and, as such, possesses all general powers granted by the Constitution and statutes of the State of South Carolina to such public entities. Pursuant to the applicable provisions of law there was established in 1935, a waterworks system of Cayce and, thereafter, in 1938, a wastewater system of Cayce which have both been continuously operated and maintained since the occasion of their establishment. Pursuant to an ordinance adopted February 16, 1955, Cayce's waterworks system and wastewater system were combined into one system, effective as of such date ("Seller's Combined System"). Seller's Combined System is operated under the control of City Council, Cayce's governing body, and provides water and wastewater services both within the incorporated limits of Cayce and in the territory adjacent thereto.

(B) Lexington is a municipal corporation organized and existing under the laws of the State of South Carolina, located in Lexington County, South Carolina and, as such, possesses all general powers granted by the Constitution and statutes of the State of South Carolina to such public entities. Pursuant to the applicable provisions of law, including the successful results of a referendum held in Lexington, South Carolina on September 29, 1925, Lexington did construct a waterworks and a sewer system. By ordinance enacted on November 8, 1949 and pursuant to the authorization vested in its Town Council, the waterworks system and the sewer system were combined into a single system designated as "combined utility system." This combined utility system has been continuously operated and maintained since the occasion of its establishment and is operated under the control of the Town Council of the Town of Lexington, Lexington's governing body, and provides water and wastewater services both within the incorporated limits of Lexington and in the territory adjacent thereto.

(C) The Commission was created pursuant to the provisions of Chapter 25 of Title 6, Code of Laws of South Carolina (1976), as amended, as a governmental entity for the purpose of establishing a comprehensive water and sewer system to serve principally those areas of Lexington County outside of the incorporated areas. Initially formed by Lexington County, Cayce, the Town of Swansea and the Town of Pelion, the Commission also has as members Lexington, the City of West Columbia, the Town of Batesburg-Leesville, the Gilbert-Summit Rural Water District, the Town of Springdale, the Town of South Congaree, and the Town of

Gaston. Pursuant to the applicable provisions of law the Commission acquired a water and sewer system then owned and operated by Lexington County, South Carolina. This system has been continuously operated and maintained since the occasion of its establishment under the control of the Commissioners, the Commission's governing body, and provides water and wastewater services within the limits of Lexington County.

(D) As a part of Seller's Wastewater System (as defined below), Seller constructed a wastewater treatment plant known as the E. H. Heustess Jr. Wastewater Treatment Plant and related facilities on property located at 539 Old State Road, Cayce, South Carolina (the "Existing Plant") and discharges effluent into the Congaree River. The management, or service area, of the Existing Plant, which is defined in the 208 Water Quality Management Plan for the Central Midlands Region ("208 Plan"), encompasses Cayce, the Town of Pine Ridge, the Town of South Congaree, the Town of Springdale as well as the Three Fountains area and other unincorporated areas of Lexington County. Through contractual agreements with the Commission and Lexington (as more fully described below), wastewater from large areas in the central and southern portions of Lexington County, outside of Cayce's service area, is also treated, or will be treated in the future by Seller's Wastewater System.

(E) The Existing Plant was originally constructed in the 1970s with one treatment train having an average capacity of 4.0 million gallons per day ("MGD"). In the late 1980s, a second identical treatment train was added, boosting the average capacity to 8.0 MGD. In 1997, the South Carolina Department of Health and Environmental Control ("SCDHEC") approved a Preliminary Engineering Report (the "1997 PER") to expand the facility from 8.0 MGD to 12.0 MGD. Upon approval of the 1997 PER, Cayce's discharge permit ("NPDES Permit") was modified to allow a discharge of 12.0 MGD upon the completion of the proposed expansion project, and Cayce was permitted to begin selling capacity up to 12.0 MGD; however, the discharge limit was held at 8.0 MGD until the upgrade was completed. In 2001, after approval of a study demonstrating that the Existing Plant was capable of treating an average flow of 9.5 MGD without any modifications to its treatment facility, SCDHEC again modified Cayce's NPDES Permit to allow discharge at a rate of 9.5 MGD until the upgrade to 12.0 MGD was completed. The Existing Plant presently operates in compliance with permits issued by SCDHEC's Bureau of Water.

(F) During the mid-1990s, Cayce entered into agreements with both the Commission and Lexington for the purchase and sale of significant amounts of capacity in the Existing Plant to serve the central and southern portions of Lexington County. These purchases were in accordance with the 208 Plan, which identifies the Existing Plant as the regional treatment facility for the Commission and Lexington. The agreement with Lexington came after the 208 Plan was amended to allow Lexington to provide sewer service to the 12 and 14 Mile Creek basin located in central Lexington County. The amendment allowed flow from the basin to be collected by Lexington into the 12 and 14 Mile Creek sewer pump station constructed by Lexington. This flow then enters into a sewer force main constructed by Lexington (the "Current 12 & 14 Mile Creek 24" Sewer Force Main") which connects to other transmission lines to reach the Existing Plant for treatment, thereby permitting the development of a centralized sewer system to serve the basin. The capacity purchased by the Commission also allowed wastewater formerly treated at the Commission's Two Notch Road and Old Barnwell wastewater treatment

plants to be pumped through a sewer force main constructed by the Commission (the “Old Barnwell WWTP Interconnection”) to the Existing Plant for treatment. A smaller portion of the capacity purchased by the Commission is used to accommodate flow from the Gaston and Swansea areas of Lexington County through an additional sewer force main constructed by the Commission (the “Highway 321 Regional Sewer Force Main”) which is connected to the Existing Plant.

(G) In July of 2001, the Commission purchased a total of 2.5 MGD of future capacity under its agreement with Cayce in addition to 0.126 MGD (126,000 gallons per day (“GPD”)) already purchased, while Lexington purchased an additional 2.0 MGD of capacity to supplement the 2.462 MGD of capacity that Lexington had already purchased under its contract. With the sale of this additional capacity in 2001, it became apparent to Cayce that the need existed to expand its facility beyond the 12.0 MGD originally planned.

(H) A Preliminary Engineering Report and a NPDES Permit application to expand the Existing Plant capacity to 16.0 MGD were approved by SCDHEC in 2003. Thus, Cayce had SCDHEC approval to increase capacity for the treatment of wastewater at the Existing Plant from 12.0 MGD to 16.0 MGD and had contractually committed approximately 15.0 MGD of that capacity in the Existing Plant. Of the total committed flow, approximately 10.1 MGD or 84 percent of Cayce’s 12.0 MGD of available NPDES Permit permitting capacity had been permitted or released to the Commission and Lexington for their use. The majority of the increase since the 1997 PER was the result of additional capacity purchases under the contractual agreements with the Commission and Lexington.

(I) Also in 2003, Cayce submitted a request to the Central Midlands Council of Governments (“CMCOG”) for an amendment to the 208 Plan for expansion of the Existing Plant to 24.0 MGD. While the 208 Plan conformance for expansion to 16.0 MGD was granted in 2002, a request for plan conformance for expansion to 24.0 MGD was denied by the CMCOG board. Having permitted or contractually committed nearly 16.0 MGD of capacity, Cayce, in its request for a 208 Plan amendment, was seeking an assurance that it would be allowed to expand its treatment facilities beyond the previously permitted 16.0 MGD. Assurance of the ability to continue expansion of the Existing Plant beyond 16.0 MGD was necessary in order to continue to offer additional capacity to Lexington and the Commission and, therefore, maintain consistency with the 208 Plan, which promotes the elimination of discharges and the consolidation of treatment facilities. In May of 2004, Cayce received approval from the CMCOG of its request for 208 Plan conformance for expansion to 24.0 MGD. The approval was, however, subject to a limitation of effluent waste loading into the Congaree River to the levels granted for discharge at 16.0 MGD.

(J) Wastewater Construction Permit No. 32027-WW was issued by SCDHEC on January 12, 2006, which permitted the upgrade and expansion of the Existing Plant to treat a monthly average flow of 16.0 MGD. As Cayce proceeded with preparations to advertise bids for construction of the upgrade and expansion to 16.0 MGD, Lexington and the Commission submitted requests for the purchase of additional capacity in the Existing Plant. Having conditionally purchased from Cayce another 2.0 MGD in 2004, Lexington approached Cayce with a request for an additional 6.0 MGD of capacity for future growth within its service area,

which would bring its total capacity in the Existing Plant to 12.462 MGD. The Commission also requested to purchase an additional 2.0 MGD of capacity in the Existing Plant, which would bring its total capacity in the Existing Plant to 4.626 MGD. Based on the additional capacity requests by Lexington and the Commission, which would increase the total capacity committed either through permits or through contractual agreements to approximately 24.0 MGD, Cayce decided in early 2007 to proceed with a re-design of the Existing Plant in order to expand its treatment capacity. In order to accommodate additional growth within Cayce's own service area, Cayce decided that the Existing Plant would need to be expanded to 25.0 MGD rather than the 24.0 MGD originally planned. On June 28, 2007, Cayce received approval from the CMCOG of its request for 208 Plan conformance for expansion to 25.0 MGD. A Preliminary Engineering Report and a NPDES Permit application to expand the wastewater treatment plant capacity to 25.0 MGD were approved by SCDHEC in January 2008. Cayce has funded in advance all of the engineering, design, legal, professional and regulatory costs and expenses incurred to date.

(K) Specifically as to Lexington, in order to expand and provide wastewater collection, transmission and treatment services to the areas served by the Current 12 & 14 Mile Creek Sewer Force Main, Cayce and Lexington entered into that certain Wastewater Treatment Service Agreement dated June 20, 1996 (as amended and supplemented, the "Lexington Contract") in which these parties recognized that significant savings could be realized through cooperative efforts to provide utility services on a regional basis with respect to both current and future needs. Pursuant to the provisions of the Lexington Contract, Cayce agreed to make available and Lexington agreed to purchase capacity for wastewater treatment at the Existing Plant for not more than 6.46 MGD for this project and Cayce agreed to reserve for and allocate to Lexington a minimum of 1.4 MGD capacity in Cayce's wastewater transmission and collection service line known as the 6 Mile Creek Interceptor (the "6 Mile Creek Interceptor"). The Lexington Contract was subsequently amended by the following documents: (i) Amendment No. 1 to Wastewater Treatment Service Agreement dated June 7, 2004, which amended a definitional term, (ii) Conditional Agreement dated June 7, 2004, which amended the Lexington Contract to provide that Lexington's right to purchase its 2.0 MGD of Lexington's remaining available wastewater treatment capacity in the Existing Plant was to be exchanged for Lexington's ownership and capacity rights in the Highway 321 Regional Sewer Force Main, and (iii) Amendment No. 2 to Wastewater Treatment Service Agreement dated February 22, 2007, in which Lexington agreed to pay for the cost of additional expansion of Existing Plant capacity from 16.0 MGD to 24.0 MGD (including construction, legal, engineering and financing costs) based upon its *pro rata* share of those costs represented by its additional allocated capacity of 6.0 MGD. Cayce and Lexington have subsequently entered into that certain Joint Sewer Agreement dated July 7, 2008 (the "Lexington Upgrade Contract") which sets forth certain upgrades and improvements to their respective wastewater systems which are to be included within the terms and conditions of this Agreement. One of the upgrades Lexington determined to construct was an expansion to its transmission capacity in the 12 & 14 Mile Creek basin by the construction of: (i) an extension of its Current 12 & 14 Mile Creek Sewer Force Main (the "Future 12 & 14 Mile Creek 24" Sewer Force Main Extension") and (ii) a new transmission line parallel to the current line (the "Future 12 & 14 Mile Creek 30" Sewer Force Main").

(L) Specifically as to the Commission, Cayce and the Commission entered into (i) that certain Wastewater Treatment Capacity Allocation Agreement dated April 11, 1995 (this



specific agreement was repealed by Cayce at the request of the Commission on February 3, 2004) and (ii) that certain Wastewater Treatment Service Agreement dated April 11, 1995 (as amended and supplemented, the "Commission Contract") which specifically addressed areas served by the Old Barnwell WWTP Interconnection. In the Commission Contract, these parties recognized that savings could be realized through cooperative efforts to provide utility services on a regional basis with respect to both current and future needs. Pursuant to the provisions of the Commission Contract, Cayce agreed to provide and the Commission agreed to purchase capacity for wastewater treatment at the Existing Plant for not more than 2.0 MGD for this project and Cayce agreed to reserve for and allocate to the Commission a minimum of 2.0 MGD capacity. The Commission Contract was subsequently amended by the following documents: (i) Amendment No. 1 to Wastewater Treatment Service Agreement dated December 3, 1996, which changed the manner and timing of the provision of services to various areas of Lexington County, and (ii) Amendment No. 2 to Wastewater Treatment Service Agreement dated March 13, 2002, which amended sale and reservation of treatment capacity provisions. The Commission and Cayce also entered into those certain agreements entitled "Highway 321 Regional Sewer Line Agreement" dated September 11, 1998 (the "Highway 321 Regional Sewer Line Agreement"), "Commission to Cayce Regional Sewer Line Interconnect Agreement" dated November 13, 2003 (the "Old Barnwell Interconnect Agreement") and "Commission to Cayce Regional Sewer Line Interconnect Operation and Maintenance Agreement" dated April 13, 2006 (the "Operation and Maintenance Agreement"), all of which addressed various matters relating to the construction, operation and maintenance, and use of collection and transmission lines. The Commission and Lexington entered into that certain Commission to Cayce Regional Sewer Line Interconnect Agreement (the "Commission/Lexington Upgrade Agreement") dated January 12, 2005, which addressed matters relating to the upsizing of a portion of the Old Barnwell WWTP Interconnection.

(M) Based upon the Commission Contract, the Highway 321 Regional Sewer Line Agreement, the Lexington Contract, the Lexington Upgrade Contract, the Old Barnwell Interconnect Agreement, the Operation and Maintenance Agreement, the Commission/Lexington Upgrade Agreement and continuing discussions by and among Cayce, Lexington and the Commission, Cayce previously determined that there was a need to increase the capacity of the Existing Plant to 16.0 MGD (the "Former Plan") to allocate that capacity among the parties, and to pay for the cost of additional expansion of Existing Plant capacity (including construction, legal, engineering and financing costs) based upon their respective *pro rata* share of those costs, all in accordance with the schedule attached to this Agreement as Exhibit G, Table 3. The expansion of Existing Plant was permitted for construction and operation by permits issued by SCDHEC Bureau of Water.

(N) As discussed above, prior to the actual construction based upon the Former Plan, Cayce, Lexington and the Commission mutually determined that additional capacity was needed to meet the current and future needs for their residential, commercial and industrial customers, such that the changes to the Existing Plant, as contemplated by the Former Plan, would not be feasible as designed. To meet these current and future needs, Cayce, Lexington and the Commission have mutually agreed that it is necessary and desirable to construct a new plant facility (the "New Plant") having an available capacity of 25.0 MGD. This New Plant will be permitted for construction and operation by permits issued by SCDHEC Bureau of Water.

(O) Based on the foregoing, Cayce, Lexington and the Commission acknowledge and agree that (i) Lexington has heretofore purchased capacity in the amount of 6.462 MGD and (ii) the Commission has heretofore purchased capacity in the amount of 2.626 MGD. The parties hereto now desire that Cayce provide and (i) Lexington purchase an additional 6.0 MGD of Capacity for a total capacity of 12.462 MGD at the New Plant and (ii) the Commission purchase an additional 2.0 MGD of capacity for a total capacity of 4.626 MGD at the New Plant, all pursuant to the terms and conditions of this Agreement. Furthermore, the parties hereto anticipate that additional expansions will be necessary in the future in order for Lexington and the Commission to adequately supply its customers with wastewater treatment and collection services.

(P) In addition to issues relating to capacity, the Lexington Contract, the Lexington Upgrade Contract, the Commission Contract, the Highway 321 Regional Sewer Line Agreement, and the Operation and Maintenance Agreement also address issues of ownership and capacity of the Transmission Lines (as defined below) which are a necessary and essential part of the Cayce Wastewater Facilities (as defined below). The location of the Transmission Lines currently in use and currently proposed for future use is shown on the Line Allocation Map (as defined below) and the cost sharing and maximum flow allocation and pressure limits for the Transmission Lines are shown on the Line Allocation Table (as defined below). Seller and Purchaser acknowledge and confirm that the ownership and capacity usage of the Transmission Lines are as follows:

(1) The Highway 321 Regional Sewer Force Main is jointly utilized by Cayce and the Commission. The Commission fully owns and operates the portion of this line commencing at Cayce's sewer service area (near the intersection of Gardner Terrace Road and Charleston Highway) to the Commission's Gaston/Swansea sewer service area. Cayce owns the portion of this line commencing at Cayce's sewer service area to its discharge point at the Existing Plant; however, Cayce and the Commission jointly utilize the Cayce-owned portion of this main and the allocation of its capacity flow and the responsibility for maintenance of this line as currently used are in accordance with the Line Allocation Table. In accordance with the terms of this Agreement, Lexington's Future 12 & 14 Mile Creek 30" Sewer Force Main will connect to the thirty inch (30") portion of this line as shown on the Line Allocation Map. At the time of this connection, this portion of the line will be jointly utilized by the Commission, Cayce and Lexington, and these parties will share Cayce's expenses for the operation and maintenance of this line based upon the Line Allocation Table.

(2) The Old Barnwell WWTP Interconnection is solely owned by the Commission. The Commission operates and maintains the portion of this line commencing at the Old Barnwell wastewater treatment plant site pump station and ends at Cayce's sewer service area at the point that the Old Barnwell WWTP Interconnection increases to a thirty inch (30") line. The portion of this main that is within Cayce's sewer service area is jointly utilized by the Commission and Cayce. In accordance with the terms of this Agreement, Lexington's Future 12 & 14 Mile Creek 24" Sewer Force Main Extension will connect to the thirty-six inch (36") portion of this line as shown on the Line Allocation Map. At the time of this connection, this

portion of Old Barnwell WWTP Interconnection will be collectively utilized by the Commission, Cayce and Lexington.

(3) The 6 Mile Creek Interceptor is solely owned by Cayce and is located solely within the Cayce service area and Cayce and Lexington currently jointly utilize this main.

(4) The Current 12 & 14 Mile Creek 24" Sewer Force Main is solely owned by Lexington, and Cayce and Lexington currently jointly utilize this main.

(5) The Line Allocation Map depicts both the two mains as Current 12 & 14 Mile Creek 24" Sewer Force Main and the Future 12 & 14 Mile Creek 30" Sewer Force Main, both of which are and will to be solely owned by Lexington; however, Cayce and Lexington presently and will continue to jointly utilize those mains in accordance with the terms of this Agreement.

(Q) All parties acknowledge that the agreements made to date which establish the rights of Lexington and the Commission to capacity and collection services within the Cayce Wastewater Facilities have occurred on a piecemeal basis with limited consideration given on the one hand to the ability of Lexington and the Commission to assure the availability of wastewater treatment capacity to meet their growing demands and on the other hand to Cayce's responsibility to maintain a reliable income stream from the sale of its wastewater treatment and collection service.

**(R) The purpose of this Agreement is to provide a comprehensive arrangement whereby the parties hereto shall join together in the provision of wastewater treatment and collection service from the Cayce Wastewater Facilities for their mutual benefit. The parties hereto recognize that significant savings can be realized through cooperative efforts to provide wastewater treatment utility services on a regional basis with respect to both current and future needs.**

**(S) The parties further acknowledge that the agreements made to date which establish rights of Lexington and the Commission to the capacity in the Existing Plant and in the New Plant and payment of wastewater services require amendments to provide for more holistic and comprehensive rights among the parties; hence, the purpose of this Agreement is, in part, to supersede and replace, except as specifically provided herein, all prior agreements among the parties with respect to their rights to capacity in the Existing Plant and the New Plant, the delivery of Wastewater Services (as defined below) for their mutual benefit and to make provisions for the responsibilities of the parties in the various Transmissions Lines.**

This Agreement between these parties (i) has been found to be in the best interest of the public, the parties and the consumers to be served and (ii) has been duly authorized by the respective governing boards of these parties who have authorized the undersigned officers to sign on behalf of each.



**NOW, THEREFORE**, in consideration of the premises hereinabove set forth and the agreements of the parties hereunder, Cayce, Lexington and the Commission agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.01 Definitions.** In addition to any words and terms elsewhere defined in this Agreement, the following words and terms as used in this Agreement shall have the following meanings unless some other meaning is plainly intended:

**“Accounting Principles”** mean generally accepted accounting principles (“GAAP”) and practices applicable to governmental entities, including those applicable to funds that relate to governmentally owned and operated utility systems such as the Utility Fund established for the benefit of Seller’s Combined System.

**“Agreement”** means this Wastewater Services Agreement among Seller and Purchasers, as the same may from time to time be modified or amended.

**“Allocated Capacity” or “Allocated Capacities”** means, as the context requires, that portion of the Capacity of the Plant to be made available to each Purchaser or retained by Seller. The Allocated Capacities in the Existing Plant of Purchasers and the initial Allocated Capacities in the New Plant of Seller and Purchasers are set forth in Exhibit A to this Agreement. Allocated Capacity may be amended from time to time in accordance with Section 3.13 and Article IV hereof and supplements to Exhibit A, shall be appropriately made. As to a Purchaser, Allocated Capacity is expressed in million gallons per day (“MGD”) and is the maximum Wastewater Seller is committed to accept from a Purchaser in any twenty-four (24) hour period.

**“Allocated Percentage” or “Allocated Percentages”** means, as the context requires, the percentage derived by dividing each Purchaser's or Seller’s Allocated Capacity by the Capacity. The Allocated Percentages of Purchasers in the Existing Plant and the initial Allocated Percentages of Seller and Purchasers in the New Plant are set forth in Exhibit A to this Agreement.

**“Annual Budget”** means the annual budget adopted by Cayce under its ordinances or any bond indenture regarding its Utility Fund, as it may be amended from time to time.

**“Bonds”** mean all bonds payable from the revenues of Seller’s Combined System.

**“Capacity”** means, with respect to the Plant, the treatment capacity thereof as approved in the most recent permits issued by SCDHEC.

**“Capital Charge”** means, for any Fiscal Year or such period in question, an amount charged to a Purchaser equal to the sum of the two components described below:

The **“Current Capital Component”** means Current Capital Expenses multiplied by Purchaser's Allocated Percentage; and

The **“Subsequent Capital Component”** means the charge imposed (i) to defray each Purchaser's Pro Rata Share of Future Capital Improvement Costs undertaken in accordance with the provisions of Section 3.05 for which there are not sufficient funds in the Cayce Wastewater Facilities Renewal and Replacement Fund and for which Improvement Bonds are not issued, (ii) to defray each Purchaser's share of Future Capital Improvement Costs set forth in Section 3.07 for which Improvement Bonds are not issued, and (iii) as may be required under Article IV hereof.

**“Cayce Wastewater Facilities Renewal and Replacement Fund”** means the fund established and owned by Seller to account for each Purchaser's Pro Rata Share payment of the Depreciation Charge.

**“Cayce Wastewater Facilities”** means the following, to the extent used by Seller to deliver Wastewater Services to each Purchaser, (i) the Plant, (ii) the Transmission Lines, (iii) all collection pipes, tanks, meters, machinery and equipment, specifically including mobile equipment, and any replacement or substitute facilities and any improvements made to the Cayce Wastewater Facilities from time to time, and (iv) all additional related facilities, specifically including pump stations.

**“Commission's System”** means the Commission's entire system for the treatment, transmission, disposal and collection of Wastewater.

**“Completion Date”** means the Completion Date established in accordance with Section 2.03(G) hereof.

**“Connecting Meters”** means the meters owned by Seller and used to measure the flow of the Wastewater at the respective points of entry of Wastewater from Lexington's System and the Commission's System to the Cayce Wastewater Facilities.

**"Council"** means the City Council of Cayce, the governing body of Seller.

**"Current Capital Expenses"** mean, for each Fiscal Year or such period in question, all capital expenses reasonably required to enable the Cayce Wastewater Facilities to accept a Purchaser's Wastewater for treatment by Seller and maintain regulatory compliance or as provided within the Annual Budget. The term "Current Capital Expense" excludes all Future Capital Improvement Costs.

**"Debt Service Charge"** means, for any Fiscal Year or period in question, an amount equal to the sum of the two components described below:

The **“Debt Service Component”** shall be the amount, if any, allocated to Seller and each Purchaser with respect to each series of Improvement Bonds as set forth in Exhibit G of this Agreement, as amended from time to time; and

The **“Debt Service Coverage Component”** shall be an amount equal to

fifteen percent (15%) of the Debt Service Component.

**“Depreciation Charge”** means, with respect to a Purchaser, for any Fiscal Year or period in question, an amount set forth in the Annual Budget necessary to fund the Cayce Wastewater Facilities Renewal and Replacement Fund, multiplied by such Purchaser's Allocated Percentage.

**“Effective Date”** means the date the parties execute the Agreement as stated on the first page of this Agreement.

**“Escrow Account”** means the account by that name established under the Escrow Agreement.

**“Escrow Agent”** means such bank or trust company with offices in South Carolina and designated by the applicable Purchaser to serve as “Escrow Agent” under the Escrow Agreement, and its successors and assigns as Escrow Agent.

**“Escrow Agreement”** means the Escrow Agreement, among the applicable Purchaser, Seller, and Escrow Agent, established to pay the Initial Capital Contribution or established in connection with a series of Improvement Bonds, which shall be in substantially the form attached hereto as Exhibit H, as the same may from time to time be modified or amended in accordance with the terms of the specific transaction.

**“Estimated Costs”** means, with respect to the New Plant and the New Plant Ancillary Projects, estimated amounts of all of the costs associated with the provision of Wastewater Services from Seller to each Purchaser, including without limitation: costs of planning, engineering, design, permitting, legal, accounting, and administration of the acquisition, erection, construction, installation and demolition and decommissioning of out-of-service plants; costs of the acquisition of necessary lands, easements, and rights-of-way over lands and waters; costs of erection, construction and outfitting of pumping, storage or other facilities and the installation of mains and pipelines; legal and other professional fees; costs of financing including capitalized interest supplied by Seller, if any; costs of preparation; and costs of preliminary planning, engineering and associated expenses. The Estimated Costs at the time of the execution of this Agreement are set forth on Table 1, Table 2 and Table 3 of Exhibit B to this Agreement.

**“Existing Agreements”** means the Commission Contract, the Highway 321 Regional Sewer Line Agreement, the Lexington Contract, the Lexington Upgrade Contract, the Old Barnwell Interconnect Agreement, the Operation and Maintenance Agreement, and the Commission/Lexington Upgrade Agreement, all as defined in the Background and Findings of this Agreement.

**“Existing Plant”** means Cayce’s current wastewater treatment facility located at 539 Old State Road, Cayce South Carolina, with a permitted discharge capacity of 9.5 MGD.

**“Fiscal Year”** means Fiscal Year of Cayce beginning on July 1 and ending June 30, or as otherwise determined from time to time by Council.

**“Force Majeure”** means, to the extent beyond the control of the party claiming an event of Force Majeure under Section 6.01 hereof, any of the following: acts of God or nature, strikes, lockouts, or other industrial disturbances; acts of a public enemy, orders of any kind of the government of the United States or the State of South Carolina or the courts thereof, or any civil or military authority; insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances and explosions; malfunctions of machinery and pipe lines; partial or entire failure of water supply, or inability of Seller to receive wastewater hereunder, or the Purchaser to receive wastewater hereunder, on account of any other causes not reasonably within the control of the party claiming such inability.

**“Future Capital Improvement Costs”** means all reasonable costs and expenses (including without limitation, administrative, design, engineering, legal, accounting and other professional fees and financing costs) for items needed for improvements or enhancements to the Cayce Wastewater Facilities as set forth in Sections 3.05 and 3.07.

**“Good Utility Practices”** means any of the practices, methods, and acts engaged in or approved by a significant portion of the wastewater treatment industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could have been expected to accomplish the desired results at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practices does not require use of the optimum practice, method, or act, but only requires use of practices, methods, or acts generally accepted in the wastewater treatment industry.

**“Improvement Bonds”** means the revenue Bonds of Seller issued to acquire, construct or equip improvements, repairs, rehabilitations or expansions (including to pay costs of issuance and to fund capitalized interest, if any) for purposes of providing Wastewater Services to each Purchaser, all or a portion of the debt service on which is allocated to a Purchaser with the prior written consent of such Purchaser.

**“Independent Certified Public Accountant”** means such certified public accountant or firm of certified public accountants retained by Cayce for the purpose of auditing Seller’s books and records, including Seller’s Wastewater System.

**“Independent Consultants”** means such firm or firms, consisting of or employing registered engineers, architects, rate consultants, accountants, or other professionals having skill and experience in utility financing and rate design, maintenance, operation or evaluation of the costs and appropriate charges therefor of facilities such as Seller’s Wastewater System, and which are engaged by Cayce, to perform such services.

**“Initial Capital Contribution”** means the payment from Purchaser to Seller to reserve its initial Allocated Capacity in the New Plant, such contribution being shown on Exhibit G to this Agreement.

**“Lexington’s System”** means Lexington’s entire system for the treatment, transmission, disposal and collection of Wastewater.

**“Line Allocation” or “Line Allocations”** means, as the context requires, for Seller and each Purchaser, the percentage shown on the Line Allocation Table.

**“Line Allocation Map”** means the map attached hereto within Exhibit C, which shows the location of the Transmission Lines, as amended from time to time.

**“Line Allocation Table”** means the table attached hereto within Exhibit C, which sets forth the cost sharing of all operation, repair and maintenance costs and maximum flow allocations and maximum pressure limits for the Transmission Lines, as amended from time to time.

**“Metered Flows”** means, with respect to each Purchaser, the measurement of Purchaser’s Wastewater at Connecting Meters as further described in Section 3.08 hereof.

**“New Plant”** means Cayce’s future wastewater treatment facility to be constructed on the Existing Plant site located at 539 Old State Road, Cayce South Carolina, with an initial permitted discharge capacity of 25.0 MGD, so long as it is reasonably capable, in Seller’s reasonable discretion, of providing Wastewater Services in compliance with Good Utility Practices and regulatory requirements.

**“New Plant Ancillary Projects”** means the projects associated with the New Plant identified in Table 2 of Exhibit B of this Agreement.

**“Other Debt Service Charge”** means, for any Fiscal Year or period in question, the line items in the Revenue Requirement referred to as “Other Debt Service Component” or “Other Debt Service Coverage Component” for which no Purchaser is responsible for payment.

**“Other Project Costs”** means the project costs associated with the New Plant identified in Table 3 of Exhibit B of this Agreement.

**“Operation and Maintenance Expenses”** means, for each Fiscal Year or period in question, all reasonable direct expenses required (i) to operate the Cayce Wastewater Facilities related to the provision of Wastewater Services, (ii) to maintain the Cayce Wastewater Facilities so that they will have a reasonable useful life, and (iii) to defray the costs of current repairs to the Cayce Wastewater Facilities necessary for the delivery of Wastewater Services, in accordance with this Agreement, all as calculated in accordance with Accounting Principles and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, cost of routine repairs, renewals, replacements, and alterations occurring in the usual course of business, cost of billings and collections, cost of insurance, cost of legal and professional fees including audits, taxes, if any, and applicable Seller’s administrative, non-departmental, overhead and other expenses not subject to amortization or depreciation. Operation and Maintenance Expenses do not include the Depreciation Charge, Capital Charge or Debt Service Charge.



**“Plant”** means, as the context may require, the Existing Plant or the New Plant, as the same may be upgraded and expanded by Cayce in order to fulfill its requirements hereunder.

**“Plant Water Line Extension”** means that certain twelve inch (12”) water line to be constructed to add additional water flow for the operation of the New Plant and which shall commence at the intersection of Twelfth Street Extension and Saxa Gotha Road and terminate at the Plant.

**“Pro Rata Share”** means for each Purchaser, respectively, its allocable portion (expressed as a percentage) based on such Purchaser’s Allocated Percentage.

**“Purchaser”** means, together or individually as the context requires, the Town of Lexington, South Carolina, and the Joint Municipal Water and Sewer Commission, formerly known as the Lexington County Joint Municipal Water and Sewer Commission, their respective successors and assigns, and any entity to whom Allocated Capacity is sold under the provisions of Section 3.13(c) hereof.

**“Purchaser's Bond Documents”** means, as to the Commission, an indenture entitled “Indenture of Trust between Lexington County (South Carolina) Joint Municipal Water and Sewer Commission, as Issuer, and First Union National Bank, as Trustee, dated November 1, 1997,” as the same may be amended from time to time (the “Commission’s Indenture”) as the same may be amended or replaced, and, as to Lexington, an amended and restated general bond ordinance entitled “An Ordinance Authorizing and Providing for the Issuance of Town of Lexington, South Carolina, Combined Waterworks and Sewer System Revenue Refunding and Improvements Bonds to Finance the Acquisition and Construction of Improvements to the Combined Waterworks and Sewer System and the Refunding of Outstanding Bonds, and Other Matters Pertaining Thereto,” as may be amended from time to time (“Lexington’s Ordinance”) as the same may be amended or replaced, or such subsequent proceedings adopted by a Purchaser that provide for the issuance of bonds or other instruments of debt payable from the revenues of Purchaser's System. All references to terms used in this Agreement and which are specifically given their definitions under the provisions of a Purchaser’s Bond Documents shall also have the meanings given any similar terms used in any amendment or supplement to each Purchaser’s Bond Documents or such subsequent proceedings adopted by a Purchaser that provide for the issuance of bonds or other instruments of debt payable from the revenues of each Purchaser's System. All references to sections under Purchaser’s Bond Documents include similar sections used in any amendment or supplement to Purchaser’s Bond Documents or such subsequent proceedings adopted by a Purchaser that provide for the issuance of bonds or other instruments of debt payable from the revenues of each Purchaser's System.

**“Purchaser's System”** means, together or individually as the context requires, Lexington’s System, the Commission’s System, and any utility system operated by an entity to whom Allocated Capacity is sold under the provisions of Section 3.13(c) hereof.

**“Rate Methodology Model”** means that methodology and model established by Seller for determining each Purchaser’s Revenue Requirement and the Rates and Charges as described on Exhibit F to this Agreement, as revised and amended from time to time pursuant to the terms

of Exhibit F.

**“Rates and Charges”** means the amount billed by Cayce to users of Seller’s Wastewater System (which specifically includes each Purchaser) on a periodic basis to include, but not limited to, a base charge, a volumetric charge, and other flat fee or installment components as applicable herein. A Purchaser’s volumetric charge shall be computed by multiplying Metered Flows times a volumetric rate.

**“Revenue Requirement”** means, for each Fiscal Year or period in question, all receipts and revenue necessary to recover costs of Seller’s Wastewater System, including the Operation and Maintenance Expenses, the Debt Service Charge, Other Debt Service Charge, the Capital Charge, the Depreciation Charge and amounts to fund debt service reserves and contingency funds as may be required from time to time to include, but not limited to, those funds and accounts required by Seller’s Indenture or future indentures in place from time to time.

**“Seller”** means the City of Cayce, South Carolina, its successors and assigns.

**“Seller’s Combined System”** means Seller’s waterworks system and wastewater system as more fully described in Section A of the Background and Findings set forth above.

**“Seller’s Indenture”** means an indenture entitled “An Amended and Restated Indenture of Trust between the City of Cayce, South Carolina, as Issuer and Wachovia Bank, National Association, formerly known as First Union National Bank, as Trustee”, dated July 15, 2004, as the same has been and may be amended and supplemented from time to time, or such subsequent proceedings adopted by Council that provide for the issuance of bonds or other instruments of debt payable from the revenues of Seller’s Combined System.

**“Seller’s Wastewater System”** means Seller’s entire system for the treatment, transmission, disposal and collection of Wastewater, including the Cayce Wastewater Facilities.

**“Transmission Lines”** means all force mains and gravity mains used by Seller and/or a Purchaser to transport Wastewater from the Connecting Meters to the Plant as are shown on the Line Allocation Map and those which from time to time may be agreed to by the parties as shown on amendments to the Line Allocation Map.

**“Utility Fund”** means Seller’s gross revenue fund and operation and maintenance fund collectively reported by Seller in its books and records as Seller’s Water and Sewer Utility Fund and which relate to all receipts and expenses of Seller’s Combined System.

**“Wastewater”** means and shall include “sewage” as that term is defined by the Pollution Control Act, SC Code Ann. Section 48-1-10 *et. seq.* and “domestic sewage,” “industrial wastewater,” and “process wastewater” as those terms are defined in the regulations of the SCDHEC.

**“Wastewater Contribution Permits”** means those existing permits, issued by Seller to Purchaser to flow Wastewater to Seller as more fully described in Exhibit D to this Agreement,

and any subsequent permits that may be issued.

**“Wastewater Services”** means Seller’s delivery to Purchaser of Capacity and the related collection, transmission, treatment, discharge and disposal of Wastewater from a Purchaser System through the Cayce Wastewater Facilities.

**“Water and Sewer System Improvement Revenue Bond, Series 2009”** means an Improvement Bond issued by Seller evidencing a loan from the State Clean Water Quality Revolving Loan Fund to defray a portion of the Estimated Costs.

(End of Article I)



## ARTICLE II

### **GENERAL REPRESENTATIONS AND COVENANTS; TERM**

**Section 2.01 Representations of Seller.** Seller hereby represents that it is a validly created governmental entity and a public body politic and corporate of the State of South Carolina and that it has the power, authority, and legal right to own and operate Seller's Wastewater System and is capable of providing Wastewater Services as contemplated by this Agreement; that it has all necessary powers and authority to undertake and perform its obligations under this Agreement; that the execution and delivery of, and its performance under, this Agreement will not violate any judgment, decree, order, law, rule, permit, contract, or regulation; that no consent, permission, or approval that has not already been given is required for the valid execution and delivery of this Agreement by Seller; that this Agreement has been duly authorized, executed, and delivered by Seller, and constitutes a legal, valid, and binding obligation of Seller, enforceable in accordance with its terms; that, as of the Effective Date, there is no litigation or proceeding pending or threatened against or affecting Seller that (i) seeks to enjoin the performance of its obligations under this Agreement or (ii) if adversely determined, would materially adversely affect its ability to perform such obligations; and that it has taken all necessary action to authorize the execution and delivery of this Agreement and to perform its obligations under this Agreement.

**Section 2.02 Ownership and Sale of the Cayce Wastewater Facilities.** Except for certain portions of the Transmission Lines, the Cayce Wastewater Facilities shall at all times be the sole and absolute property of Seller; provided, however, Seller acknowledges that each Purchaser owns an Allocated Capacity within the Existing Plant and the New Plant in accordance with the provisions of this Agreement. In the event Seller determines to sell the Cayce Wastewater Facilities in accordance with a written proposal from an entity offering to purchase the Cayce Wastewater Facilities, Seller agrees to first offer the Cayce Wastewater Facilities to each Purchaser on the same terms to Purchasers or solely by a Purchaser. If a Purchaser does not respond to Seller's written offer within ninety (90) days from the date of Seller's offer, that Purchaser shall be deemed to have waived its right to purchase the Cayce Wastewater Facilities upon such terms. Seller agrees that Seller will not undertake a sale of any of the Cayce Wastewater Facilities unless Seller provides to each Purchaser an opinion of counsel experienced in matters of tax exempt bonds to the effect that such sale will not adversely affect the tax exempt status of bonds issued or to be issued by a Purchaser.

**Section 2.03 New Plant Construction and Surface Water Discharge Rights.**

(A) Seller represents that it has all rights, powers, authority, experience, and skills necessary to operate the Existing Plant and has and will have sufficient rights powers, authority, experience and skills necessary to construct and operate the New Plant and to discharge treated Wastewater and to perform its obligations under this Agreement as evidenced by, but specifically subject to, the provisions of the applicable wastewater construction, operating and the surface water discharge (NPDES) permits issued by SCDHEC Bureau of Water.

(B) Seller agrees that it will be solely responsible for the construction of the New Plant. Seller agrees to promptly begin and to diligently pursue the construction of the New Plant to completion in accordance with the approved plans and specifications and construction contract for the New Plant.

(C) Without notifying Purchasers, Seller may make such changes to the plans and specifications or construction contract relating to the New Plant in any way or to take into account conditions of the site or changes in technology or in the components of the New Plant, provided that such modifications (i) together with any prior modifications will not result in an aggregate increase of the total of the Estimated Costs of the New Plant, New Plant Ancillary Projects and Other Projects Costs by more than five percent (5%), (ii) are not inconsistent with the intent of this Agreement, and (iii) will not adversely affect the tax-exempt status of a Purchaser's financing with respect to the New Plant.

(D) Promptly after any proposal to change the plans and specifications or construction contract in an aggregate amount in excess of five percent (5%) of the total of the Estimated Costs of the New Plant, New Plant Ancillary Projects and Other Project Costs, Seller shall prepare an estimate of the financial, scheduling, and performance impact of such change and provide it to each Purchaser for review and comment.

(E) Purchasers and their respective representatives and engineers have the right to enter the New Plant site to monitor the progress of and inspect the construction of the New Plant, but shall be subject at all times during their presence on the site to reasonable safety and security rules of Seller and will not interfere with the construction work. The rights of Purchasers and their representatives and engineers to review, monitor, and inspect the construction of the New Plant will not create the right to stop or otherwise impede construction. In no event shall the exercise of, or failure to exercise, rights to inspect, review, or monitor the construction constitute acceptance or approval thereof or relieve Seller of its obligations under this Agreement.

(F) Seller shall obtain all approvals, licenses, and permits as and when required for the construction and operation of the New Plant.

(G) The Completion Date shall be the date on which Seller delivers to each Purchaser a certificate signed by an authorized officer of Seller certifying that (i) the representations and warranties of Seller contained herein are true and correct as of the date of such certification, and (ii) the New Plant has commenced providing Wastewater Services.

#### **Section 2.04 Representations of Each Purchaser.**

(A) Lexington hereby represents that it is a duly organized and existing municipal corporation of the State of South Carolina and that Lexington has all necessary power and authority to own and operate Lexington's System and to perform its obligations under this Agreement, all in compliance with SC Code Ann. Section 5-31-910, *et. seq.*; that the execution and delivery of, and its performance under, this Agreement will not violate any judgment, decree, order, law, rule, permit, contract, or regulation; that no consent, permission, or approval that has not already been given is required for the valid execution and delivery of this Agreement by Lexington; that this Agreement has been duly authorized, executed, and delivered by

Lexington, and constitutes a legal, valid, and binding obligation of Lexington, enforceable in accordance with its terms; that, as of the Effective Date, there is no litigation or proceeding pending or threatened against or affecting Lexington that (i) seeks to enjoin the performance of its obligations under this Agreement or (ii) if adversely determined, would materially adversely affect its ability to perform such obligations; and that Lexington has taken all necessary action to authorize the execution and delivery of this Agreement.

(B) The Commission hereby represents that it is a duly organized public body corporate and politic of the State of South Carolina and that the Commission has all necessary power and authority to own and operate the Commission's System and to perform its obligations under this Agreement; that the execution and delivery of, and its performance under, this Agreement will not violate any judgment, decree, order, law, rule, permit, contract, or regulation; that no consent, permission, or approval that has not already been given is required for the valid execution and delivery of this Agreement by the Commission; that this Agreement has been duly authorized, executed, and delivered by the Commission, and constitutes a legal, valid, and binding obligation of the Commission, enforceable in accordance with its terms; that, as of the Effective Date, there is no litigation or proceeding pending or threatened against or affecting the Commission that (i) seeks to enjoin the performance of its obligations under this Agreement or (ii) if adversely determined, would materially adversely affect its ability to perform such obligations; and that the Commission has taken all necessary action to authorize the execution and delivery of this Agreement.

**Section 2.05 Purchaser's Rate Covenant.** Each Purchaser covenants that at all times during the term of this Agreement it will impose fees for services provided by Purchaser's System sufficient at all times to enable the Purchaser to meet its obligations hereunder.

**Section 2.06 Cooperation in Issuance of Obligations by Each Purchaser.** Seller covenants and agrees that it will cooperate with each Purchaser in the issuance of any bonds or other obligations proposed to be issued by Purchaser and secured by revenues of a Purchaser's System. In connection therewith, Seller shall promptly comply with all reasonable requests of each Purchaser and will, upon request:

- (A) Make available general financial information about itself;
- (B) Consent to publication and distribution of its financial information;
- (C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;
- (D) Make available certified copies of official proceedings and records, if applicable;
- (E) Provide reasonable certifications to be used in a transcript of closing documents;
- (F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to the Seller's Wastewater

System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and

(G) Provide such other information, documents, and certifications as each Purchaser may reasonably request.

Provided, however, that Seller's obligation to cooperate as set forth herein shall be conditional upon its receipt from Purchaser of reimbursement of any and all reasonable costs allocable to such Purchaser incurred by Seller.

**Section 2.07 Cooperation in Issuance of Obligations by Seller.** Each Purchaser covenants and agrees that it will cooperate with Seller in the issuance of any Bonds or other obligations proposed to be issued by Seller and secured by revenues of Cayce's Utility Fund. In connection therewith, each Purchaser shall promptly comply with all reasonable requests of Seller and will, upon request:

(A) Make available general financial information about itself;

(B) Consent to publication and distribution of its financial information;

(C) Certify that general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements in that information, in light of the circumstances under which they were made, not misleading;

(D) Make available certified copies of official proceedings and records, if applicable;

(E) Provide reasonable certifications to be used in a transcript of closing documents;

(F) Provide reasonably requested opinions of counsel as to the validity of its actions taken with respect to and the binding effect of this Agreement, its title to Purchaser's System, pending or threatened litigation which could materially affect its performance hereunder, and any other reasonably requested opinions; and

(G) Provide such other information, documents, and certifications as Seller may reasonably request.

Provided, however, that each Purchaser's obligation to cooperate as set forth herein shall be conditional upon its receipt from Seller of reimbursement of any reasonable costs allocable to Seller incurred by such Purchaser.

**Section 2.08 Term of Agreement; Supersedes Prior Agreements.** This Agreement shall be effective upon its execution and shall extend for an initial period commencing on such date and extending for thirty (30) years from the Effective Date. Absent receipt of notice from a party of its intent not to renew, this Agreement shall be automatically extended to the extent permitted by law for two (2) ten (10) year periods thereafter. In the event any party intends not to renew at the end of a term, such party shall notify the other parties of its intent, in writing, not less than two

(2) years prior to the end of such term. **Upon the Effective Date, Seller and Purchaser specifically agree subject to the provisions of Sections 3.02, 3.03 and 3.07 hereof that this Agreement shall supersede all Existing Agreements, for the construction of the New Plant and the purchase and sale of Wastewater Services among the parties hereto.**

(End of Article II)

### ARTICLE III

#### **SALE AND PURCHASE OF WASTEWATER SERVICES AND ALLOCATED CAPACITY**

##### **Section 3.01 All Requirements; New Plant Construction; Agreed Upon Additional Capacity; Improvement Bond Commitment and Use of Proceeds; Lump Sum Payment.**

(A) Pursuant to the 208 Plan and until such time as governmental authorities may otherwise provide, the parties hereto acknowledge and recognize that Cayce is the regional provider of Wastewater Services. Thus, each Purchaser expressly agrees that it will exclusively meet all of its requirements for Wastewater Services from Seller through the Cayce Wastewater Facilities except as may be otherwise expressly agreed upon by Seller (which agreement will not be unreasonably withheld or delayed) in writing based upon the lack of commercial feasibility, unique territorial circumstances or other factors presented by a Purchaser. In the event of a failure of Seller to provide Wastewater Services for any period of time, the Seller shall (i) immediately notify the Purchasers and all appropriate regulatory agencies and (ii) immediately take all action necessary to fully restore the provision of Wastewater Services in accordance with this Agreement. In the event Seller's ability to provide Wastewater Services to a Purchaser is diminished for any reason, the then available Capacity in the Plant shall be prorated based on the Allocated Percentages of each party. In the event Seller is unable to provide Wastewater Services in accordance with the terms of this Agreement, Purchaser may obtain Wastewater Services on an interim basis from an alternate source. Within thirty (30) days of receiving written notice from Seller that Seller is capable of again providing Wastewater Services to such Purchaser in accordance with the provisions of this Agreement, such Purchaser shall cease using any alternate sources to provide Wastewater Services.

(B) (1) Seller agrees to construct the New Plant Ancillary Projects and the New Plant which replace the Existing Plant with a Capacity of 25.0 MGD. Seller agrees to provide (i) Allocated Capacity for Lexington in the amount of 12.462 MGD at the New Plant, and (ii) Allocated Capacity for the Commission of 4.626 MGD at the New Plant, all in accordance with the terms and conditions of this Agreement.

(2) Seller and Purchaser each have agreed upon the Allocated Capacity of the (i) Existing Plant upon execution of this Agreement and (ii) New Plant upon completion of the construction and the issuance of the operating permit for the New Plant. The Estimated Costs related to the construction of the New Plant, New Plant Ancillary Projects and Other Project Costs are as set forth on Exhibit B to this Agreement.

(3) Seller shall pay all costs of the New Plant, the New Plant Ancillary Projects and the Other Project Costs. Purchasers shall contribute to payment of all costs of the New Plant, the New Plant Ancillary Projects and the Other Project Costs in the respective amounts of their Allocated Percentages (after giving applicable credit due to each Purchaser as set forth on Exhibit E to this Agreement) in accordance with the terms and conditions of this Agreement.



(C) Upon the completion of the New Plant and New Plant Ancillary Projects in accordance with Section 2.03 hereof, the Estimated Costs set forth in Exhibit B shall be adjusted to reflect the actual costs. Subsequent to the completion of such construction and Seller's receipt of the permit to operate in accordance with Section 2.03 hereof, each Purchaser shall be entitled to its Allocated Capacity in the New Plant, as set forth on Exhibit A to this Agreement.

(D) A Purchaser may elect to pay all of its Initial Capital Contribution either (i) by means of Debt Service Charge with respect to the Seller's issuance of its Water and Sewer System Improvement Revenue Bond, Series 2009, in accordance with Article VII hereof or (ii) in cash by a lump sum payment deposited into an Escrow Account pursuant to an Escrow Agreement entered into among Seller, any such Purchaser and the Escrow Agent no later than the earlier of (a) the date of issuance of its Water and Sewer System Improvement Revenue Bond, Series 2009 or (b) the date of the issuance by Seller of any other Bonds issued to defray the costs of the New Plant and the New Plant Ancillary Projects.

(E) Within one hundred eighty (180) days after the Completion Date, an accounting will be performed by Seller with the Estimated Costs to be adjusted as needed to reflect actual costs in connection with the New Plant and the New Plant Ancillary Projects, Other Project Costs and demolition costs. Additional billing for payments or credits against payments under Section 3.03 hereof due as a result of such accounting shall be made within thirty (30) days of the completion of such accounting by Seller. Purchasers shall make any payments due under this subsection (E) within fifteen (15) days from the invoice date.

**Section 3.02 Sale of Wastewater Services; Delivery Sites of Wastewater to Seller; Flow Limits and Increases; Exceeding Allocated Capacity; Wastewater Characteristics and Limitations.**

(A) **From the Effective Date until the Completion Date, Seller and Purchaser specifically agree that the terms and conditions of the Existing Agreements shall continue to govern and control the rates and charges for all Wastewater Services provided by Seller to Purchaser.** On the Completion Date, and continuing thereafter for the term of this Agreement, Seller shall make available to each Purchaser, an amount of Capacity in the New Plant equal to each Purchaser's Allocated Capacity set forth on Exhibit A attached hereto and Wastewater Services as set forth in this Agreement. Seller and each Purchaser agree that the cost sharing and/or peak flow allocations of the Transmissions Lines set forth on Line Allocation Table are correct and binding.

(B) Seller shall install the Connecting Meters prior to the Completion Date. The Commission shall pay for the Connecting Meters installed to connect the Highway 321 Regional Sewer Force Main and the Old Barnwell WWTP Interconnection and Lexington shall pay for the Connecting Meter installed to connect the Current 12 and 14 Mile Creek 24" Sewer Force Main. Wastewater shall be accepted by Seller at the Connecting Meters located as set forth on the Line Allocation Map and at such rates and strengths of flow set forth in Line Allocation Table and the then current Wastewater Contribution Permits applicable to each Purchaser. The current Wastewater Contribution Permits applicable to each Purchaser are identified on Exhibit D of this Agreement. Each Purchaser agrees to renew the Wastewater Contribution Permits in accordance

with the terms and conditions of Seller's ordinances and requirements, as they exist from time to time.

(C) In the event the delivery of Wastewater by Seller or any Purchaser exceeds its Allocated Capacity of the New Plant or its Line Allocation for fifteen (15) consecutive days (as measured from the date of the first violation), each Purchaser agrees to pay Seller a penalty for each subsequent day on which Purchaser's daily delivery of Wastewater exceeds its Allocated Capacity in the New Plant or Line Allocation. Likewise, Seller shall pay the Purchasers a penalty in the form of a credit for each such subsequent day on which Seller's daily delivery of Wastewater exceeds its Allocated Capacity in the New Plant or Line Allocation. The penalty for each day shall equal the annual Operation and Maintenance Expenses component of the annual Revenue Requirement for such current Fiscal Year divided by 365 and multiplied by 10%. At the time Seller determines that the daily delivery of Wastewater by Seller or Purchaser has exceeded its Allocated Capacity in the New Plant or capacity in the Transmission Lines for thirty (30) days during any one twelve (12) month period, Purchasers shall be notified of such event and representatives of Seller and the Purchasers shall meet and exchange information in order to determine the total Allocated Capacity required in the New Plant, the availability of unutilized Allocated Capacity by Seller or any Purchaser that could be made available to such party, and such other matters relating to the provision of Allocated Capacity as any party may deem necessary. In the event that the parties are unable to settle on a reallocation of Allocated Capacity amongst the parties, the party that exceeded its Allocated Capacity in the New Plant as described above in this paragraph must use its best efforts to acquire additional Allocated Capacity in the New Plant or capacity in the Transmission Lines under the provisions of Article IV hereof and such party agrees to use its best efforts to acquire such additional Allocated Capacity in the New Plant or such additional capacity in the Transmission Lines.

(D) Each Purchaser agrees that its right to discharge Wastewater into Seller's Wastewater System shall be conditioned on compliance by each Purchaser as established by Seller's sewer use ordinance in effect from time to time (the "Sewer Use Ordinance"). Cayce agrees that prior to the Completion Date, it will amend, after opportunity for review and comment by Purchaser, the Sewer Use Ordinance (or promulgate regulations for such ordinance) to specify further the procedures for Wastewater Contribution Permits including permit renewals and designation of permit parameters and surcharge levels. Cayce agrees that it shall not make changes to the Sewer Use Ordinance that are materially inconsistent with the provisions of this Agreement. Each Purchaser shall provide Seller such information as shall be required or requested by Seller in connection with Seller's issuance of a Wastewater Contribution Permit to each Purchaser. Each Purchaser agrees to comply with its Wastewater Contribution Permits. In the event Purchaser's discharges shall exceed permitted parameters under such permit, as established by monitoring by Seller, Purchaser agrees to pay surcharges therefor as provided in Seller's Sewer Use Ordinance as in effect from time to time. Seller agrees to make available to each Purchaser, at Purchaser's request, the results of regular and random sampling of Purchaser's discharges.

(E) Except for residential customers discharging only domestic wastewater, no permit shall be issued by a Purchaser for a sewer connection to Purchaser's System, and no such connection shall be made, unless and until Purchaser shall have received written notice from



Seller that (i) no wastewater discharge contribution permit is required for such connection or (ii) Seller has issued a wastewater discharge contribution permit and there has been paid to Seller the fee or fees in connection therewith provided in Seller's Sewer Use Ordinance. No wastewater discharge contribution permit shall be issued by Seller (except as required by Seller's Sewer Use Ordinance) without written approval of the affected Purchaser. Purchaser acknowledges and agrees that Seller's Sewer Use Ordinance shall apply with respect to all customers of Purchaser whose discharges are treated by Seller, including Seller's right to monitor such discharges and Purchaser's compliance with such Purchaser's monitoring program in connection therewith. Purchaser agrees to reasonably cooperate with Seller in Seller's administration and enforcement of Seller's Sewer Use Ordinance including providing Seller reasonable access to Purchaser's System for such purposes, and when reasonably requested by Seller, disconnecting or terminating service for failure to comply with such program.

(F) Without prior written consent of Seller, each Purchaser will not permit any person to discharge septic tank waste into such Purchaser's System.

(G) Seller agrees to allocate to each Purchaser a percentage of the total mass limits for each parameter regulated under Seller's Sewer Use Ordinance, as amended from time to time, based on Purchaser's Pro Rata Share.

**Section 3.03 Payment for Wastewater Services; Calculation of Revenue Requirement; Absolute Obligation.**

(A) **From the Effective Date until the Completion Date, Seller and Purchaser specifically agree that the terms and conditions of the Existing Agreements shall continue to govern and control the rates and charges due from each Purchaser for Wastewater Services provided by Seller to Purchaser.** For Wastewater Services provided as of the Completion Date, and continuing thereafter for the term of this Agreement, each Purchaser shall pay to Seller the amounts due as billed in accordance with the terms and conditions of this Agreement, which shall include, but not be limited to, Rates and Charges and other flat fee or installment components sufficient to recover the Revenue Requirement. Beginning on the first day of the month after the Completion Date, Seller shall invoice Purchaser on the first (1<sup>st</sup>) day of each month for Wastewater Services and such payments shall be made by each Purchaser on the fifteenth (15th) day of each such month thereafter during the term of this Agreement. All monies due Seller shall be paid in immediately available United States currency.

(B) In conjunction with preparing its Annual Budget, Seller shall compute the Revenue Requirement and the Rates and Charges to be paid by each Purchaser by a generally accepted cost of service rate making methodology similar to that outlined in the "*Financing and Charges for Wastewater Systems*" of the Water Environmental Federation, 2004, which categorizes costs on a functional basis and allocates them among Purchasers' and Seller's other customer classes on a cost causation basis. Each Purchaser shall be deemed to be an individual customer class. Rates and Charges shall be computed on an annual basis so that they will be at a level adequate to recover sufficient revenue to operate and maintain Seller's Wastewater System on an on-going basis. The parties acknowledge and agree that the Rate Methodology Model shall be used to determine each Purchaser's Revenue Requirement.

(C) The obligation of Purchaser to pay any Debt Service Charge required by this Section 3.03 shall be absolute and unconditional and shall not be suspended or discontinued for any cause whatsoever, including without limiting the generality of the foregoing, the failure of Seller to complete the acquisition, construction, improvement or up-grading of any portion of the Cayce Wastewater Facilities, any acts or circumstances which may constitute failure of consideration, destruction of or damage to any portion of the Cayce Wastewater Facilities, and any failure on the part of Seller to perform and observe any agreement, whether expressed or implied, under this Agreement. Purchaser obligates and binds itself to punctually make the payments of the Debt Service Charge required hereunder, free of any deduction, and without abatement, diminution or set-off of any sort.

**Section 3.04 Annual Budget and Adjustments to Revenue Requirement; Accounting for Charges and Establishing Cayce Wastewater Facilities Renewal and Replacement Fund; Investment Earnings; Lexington Deferred Credit.**

(A) For the Fiscal Year underway on the Completion Date and prior to the commencement of each Fiscal Year after the Completion Date, Seller shall establish an Annual Budget for such Fiscal Year which shall reflect the Revenue Requirement and the Rates and Charges for that year. Mid-period adjustments to Rates and Charges may be implemented by Seller in its reasonable discretion based upon Council action and compliance with the provisions of Section 3.12 hereof.

(B) Seller's Operation and Maintenance Expenses shall be recovered through a volumetric component of the Seller's Rates and Charges billed monthly to each Purchaser. The amounts generated by the operational-related and maintenance-related components of Seller's Rates and Charges shall be used in accordance with the provisions of this Agreement.

(C) Subject to the provisions of Section 3.04(D) below, the Capital Charge authorized under this Agreement shall be recovered through a non-volumetric component of Seller's Rates and Charges billed monthly to each Purchaser. The amounts generated by those portions of Seller's Rates and Charges associated with any such Capital Charge shall be used in accordance with the provisions of this Agreement.

(D) In any Fiscal Year, Purchaser shall pay the greater of (i) the amount of the Debt Service Coverage Component or (ii) the sum of the Depreciation Charge and the Capital Charge. The Debt Service Charge authorized under this Agreement shall be recovered by a non-volumetric component of Seller's Rates and Charges billed monthly to each Purchaser and used in accordance with the provisions of this Agreement. Each Purchaser shall commence paying a Debt Service Charge to Seller not later than the date that Seller is required to commence funding its debt service fund for an issue of Improvement Bonds. Each Purchaser shall have the express right to prepay the Debt Service Component in whole or in part, as provided in Section 7.02 below and as otherwise agreed by Seller, to the same extent the related Improvement Bond is subject to prepayment and the Debt Service Coverage Component shall be simultaneously reduced.

(E) Subject to the provisions of Section 3.04(D) above, the Depreciation Charge authorized under this Agreement may be billed monthly and shall be recovered through a non-

volumetric component of Seller's Rates and Charges and used in accordance with the provisions of this Agreement. There is hereby established the Cayce Wastewater Facilities Renewal and Replacement Fund. Revenues generated by Depreciation Charges shall be credited to the Cayce Wastewater Facilities Renewal and Replacement Fund by Seller unless such amounts are needed to meet debt service requirements under Seller's Indenture. Seller shall monthly deposit into the Cayce Wastewater Facilities Renewal and Replacement Fund an amount equal to one-twelfth (1/12<sup>th</sup>) of the balance of the amount budgeted in such current Fiscal Year to be deposited in such fund less Purchasers' Allocated Percentages of such budgeted amount. No Depreciation Charge shall be due at any time that the balance of the funds in the Cayce Wastewater Facilities Renewal and Replacement Fund equals or exceeds a sum equal to fifteen percent (15%) of the replacement value of the Cayce Wastewater Facilities (excluding Transmission Lines) as that replacement value is determined by Seller with the assistance of the Independent Consultants.

(F) Except for monies associated with the Cayce Wastewater Facilities Renewal and Replacement Fund (and any debt service reserve funds contemplated in Section 7.03 herein), Seller and Purchasers agree that all amounts paid by Purchasers under this Agreement may be invested by Seller from time to time in accordance with Cayce policies with earnings credited generally to Seller's Utility Fund.

(G) Earnings on the Cayce Wastewater Facilities Renewal and Replacement Fund shall be retained in such fund and become exclusively part of such fund.

(H) With respect to Lexington only, the amount of any Depreciation Charge charged to Lexington in any Fiscal Year shall be reduced until the deferred credit of \$1,950,000 shown on Exhibit E to this Agreement is exhausted.

**Section 3.05 Capital Costs Not Related to Increases of a Purchaser's Allocated Capacity in Cayce Wastewater Facilities Excluding Transmission Lines.**

(A) Seller shall be obligated to make all improvements which are reasonably necessary to satisfy regulatory agency requirements relating to such things as maintenance and operations or enhancing reliability for all of the Cayce Wastewater Facilities except Transmission Lines, without increasing the actual capacity of the same. The Future Capital Improvement Costs to pay for such improvements shall be shared by the parties hereto based upon Purchaser's Pro Rata Share of said costs with Seller responsible for the balance of said costs. Within five (5) business days of receipt by Seller, Seller shall provide each Purchaser with copies of all correspondence and documents from any such regulatory agency with respect to the matters set forth in this Section 3.05(A).

(B) Seller shall be obligated to make all improvements which are reasonably necessary to continue operations, extend the useful life in compliance with Good Utility Practices or enhance the reliability or efficiencies of all of the Cayce Wastewater Facilities except Transmission Lines or are necessary to maintain Purchaser's Allocated Capacity or such other improvements as Seller reasonably determines necessary to the proper functioning of all of the Cayce Wastewater Facilities except Transmission Lines. The Future Capital Improvement Costs to pay for such improvements shall be shared by the parties hereto based upon Purchaser's Pro Rata Share of said costs with the Seller responsible for the balance of said costs.

(C) Future Capital Improvement Costs (exclusive of Transmission Lines) required by this section shall be paid first from monies on deposit in the Cayce Wastewater Facilities Renewal and Replacement Fund. If monies have been withdrawn by Seller to pay debt service on its Bonds, Seller shall replenish such monies as soon the revenues of Seller's Combined System are available for such purpose in accordance with Seller's Indenture. In determining whether or not there are sufficient funds on deposit in the Cayce Wastewater Facilities Renewal and Replacement Fund, the calculation must be made assuming that Seller has replaced any funds withdrawn to meet Seller's debt service requirement under Seller's Indenture. If after such calculation, sufficient funds are not on deposit in the Cayce Wastewater Facilities Renewal and Replacement Fund to defray the Future Capital Improvement Costs, each Purchaser shall be assessed a Subsequent Capital Component (without the establishment of an Escrow Account if the portion of such Purchaser's contribution to the Subsequent Capital Component is less than \$2,000,000.00) payable within fifteen (15) days of the invoice presented by Seller. Seller shall be required to defray the balance of such shortfall in excess of the Purchaser's Pro Rata Share. In the event Seller determines to issue Improvement Bonds for the purposes of this paragraph, a Purchaser may defray its portion of these Future Capital Improvement Costs by the payment of Debt Service Charges.

**Section 3.06 Transmission Line Operation and Maintenance; Upgrade Agreements.**

(A) The parties hereto acknowledge that the Cayce Wastewater Facilities are a part of Seller's Wastewater System, and that pursuant to the provisions of Section 3.09 hereof, Seller is, therefore, responsible for the operation and maintenance of the Transmission Lines. Purchasers hereby grant to Seller such permission and extend to Seller all rights, which Purchasers have through their respective encroachment permits for public rights-of-way and easements for private property that are necessary to operate and maintenance the Transmission Lines in accordance with the terms of this Agreement.

(B) The parties hereto hereby agree to the following upgrades and improvements to their respective wastewater systems upon the following terms and conditions relating to Transmission Lines for their joint use:

(1) Cayce agrees, subject to SCDHEC approval to the extent required, to the following obligations: (i) upgrade the 6 Mile Creek pump station and connect to the Current 12 & 14 Mile Creek 24" Sewer Force Main and provide provisions in the upgrade of the 6 Mile Creek pump station to connect to the Future 12 & 14 Mile Creek 30" Sewer Force Main; (ii) allow Lexington to connect the Future 12 & 14 Mile Creek 30" Sewer Force Main into the portion of the Highway 321 Regional Sewer Force Main owned by Cayce in a location approved by Cayce near the railroad tracks east of the intersection of Dixiana Road and Saxe Gotha Road; (iii) allow the connection of the Future 12 & 14 Mile Creek 30" Sewer Force Main to the existing thirty-six inch (36") section of the Old Barnwell WWTP Interconnection, which connection shall be made at a location approved by the Commission near the point where the Old Barnwell WWTP Interconnection crosses Interstate I-26; (iv) upon completion of the installation of the Future 12 & 14 Mile Creek 30" Sewer Force Main by Lexington, allow the discharge by Lexington into the thirty inch (30") section of the Highway 321 Regional Sewer Force Main and



into the thirty-six inch (36") section of the Old Barnwell WWTP Interconnection at an increased discharge level up to 10,400 GPM at no charge to Lexington; and (v) complete any outstanding obligations remaining pursuant to the terms and conditions of the Old Barnwell Interconnect Agreement.

(2) Lexington agrees, subject to SCDHEC approval to the extent required, to the following obligations: (i) allow Cayce to immediately discharge up to 1,100 GPM peak capacity directly into the Current 12 & 14 Mile Creek 24" Sewer Force Main from Cayce's 6 Mile Creek pump station at no additional cost to Cayce; (ii) no later than July 7, 2011, Lexington shall complete the construction of the Future 12 & 14 Mile Creek 24" Sewer Force Main Extension from the Twelve/Fourteen Mile Creek pump station to the Old Barnwell WWTP Interconnection at no cost to Cayce; (iii) no later than July 7, 2011, Lexington shall complete the construction the Future 12 & 14 Mile Creek 30" Sewer Force Main and connect this line to the existing thirty-six inch (36") section of the Old Barnwell WWTP Interconnection at no cost to Cayce; (iv) upon completion of the Future 12 & 14 Mile Creek 30" Sewer Force Main allow Cayce to increase its discharge from the 6 Mile Creek pump station into the Future 12 & 14 Mile Creek 30" Sewer Force Main to 2,400 GPM capacity at no cost to Cayce; and (v) complete any outstanding obligations remaining pursuant to the terms and conditions of the Commission/Lexington Upgrade Agreement. The Line Allocation Table shall be amended on July 7, 2011, to incorporate the provisions of this paragraph (2) regardless of the status of satisfaction of the obligation of Lexington under this paragraph (2), and Lexington further agrees to be responsible to Cayce and the Commission for any damages and loss sustained as the direct result of its failure to fully satisfy its obligations by such date.

(3) The Commission agrees, subject to SCDHEC approval to the extent required, to the following obligations: (i) allow Lexington to connect the Future 12 & 14 Mile Creek 30" Sewer Force Main to the existing thirty-six inch (36") portion of the Old Barnwell WWTP Interconnection, which connection shall be made at a location approved by the Commission near the point where the Old Barnwell WWTP Interconnection crosses Interstate I-26; (ii) allow Lexington to connect the Future 12 & 14 Mile Creek 24" Sewer Force Main Extension to the existing thirty-six inch (36") section of the Old Barnwell WWTP Interconnection; and (iii) convey the Old Barnwell WWTP Interconnection from the Connecting Meter to the Plant to Cayce after the Commission has satisfied its debt obligation of such line.

(4) To the extent necessary to facilitate operation, maintenance and/or insurance needed for the Transmission Lines, Purchasers shall convey to Seller, at Seller's request, title to any Transmission Line from the Connecting Meters to the Plant after Purchasers have satisfied any debt and lien obligations of such lines.

**Section 3.07 Transmission Line Improvements and Repairs; Costs Not Related to Increases of Transmission Line Capacity.**

**(A) From the Effective Date until the Completion Date, Seller and Purchaser specifically agree that the terms and conditions of the Existing Agreements shall continue to govern and control all costs associated with improvements and repairs to the Transmission Lines.** On the Completion Date and continuing thereafter for the term of this Agreement, costs for improvements which are reasonably undertaken to satisfy regulatory

agency requirements relating to such things as maintenance and operations or enhancing reliability of the Transmission Lines without increasing the actual capacity of such lines shall be shared by the parties hereto in accordance with the Line Allocation. Within five (5) business days of receipt by Seller, Seller shall provide to each Purchaser copies of all correspondence and documents from any such regulatory agency with respect to the matters set forth in this Section 3.07(A).

(B) **From the Effective Date until Completion Date, Seller and Purchaser specifically agree that the terms and conditions of the Existing Agreements shall continue to govern and control all costs associated with improvements and repairs to the Transmission Lines.** On the Completion Date, and continuing thereafter for the term of this Agreement, costs for improvements which are reasonably necessary to continue operations, repair or maintain the useful life of the Transmission Lines or such other improvements as Seller, in consultation with each Purchaser, reasonably determines appropriate for the proper functioning of the Transmission Lines shall also be shared by the applicable parties hereto in accordance with the Line Allocation.

(C) Funds needed to defray the Purchaser's share of the Future Capital Improvement Costs described in this Section 3.07 shall be paid from a Subsequent Capital Component assessed against Purchaser responsible for such share of the Future Capital Improvement Costs based upon the Line Allocation, payable (without an Escrow Account) within fifteen (15) days of the invoice presented by Seller. In the event Seller determines to issue Improvement Bonds for purposes of this paragraph, a Purchaser may defray its portion of these Future Capital Improvement Costs by the payment of Debt Service Charge. Seller shall be required to defray the balance of any shortfall in excess of the shares paid by Purchasers.

**Section 3.08 Measurement of Wastewater Flows.** All Connecting Meters delineated on the Line Allocation Map shall be installed at such locations as generally shown on the Line Allocation Map. All other Connecting Meters shall be placed at such locations on Lexington's System and the Commission's System as mutually agreed upon by Seller and a Purchaser based upon criteria to obtain the necessary readings. Purchaser's flow shall be measured at the Connecting Meters located as set forth on the Line Allocation Map with electromagnetic flow meter equipment or such other equipment capable of providing real time continuous flow data to Seller's Supervisory Control and Data Acquisition ("SCADA") system, all as reasonably specified by Seller from time to time. The actual measurement of a Purchaser's Wastewater shall be known as "Metered Flows". The cost of the Connecting Meters and all repair and maintenance costs thereto as well as the cost of the activities necessary to obtain the Metered Flows shall be paid by the appropriate Purchaser. Seller agrees to permit Purchasers to conduct such inspection of the Connecting Meters as reasonably requested by Purchasers. Seller further agrees to provide to Purchasers copies of all data regarding the Connecting Meters and SCADA as reasonably requested by Purchasers, with all costs incurred by Seller to be reimbursed and/or paid by the requesting Purchaser.

**Section 3.09 Operation and Maintenance of Seller's Wastewater System.**

(A) Seller agrees to operate and maintain Seller's Wastewater System in a good and proper manner in accordance with all requirements of state and federal regulatory agencies consistent

with Good Utility Practices, provided that when any such practice or law provides for less stringent standards than those specifically stated in this Agreement, the standards specifically stated in this Agreement shall govern industry practices, and in such a manner as to enable it to comply with its obligations under the Agreement.

(B) Seller shall designate a 24-hour contact person with authority to make day-to-day decisions relating to this Agreement and provide Purchasers with information sufficient to contact such person in an emergency.

(C) Seller shall obtain and maintain, or cause to be obtained and maintained, with responsible insurers all such insurance on the Cayce Wastewater Facilities (to the extent owned by Seller and applicable insurance is available) which is customarily maintained with respect to properties of like character against accident to, loss of, or damage to such properties. To the extent a Purchaser owns all or a portion of the Transmission Lines, such Purchaser shall obtain and maintain with responsible insurers all such insurance which is customarily maintained with respect to properties of like character against accident to, loss of or damage to the Transmission Lines.

(D) Seller shall not directly or indirectly create, incur, assume, or suffer to be created any lien or other encumbrance on Purchaser's rights with respect to Allocated Capacity except as otherwise permitted under Seller's Indenture.

**Section 3.10 Books and Records.** Seller shall maintain separate accounting records for Seller's Wastewater System which records shall be maintained in accordance with Accounting Principles and audited annually by the Independent Certified Public Accountant. All books and records of Seller pertaining to Seller's Wastewater System shall be available to each Purchaser for inspection at all reasonable times upon reasonable notice, with Purchaser to pay Seller's reasonable costs for providing Purchaser with such books and records.

**Section 3.11 Priority of Pledge; Additional Obligations.**

(A) Each Purchaser represents and Seller acknowledges that (i) all payment obligations of the Purchasers hereunder are payable solely from the "Revenues" (as such term is defined in the respective Purchaser's Bond Documents) of each Purchaser's System and (ii) the "Revenues" of each Purchaser's System are presently pledged to the payment of certain obligations issued under the provisions of such Purchaser's Bond Documents. Each Purchaser agrees that the obligations owed to Seller hereunder shall be construed and treated as follows:

(1) the payments of the Operation and Maintenance Expenses shall constitute and have the priority accorded "Expenses of Operating and Maintaining the System" under each Purchaser's Bond Documents;

(2) the payments of Debt Service Charges shall constitute and have the priority accorded "Junior Bonds" under each Purchaser's Bond Documents; and

(3) the payments of the Capital Charge and the Depreciation Charge shall constitute and have the priority accorded payments made by the Commission into its

“Depreciation and Capital Improvements Fund” established by the provisions of the Commission’s Indenture and shall constitute and have the priority accorded payments made by Lexington into its Renewal and Replacement Fund under Lexington’s Ordinance.

(B) Inasmuch as each Purchaser’s obligations to pay each Debt Service Charge as provided in subparagraph A(2) above shall be treated as “Junior Bonds” under each Purchaser’s Bond Documents, Lexington grants to Seller a pledge and lien upon Lexington’s “Revenues” (as defined in Lexington’s Ordinance) and the Commission grants to the Seller a pledge and lien upon the “Pledged Revenues” (as defined in the Commission’s Indenture) junior and subordinate in all respects to the pledge and lien securing the payment of the “Bonds” (as defined in each Purchaser’s Bond Documents).

(C) Each Purchaser further agrees that it will not amend or supplement such Purchaser’s Bond Documents or adopt other proceedings that would in any way diminish the priority given the payments made by such Purchaser to Seller with respect to the payments hereunder; provided, however, nothing herein shall restrict any Purchaser’s issuance of senior lien bonds or parity junior lien bonds under Purchaser’s Bond Documents.

**Section 3.12 Annual Budget.** Initially, as soon as practicable for the Fiscal Year underway or beginning immediately following the Completion Date and, thereafter, annually, Seller shall prepare and deliver to each Purchaser its proposed Cayce Wastewater Facilities portion of the Utility Fund portion of the Annual Budget, at the later of (i) sixty (60) days prior to the beginning of each Fiscal Year or (ii) the date of the providing of such information to the Council. The information shall be in at least such detail as to specify the Rates and Charges, Capital Charges, Debt Service Charges, and Depreciation Charges for such Fiscal Year. At the request of a Purchaser, Seller agrees to cause its senior finance administrator and Cayce Wastewater System engineer to meet with representatives of such Purchasers, prior to the Council’s first reading of the ordinance adopting such Annual Budget or any amendment, in order to discuss in detail the proposed Cayce Wastewater Facilities portion of the Utility Fund portion of the Annual Budget. In the event that a Purchaser has objections to the proposed Cayce Wastewater Facilities portion of the Utility Fund portion of the Annual Budget, Seller agrees to permit representatives of such Purchaser to make a presentation to Council prior to final approval of the Annual Budget thereto by the Council.

**Section 3.13 Sale of Services Related to Wastewater and Allocated Capacity.**

(A) Seller and Purchaser agree that this Agreement shall in no way limit or prohibit the sale by any party to this Agreement of any services concerning the collection, transmission, treatment and disposal of Wastewater by such party to customers, and that a party selling any portion of Wastewater services shall be solely entitled to the proceeds of such sale.

(B) Seller and Purchaser may sell or lease all or any portion of its Allocated Capacity to any other party to this Agreement on such terms and conditions as shall be agreed to by such parties.

(C) In addition to the sale or lease of Allocated Capacity set forth in Section 3.13(B)



above, Seller and Purchaser may sell or lease all or any portion of its Allocated Capacity, but only to a public entity who is a reseller of services concerning the collection, transmission, treatment and disposal of Wastewater. Such a sale or lease may be made only upon the following conditions:

(i) the Allocated Capacity shall first be offered to another party to this Agreement on the same offered terms for a period of ninety (90) days unless extended by the party selling such Allocated Capacity;

(ii) if all of the parties to this Agreement elect not to purchase any portion, then that portion may then be offered to a new purchaser who is not a party to this Agreement;

(iii) as a condition to such sale or lease, such new purchaser shall become a Purchaser under this Agreement with respect to the Allocated Capacity purchased and such new purchaser shall execute, acknowledge, and deliver to the remaining parties to this Agreement such instruments of transfer, assignment, and assumption and such other certificates, representations, and documents as the remaining parties to this Agreement may deem reasonably necessary or desirable; and

(iv) no such sale, lease or other disposition of Allocated Capacity shall relieve Seller or any Purchaser of primary responsibility for the performance of its obligations under this Agreement.

(D) Notwithstanding any other provision of this Agreement to the contrary, each Purchaser hereby acknowledges that (i) Seller has financed costs of Seller's Wastewater System with the proceeds of Bonds and that the interest paid to the holders of certain of the Bonds is tax exempt pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code") and Treasury Regulations promulgated thereunder (the "Regulations") and (ii) the Code and Regulations prescribe certain limitations (the "Private Business Use Limitations") on the amount of Wastewater Services or Allocated Capacity supplied by Seller's Wastewater System that Seller is permitted to sell, directly or indirectly, to a person or entity other than a State or local governmental unit as defined by the Code and Regulations ("Private Persons")(such direct or indirect sales shall hereinafter be referred to as "Private Business Use"). For purposes of this Section, the United States of America and any agency or instrumentality of the United States of America are Private Persons, and the sale of Allocated Capacity to the United States of America and any agency or instrumentality of the United States of America constitutes Private Business Use.

Purchaser hereby further acknowledges that any direct or indirect sale by Purchaser of such Purchaser's Wastewater Services or Allocated Capacity which constitutes Private Business Use in excess of the Private Business Limitations (i) may cause Bonds to be deemed to be Private Activity Bonds under the Code and Regulations and (ii) may cause the interest on Bonds to be included in gross income of the holders of the Bonds retroactively to the issue date of the Bonds.

Each Purchaser hereby represents, warrants and covenants as follows:

1) In order for the Seller to protect and maintain the tax exempt status of Bonds under the Code and Regulations, each Purchaser will not enter into any contract, arrangement or agreement, whether formal or informal, for the direct or indirect sale by a Purchaser of its Wastewater Services or Allocated Capacity that constitutes Private Business Use.

2) Each Purchaser will not enter into any contract, arrangement or agreement, whether formal or informal, for the direct or indirect sale by a Purchaser of its Wastewater Services or Allocated Capacity to a Private Person unless such selling party provides to the Seller an opinion of counsel experienced in matters of tax exempt bonds to the effect that such contract, arrangement or agreement will not adversely affect the tax exempt status of the Bonds.

3) In the event a Purchaser enters into any contract, arrangement or agreement, whether formal or informal, that may cause, or causes, any of the Bonds to fail to satisfy the Private Business Use Limitations, such Purchaser will pay, or cause to be paid, on behalf of the Seller, all amounts required to be paid in order to preserve the tax exempt status of the Bonds under the Code and the Regulations, including without limitation, (i) all amounts determined to be due and payable to the United States of America with respect to the Bonds in connection with any examination of the Bonds by the Internal Revenue Service, (ii) all amounts determined to be due and payable to the United States of America with respect to the Bonds in connection with the Internal Revenue Service Voluntary Compliance Program, (iii) all amounts determined to be due and payable to the United States of America arising out of any other method or manner of determination by the Internal Revenue Service that the interest on the Bonds is included in the gross income of the holders of the Bonds due to the failure of the Bonds to comply with the Private Business Use Limitations, and (iv) all reasonable attorneys' fees, charges and costs incurred by the Seller to protect and maintain the tax exempt status of the Bonds.

4) The terms of any direct or indirect sale by Purchaser of such Purchaser's Allocated Capacity shall be deemed to include the terms of this Section 3.13 which shall be binding on all Purchasers regardless of whether such Purchaser is a Purchaser on the Execution Date or thereafter. Any transfer of Allocated Capacity or of any other rights arising under this Agreement which transfer is not subject to the terms of this Section 3.13 shall be void ab initio.

(End of Article III)

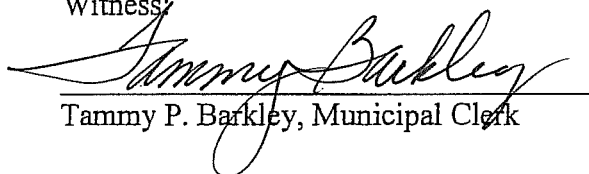
SIGNATURE PAGE OF THE  
WASTEWATER SERVICES AGREEMENT

**IN WITNESS WHEREOF**, the parties hereto have caused this Wastewater Services Agreement to be signed in their names by their duly authorized officers as of the date first written above.

**CITY OF CAYCE, SOUTH CAROLINA**

By:  [Seal]  
Elise Partin, Mayor

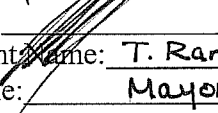
Witness:

  
Tammy P. Barkley, Municipal Clerk

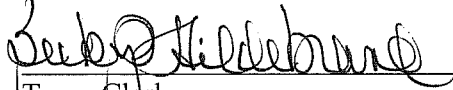
SIGNATURE PAGE OF THE  
WASTEWATER SERVICES AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this Wastewater Services Agreement to be signed in their names by their duly authorized officers as of the date first written above.

TOWN OF LEXINGTON, SOUTH CAROLINA

By:  [Seal]  
Print Name: T. Randall Halfasre  
Title: Mayor

Witness:

  
Town Clerk

SIGNATURE PAGE OF THE  
WASTEWATER SERVICES AGREEMENT

**IN WITNESS WHEREOF**, the parties hereto have caused this Wastewater Services Agreement to be signed in their names by their duly authorized officers as of the date first written above.

**JOINT MUNICIPAL WATER AND  
SEWER COMMISSION**

By: L. Dale Harley [Seal]  
Print Name: L. Dale Harley  
Title: CHAIRMAN of Commission

By: Stephen H. Mann [Seal]  
Print Name: Stephen H. Mann  
Title: General Manager of Commission

Witness:

Stephen R. Morton  
Print Name: Stephen R Morton

# **EXHIBIT G**

MAYOR  
Steve MacDougall

# TOWN OF LEXINGTON

TOWN ADMINISTRATOR  
D. Britt Poole

MAYOR PRO-TEM  
Hazel Livingston

COUNCIL  
Kathy Maness  
Ted Stambolitis  
Todd Shevchik  
Todd Carnes  
Ron Williams



RECEIVED

MAY 14 2014

MAILING ADDRESS  
Post Office Box 397  
Lexington SC 29071

INFORMATION  
803-359-4164  
www.lexsc.com

FAX  
803-359-4460

CAROLINA WATER SERVICE

May 8, 2014

Mr. Richard J. Durham  
Carolina Water Service, Inc.  
151 Old Wire Road  
West Columbia, SC29172

re: Bulk Wastewater Service Interconnection with Town of Lexington Sewer System

Dear Mr. Durham:

I have discussed your request (for a potential interconnection of the I-20 Wastewater Treatment Facility with the Town of Lexington) with the Town Administrator and Town Council. The Town considered this carefully, but for a number of seasons is not interested in such an interconnection at this time.

Sincerely,

Brad Cunningham, Municipal Attorney  
Town of Lexington

BC



# **EXHIBIT H**

**DRAFT 6/30/2015**

# **Surface Water Discharge Permit**

**In Accordance With the  
National Pollutant Discharge Elimination System (NPDES)**

**This NPDES Permit Certifies That**

***Carolina Water Service, Inc.  
I-20 Regional WWTP***

has been granted permission to discharge treated wastewater from a facility located at

***Laurel Meadows Subdivision off Leaphart Road  
Lexington County***

to receiving waters named

***Saluda River***

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, III, IV and V hereof. This permit is issued in accordance with the provisions of the Pollution Control Act of South Carolina (S.C. Code Sections 48-1-10 et seq., 1976), Regulation 61-9 and with the provisions of the Federal Clean Water Act (PL 92-500), as amended, 33 U.S.C. 1251 et seq., the "Act."

**Jeffrey P. deBessonnet, P.E., Director  
Water Facilities Permitting Division  
Bureau of Water**

**Issued:**

**Expires<sup>1</sup>:**

**Effective:**

**Permit No.: SC0035564**

<sup>1</sup> This permit will continue to be in effect beyond the expiration date if a complete timely re-application is received pursuant to Regulation 61-9.122.6 and signed per Regulation 61-9.122.22



**DRAFT 6/30/2015**Page 2 of 32  
Permit No. SC0035564**TABLE OF CONTENTS**

<b>PART I. Definitions .....</b>	<b>3</b>
<b>PART II. Standard Conditions.....</b>	<b>6</b>
A. Duty to Comply .....	6
B. Duty to Reapply.....	6
C. Need to Halt or Reduce Activity Not a Defense .....	6
D. Duty to Mitigate.....	7
E. Proper Operation and Maintenance.....	7
F. Permit Actions.....	8
G. Property Rights .....	8
H. Duty to Provide Information .....	8
I. Inspection and Entry.....	8
J. Monitoring and Records .....	9
K. Signatory Requirement.....	10
L. Reporting Requirements .....	12
M. Bypass .....	16
N. Upset.....	17
O. Misrepresentation of Information .....	17
<b>Part III. Limitations and Monitoring Requirements .....</b>	<b>19</b>
A. Effluent Limitations and Monitoring Requirements.....	19
B. Whole Effluent Toxicity Limitations and Monitoring Requirements.....	22
C. Groundwater Requirements .....	22
D. Sludge Disposal Requirements .....	23
E. Land Application Requirements .....	24
F. Instream Biological Assessment .....	24
<b>Part IV. Schedule of Compliance.....</b>	<b>25</b>
<b>Part V. Other Requirements.....</b>	<b>26</b>
A. Effluent Limitations and Monitoring Requirements.....	26
B. Effluent Toxicity Limitations and Monitoring Requirements .....	26
C. Groundwater Requirements .....	26
D. Sludge Disposal Requirements .....	26
E. Land Application.....	28
F. Pretreatment.....	28
G. Additional Operational Requirements .....	29
H. Wastewater Design Flow .....	30
I. Water Treatment Plant Notification.....	30

# DRAFT 6/30/2015

Part I  
Page 3 of 32  
Permit No. SC0035564

## PART I. Definitions

Any term not defined in this Part has the definition stated in the South Carolina Pollution Control Act (PCA) or in "Water Pollution Control Permits", R.61-9 or its normal meaning.

- A. The "Act", or CWA shall refer to the Clean Water Act (Formerly referred to as the Federal Water Pollution Control Act) Public Law 92-500, as amended means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et seq. Specific references to sections within the CWA will be according to Pub. L. 92-500 notation.
- B. The "arithmetic mean" of any set of values is the summation of the individual values divided by the number of individual values.
- C. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- D. A "composite sample" shall be defined as one of the following four types:
  - 1. An influent or effluent portion collected continuously over a specified period of time at a rate proportional to the flow.
  - 2. A combination of not less than 8 influent or effluent grab samples collected at regular (equal) intervals over a specified period of time and composited by increasing the volume of each aliquot in proportion to flow. If continuous flow measurement is not used to composite in proportion to flow, the following method will be used: An instantaneous flow measurement should be taken each time a grab sample is collected. At the end of the sampling period, the instantaneous flow measurements should be summed to obtain a total flow. The instantaneous flow measurement can then be divided by the total flow to determine the percentage of each grab sample to be combined. These combined samples form the composite sample.
  - 3. A combination of not less than 8 influent or effluent grab samples of equal volume but at variable time intervals that are inversely proportional to the volume of the flow. In other words, the time interval between aliquots is reduced as the volume of flow increases.
  - 4. If the effluent flow varies by less than 15 percent, a combination of not less than 8 influent or effluent grab samples of constant (equal) volume collected at regular (equal) time intervals over a specified period of time. (This method maybe used with prior Department approval.)

All samples shall be properly preserved in accordance with Part II.J.4. Continuous flow or the sum of instantaneous flows measured and averaged for the specified compositing time period shall be used with composite results to calculate mass.

- E. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of

**DRAFT 6/30/2015**

Part I  
Page 4 of 32  
Permit No. SC0035564

measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

- F. "Daily maximum" other than for bacterial indicators (i.e. fecal coliform, E. coli and enterococci) is the highest average value recorded of samples collected on any single day during the calendar month. Daily average for bacterial indicators means the highest arithmetic average of bacterial samples collected for each bacterial indicator species (i.e. fecal coliform, E. coli and/or enterococci) in any 24 hour period during a calendar month.
- G. "Daily minimum" is the lowest average value recorded of samples collected on any single day during the calendar month.
- H. The "Department" or "DHEC" shall refer to the South Carolina Department of Health and Environmental Control.
- I. The "geometric mean" of any set of values is the  $N^{\text{th}}$  root of the product of the individual values where N is equal to the number of individual values. The geometric mean is equivalent to the antilog of the arithmetic mean of the logarithms of the individual values. For purposes of calculating the geometric mean, values of zero (0) shall be considered to be one (1).
- J. A "grab sample" is an individual, discrete or single influent or effluent portion of at least 100 milliliters collected at a time representative of the discharge and over a period not exceeding 15 minutes and retained separately for analysis.
- K. The "instantaneous maximum or minimum" is the highest or lowest value recorded of all samples collected during the calendar month.
- L. The "monthly average", other than for fecal coliform, E. coli and enterococci, is the arithmetic mean of all samples collected in a calendar month period. Monthly average (for bacterial indicators only) means the calendar month (i.e., 28 days, 29 days, 30 days, or 31 days) geometric mean of all bacterial samples collected [for each of the bacterial indicator species (i.e., E. coli, enterococcus, and/or fecal coliform)] during that calendar month. The monthly average loading is the arithmetic average of all daily discharges made during the month.
- M. "POTW" means a treatment works as defined by section 212 of the Clean Water Act, which is owned by a state or municipality (as defined by section 502[4] of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature or a regional entity composed of two (2) or more municipalities or parts thereof. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality, as defined in section 502(4) of the CWA, which has jurisdiction over the Indirect Discharges to and the discharge from such a treatment works.
- N. "Practical Quantitation Limit (PQL)" is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. It is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed. It is also referred to as the reporting limit.
- O. "Privately owned treatment works" means any device or system which both is used to treat wastes from any facility whose operator is not the operator of the treatment works and is not a POTW.

**DRAFT 6/30/2015**

Part I  
Page 5 of 32  
Permit No. SC0035564

- P. "Quarter" is defined as the first three calendar months beginning with the month that this permit becomes effective (unless otherwise specified in this permit) and each group of three calendar months thereafter.
- Q. "Quarterly average" is the arithmetic mean of all samples collected in a quarter.
- R. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- S. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- T. "Weekly average", is the arithmetic mean of all the samples collected during a one-week period. For self-monitoring purposes, weekly periods in a calendar month are defined as three (3) consecutive seven-day intervals starting with the first day of the calendar month and a fourth interval containing seven (7) days plus those days beyond the 28<sup>th</sup> day in a calendar month. The value to be reported is the single highest of the four (4) weekly averages computed during a calendar month. The weekly average loading is the arithmetic average of all daily discharges made during the week.
- U. "Ultimate Oxygen Demand" (UOD) is the oxygen consumed by aquatic microbes in metabolizing the remaining organic and nitrogenous matter in the effluent from the permittee's wastewater treatment plant. This demand is expressed in pounds per day and is calculated by multiplying the effluent biochemical oxygen demand (BOD<sub>5</sub>) concentration by the F-ratio and adding that to 4.57 times the effluent ammonia (NH<sub>3</sub>-N) concentration and multiplying the sum by the flow and the constant 8.34. The UOD loading is the arithmetic average of all individual loading determinations made during the sampling period.

$$\text{U.O.D. (lbs/day)} = [\{\text{BOD}_5(\text{mg/l}) * \text{F-ratio}\} + \{\text{NH}_3\text{-N}(\text{mg/l}) * 4.57\}] * \text{Flow(MGD)} * 8.34$$

$$\text{F-ratio} = 1.5$$

**Legend (See Effluent Limitations and Monitoring Requirements)**

Abbreviation	Meaning/Definition
BOD <sub>5</sub>	5-Day Biochemical Oxygen Demand
TSS	Total Suspended Solids
DO	Dissolved Oxygen
TRC	Total Residual Chlorine
NH <sub>3</sub> -N	Ammonia Nitrogen
24 Hr C	24 Hour Composite
Cont.	Continuous
Cal	Calculated
Eff.	Effluent

**DRAFT 6/30/2015**

Part II  
Page 6 of 32  
Permit No. SC0035564

**PART II. Standard Conditions****A. Duty to Comply**

The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. The Department's approval of wastewater facility Plans and Specifications does not relieve the permittee of responsibility to meet permit limits.

1. a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. It is the responsibility of the permittee to have a treatment facility that will meet the final effluent limitations of this permit. The approval of plans and specifications by the Department does not relieve the permittee of responsibility for compliance.
2. Failure to comply with permit conditions or the provisions of this permit may subject the permittee to civil penalties under S.C. Code Section 48-1-330 or criminal sanctions under S.C. Code Section 48-1-320. Sanctions for violations of the Federal Clean Water Act may be imposed in accordance with the provisions of 40 CFR Part 122.41(a)(2) and (3).
3. A person who violates any provision of this permit, a term, condition or schedule of compliance contained within a valid NPDES permit, or the State law is subject to the actions defined in the State law.

**B. Duty to Reapply**

1. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. Any POTW with a current effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department. (The Department shall not grant permission for applications to be submitted later than the expiration date of the existing permit)
2. If a privately owned treatment works as defined in Part I.N, wishes to continue an activity regulated by this permit after the expiration date of this permit, the privately owned treatment works must apply for and obtain a new permit. A privately owned treatment works with a currently effective permit shall submit a new application 180 days before the existing permit expires, unless permission for a later date has been granted by the Department. The Department may not grant permission for applications to be submitted later than the expiration date of the existing permit.

**C. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.



# DRAFT 6/30/2015

Part II  
Page 7 of 32  
Permit No. SC0035564

## D. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

## E. Proper Operation and Maintenance

1. The permittee shall at all times properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective performance based on design facility removals, adequate funding, adequate operator staffing and training and also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Power Failures.

In order to maintain compliance with effluent limitations and prohibitions of this permit, the permittee shall either:

- a. provide an alternative power source sufficient to operate the wastewater control facilities;
- b. or have a plan of operation which will halt, reduce, or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

3. The permittee shall develop and maintain at the facility a complete Operations and Maintenance Manual for the waste treatment facilities and/or land application system. The manual shall be made available for on-site review during normal working hours. The manual shall contain operation and maintenance instructions for all equipment and appurtenances associated with the waste treatment facilities and land application system. The manual shall contain a general description of: the treatment process(es), the operational procedures to meet the requirements of (E)(1) above, and the corrective action to be taken should operating difficulties be encountered.
4. The permittee shall provide for the performance of daily treatment facility inspections by a certified operator of the appropriate grade as specified in Part V. The inspections shall include, but should not necessarily be limited to, areas which require visual observation to determine efficient operation and for which immediate corrective measures can be taken using the O & M manual as a guide. All inspections shall be recorded and shall include the date, time, and name of the person making the inspection, corrective measures taken, and routine equipment maintenance, repair, or replacement performed. The permittee shall maintain all records of inspections at the permitted facility as required by the permit, and the records shall be made available for on-site review during normal working hours.
5. A roster of operators associated with the facility's operation and their certification grades shall be submitted to the DHEC/Bureau of Water/Water Pollution Control Division. For existing facilities, this roster shall be submitted within thirty (30) days of the effective date of this permit. For new facilities, this roster must be submitted prior to placing the facility into operation. Additionally, any changes in

# DRAFT 6/30/2015

Part II  
Page 8 of 32  
Permit No. SC0035564

operator or operators (including their certification grades) shall be submitted to the Department as they occur.

## 6. Wastewater Sewer Systems

- a. Purpose. This section establishes rules for governing the operation and maintenance of wastewater sewer systems, including gravity or pressure interceptor sewers. It is the purpose of this section to establish standards for the management of sewer systems to prevent and/or minimize system failures that would lead to public health or environmental impacts.
- b. Applicability. This section applies to all sewer systems that have been or would be subject to a DHEC construction permit under Regulation 61-67 and whose owner owns or operates the wastewater treatment system to which the sewer discharges.
- c. General requirements. The permittee must:
  - (1) Properly manage, operate, and maintain at all times all parts of its sewer system(s), to include maintaining contractual operation agreements to provide services, if appropriate;
  - (2) Provide adequate capacity to convey base flows and peak flows for all parts of the sewer system or, if capital improvements are necessary to meet this standard, develop a schedule of short and long term improvements;
  - (3) Take all reasonable steps to stop and mitigate the impact of releases of wastewater to the environment; and
  - (4) Notify the Department within 30 days of a proposed change in ownership of a sewer system.

## F. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

## G. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

## H. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

## I. Inspection and Entry

**DRAFT 6/30/2015**

Part II  
 Page 9 of 32  
 Permit No. SC0035564

The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the Department), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and Pollution Control Act, any substances or parameters at any location.

J. Monitoring and Records

1. a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Flow Measurements

Where primary flow meters are required, appropriate flow measurement devices and methods consistent with accepted scientific practices shall be present and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of not greater than 10 percent from the true discharge rates throughout the range of expected discharge volumes. The primary flow device, where required, must be accessible to the use of a continuous flow recorder.

- c. The permittee shall maintain all records of inspections at the permitted facility as required by the permit, and the records shall be made available for on-site review during normal working hours.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by R.61-9.503 or R.61-9.504), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
3. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;

## DRAFT 6/30/2015

Part II  
Page 10 of 32  
Permit No. SC0035564

- c. The date(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
4. a. Analyses for required monitoring must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal specified in R.61-9.503, unless other test procedures have been specified in the permit
- b. Unless addressed elsewhere in this permit, the permittee shall use a sufficiently sensitive analytical method for each sample that achieves a value below the derived permit limit stated in Part III. For the purposes of reporting analytical data on the Discharge Monitoring Report (DMR):
- (1) Analytical results below the PQL from methods available in 40 CFR 136 or otherwise specified in the permit shall be reported as zero (0), provided the PQL is below the value specified in Part V.G.5 and the result is also below the PQL. Zero (0) shall also be used to average results which are below the PQL. When zero (0) is reported or used to average results, the permittee shall report, in the "Comment Section" or in an attachment to the DMR, the analytical method used, the PQL achieved, and the number of times results below the PQL were reported as zero (0).
  - (2) Analytical results above the PQL from methods available in 40 CFR 136 or otherwise specified in the permit shall be reported as the value achieved, even if the PQL is below the value specified in Part V.G.5. When averaging results using a value containing a < the average shall be calculated using the value and reported as < the average of all results collected.
3. (a) Mass value for a pollutant collected using a grab sample shall be calculated using the 24-hour totalized flow for the day the sample was collected (if available) or the instantaneous flow at the time of the sample and either the concentration value actually achieved or the value as determined from the procedures in (1) or (2) above, as appropriate. Grab samples should be collected at a time representative of the discharge.
- (b) Mass value for a pollutant collected using a composite sample shall be calculated using the 24-hour totalized flow measured for the day the sample was collected and either the concentration value actually achieved or the value as determined from the procedures in (1) or (2) above, as appropriate.
5. The PCA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000 or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment provided by the Clean Water Act is also by imprisonment of not more than 4 years.

### K. Signatory Requirement

## DRAFT 6/30/2015

Part II  
Page 11 of 32  
Permit No. SC0035564

1. All applications, reports, or information submitted to the Department shall be signed and certified.
  - a. Applications. All permit applications shall be signed as follows:
    - (1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
      - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
      - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
    - (2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or
    - (3) For a municipality, State, Federal, or other public agency or public facility: By either a principal executive officer, mayor, or other duly authorized employee or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
      - (a) The chief executive officer of the agency, or
      - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator, Region IV, EPA).
  - b. All reports required by permits, and other information requested by the Department, shall be signed by a person described in Part II.K.1.a of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - (1) The authorization is made in writing by a person described in Part II.K.1.a of this section;
    - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,
    - (3) The written authorization is submitted to the Department.
  - c. Changes to authorization. If an authorization under Part II.K.1.b of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II.K.1.b of this section must be submitted to

## DRAFT 6/30/2015

Part II  
Page 12 of 32  
Permit No. SC0035564

the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under Part II.K.1.a or b of this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

2. The PCA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than two years per violation, or by both.

### L. Reporting Requirements

#### 1. Planned changes

The permittee shall give written notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in R 61-9.122.29(b); or
- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Part II.L.8 of this section.
- c. The alteration or addition results in a significant change in the permittee's sewage sludge or industrial sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan (included in the NPDES permit directly or by reference);

#### 2. Anticipated noncompliance

The permittee shall give advance notice to DHEC/Bureau of Water/Water Pollution Control Division of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

#### 3. Transfers

This permit is not transferable to any person except after notice to DHEC/Bureau of Water/NPDES Administration Section. The Department may require modification or revocation and reissuance of the permit to change the name of permittee and incorporate such other requirements as may be necessary

# DRAFT 6/30/2015

Part II  
Page 13 of 32  
Permit No. SC0035564

under the Pollution Control Act and the Clean Water Act. (See section 122.61; in some cases, modification or revocation and reissuance is mandatory.)

- a. Transfers by modification. Except as provided in paragraph b of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under R.61-9.122.62(e)(2)), or a minor modification made (under R.61-9.122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.
- b. Other transfers. As an alternative to transfers under paragraph a of this section, any NPDES permit may be transferred to a new permittee if:
  - (1) The current permittee notifies the Department at least 30 days in advance of the proposed transfer date in Part II.L.3.b(2) of this section;
  - (2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - (3) Permits are non-transferable except with prior consent of the Department. A modification under this subparagraph may also be a minor modification under section 122.63.

## 4. Monitoring reports

Monitoring results shall be reported at the intervals specified in the permit. Monitoring periods are calculated beginning with the permit effective date, unless otherwise stated elsewhere in this permit. If the permit is modified, the effective date of the modification is used to begin calculation of the monitoring period for those items that are part of the modification unless otherwise stated elsewhere in this permit.

- a. Monitoring results (with the exception of any Annual Reporting requirements under section 503.18, section 503.28, section 503.48 or section 504.18) must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

### (1) Effluent Monitoring:

Effluent monitoring results obtained at the required frequency shall be reported on a Discharge Monitoring Report Form (EPA Form 3320-1). The DMR is due postmarked no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. One original and one copy of the Discharge Monitoring Reports (DMRs) shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data & Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

### (2) Groundwater Monitoring:



## DRAFT 6/30/2015

Part II  
Page 14 of 32  
Permit No. SC0035564

Groundwater monitoring results obtained at the required frequency shall be reported on a Groundwater Monitoring Report Form (DHEC 2110) or the format the analyzing laboratory utilizes, postmarked no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. One original and one copy of the Groundwater Monitoring Report Form (DHEC 2110) shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data & Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

(3) Sludge Monitoring:

Sludge monitoring results obtained at the required frequency shall be reported in a laboratory format postmarked no later than the 28<sup>th</sup> day of the month following the end of the monitoring period. Two copies of these results shall be submitted to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data & Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

(4) All other reports required by this permit shall be submitted at the frequency specified elsewhere in the permit to:

S.C. Department of Health and Environmental Control  
Bureau of Water/Water Pollution Control Division  
Data & Records Management Section  
2600 Bull Street  
Columbia, South Carolina 29201

- b. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in R.61-9.503, R.61-9.504, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
- c. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

5. Twenty-four hour reporting

- a. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally to local DHEC office within 24 hours from the time the permittee becomes aware of the circumstances. During normal working hours call:



**DRAFT 6/30/2015**

Part II  
Page 15 of 32  
Permit No. SC0035564

<b>County</b>	<b>DHEC Region</b>	<b>Phone No.</b>
Anderson, Oconee	Upstate BEHS Anderson	864-260-5585
Abbeville, Greenwood, Laurens, McCormick	Upstate BEHS Greenwood	864-227-5915
Greenville, Pickens	Upstate BEHS Greenville	864-372-3273
Cherokee, Spartanburg, Union	Upstate BEHS Spartanburg	864-596-3327
Fairfield, Lexington, Newberry, Richland	Midlands BEHS Columbia	803-896-0620
Chester, Lancaster, York	Midlands BEHS Lancaster	803-285-7461
Aiken, Barnwell, Edgefield, Saluda	Midlands BEHS Aiken	803-642-1637
Chesterfield, Darlington, Dillon, Florence, Marion, Marlboro	Pee Dee BEHS Florence	843-661-4825
Clarendon, Kershaw, Lee, Sumter	Pee Dee BEHS Sumter	803-778-6548
Georgetown, Horry, Williamsburg	Pee Dee BEHS Myrtle Beach	843-238-4378
Berkeley, Charleston, Dorchester	Low Country BEHS Charleston	843-953-0150
Beaufort, Colleton, Hampton, Jasper	Low Country BEHS Beaufort	843-846-1030
Allendale, Bamberg, Calhoun, Orangeburg	Low Country BEHS Orangeburg	803-533-5490

After-hour reporting should be made to the 24-Hour Emergency Response telephone number 803-253-6488 or 1-888-481-0125 outside of the Columbia area.

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and, if the noncompliance has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

b. The following shall be included as information which must be reported within 24 hours under this paragraph.

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See R.61-9.122.41(L)(6)(ii)(A)).

(2) Any upset which exceeds any effluent limitation in the permit.

(3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours (See R 61-9.122.44(g)). If the permit contains maximum limitations for any of the pollutants listed below, a violation of the maximum

## DRAFT 6/30/2015

Part II  
Page 16 of 32  
Permit No. SC0035564

limitations shall be reported orally to the DHEC/Bureau of Water/Water Pollution Control Division within 24 hours or the next business day.

(i) Total Residual Chlorine (TRC)

c. The Department may waive the written report on a case-by-case basis for reports under Part II.L.5.b of this section if the oral report has been received within 24 hours.

### 6. Other noncompliance.

The permittee shall report all instances of noncompliance not reported under Part II.L.4 and 5 of this section and Part IV at the time monitoring reports are submitted. The reports shall contain the information listed in Part II.L.5 of this section.

### 7. Other information.

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

### 8. Domestic treatment works

All Permittees must provide adequate notice to the Department of the following:

- (1) [Reserved]
- (2) Any substantial change in the volume or character of pollutants being introduced into that Permittee's facility by a source introducing pollutants into the Permittee's facility at the time of issuance of the permit.
- (3) For purposes of this paragraph, adequate notice shall include information on:
  - (i) The quality and quantity of effluent introduced into the Permittee's facility, and
  - (ii) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the Permittee's facility.

### M. Bypass

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II.M.2 and 3 of this section.
2. Notice.
  - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass to DHEC/Bureau of Water/Water Facilities Permitting Division.
  - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in

## DRAFT 6/30/2015

Part II  
Page 17 of 32  
Permit No. SC0035564

Part II(L)(5) of this permit (24-hour reporting).

### 3. Prohibition of bypass

- a. Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (3) The permittee submitted notices as required under Part II.M.2 of this section.

- b. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in Part II.M.3.a of this section.

### N. Upset

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part II.N.2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated; and
  - c. The permittee submitted notice of the upset as required in Part II.L.5.b(2) of this section.
  - d. The permittee complied with any remedial measures required under Part II.D of this section.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

### O. Misrepresentation of Information

1. Any person making application for a NPDES discharge permit or filing any record, report, or other document pursuant to a regulation of the Department, shall certify that all information contained in such document is true. All application facts certified to by the applicant shall be considered valid conditions of the permit issued pursuant to the application.

**DRAFT 6/30/2015**

Part II  
Page 18 of 32  
Permit No. SC0035564

2. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the Department pursuant to the State law, and the rules and regulations pursuant to that law, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to 48-1-320 or 48-1-330.

**Part III. Limitations and Monitoring Requirements****A. Effluent Limitations and Monitoring Requirements**

1. **Interim Limits:** During the period beginning on the effective date and lasting through September 30, 2018, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

Following limits are based on the average design flow of: 0.8 MGD							
Effluent Characteristics	Discharge Limitations				Monitoring Requirements		
	Pounds per Day		Other Units				
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Point
Flow	---	---	MR MGD	MR MGD	Daily	Cont.	Eff.
BOD <sub>5</sub>	200	400	30.0 mg/l	60.0 mg/l	1/Week	24 Hr C	Eff.
TSS	600	1200	90.0 mg/l	180.0 mg/l	1/Week	24 Hr C	Eff.
NH <sub>3</sub> -N (Mar-Oct)	MR	MR	MR mg/l	MR mg/l	1/Week	24 Hr C	Eff.
NH <sub>3</sub> -N (Nov-Feb)	MR	MR	MR mg/l	MR mg/l	1/Week	24 Hr C	Eff.
TRC ①	3.33	6.67	0.5 mg/l	1.0 mg/l	1/Week	Grab	Eff.
DO	---	---	2.0 mg/l Minimum at all times		Week Days	Grab	Eff.
pH	---	---	6.0 - 9.0 Standard Units		Week Days	Grab	Eff.
Total Phosphorus ①	MR	MR	MR mg/l	MR mg/l	1/Week	24 Hr C	Eff.
UOD ②	MR	MR	---	---	1/Month	Calc.	Eff.

① See Part V.G.5.

② See Part I.U.

**DRAFT 6/30/2015**

Part III  
Page 19 of 32  
Permit No. SC0035564

2. **Final Limits:** During the period beginning on October 1, 2018, and lasting until the expiration date, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

Following limits are based on the average design flow of: 0.8 MGD							
Effluent Characteristics	Discharge Limitations				Monitoring Requirements		
	Pounds per Day		Other Units				
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Point
Flow	---	---	MR MGD	MR MGD	Daily	Cont.	Eff.
BOD <sub>5</sub>	118	238	17.8 mg/l	35.7 mg/l	1/Week	24 Hr C	Eff.
TSS	600	1200	90.0 mg/l	180.0 mg/l	1/Week	24 Hr C	Eff.
NH <sub>3</sub> -N (Mar-Oct)	133	267	20.0 mg/l	40.0 mg/l	1/Week	24 Hr C	Eff.
NH <sub>3</sub> -N (Nov-Feb)	133	267	20.0 mg/l	40.0 mg/l	1/Week	24 Hr C	Eff.
TRC ①	3.33	6.67	0.5 mg/l	1.0 mg/l	1/Week	Grab	Eff.
DO	---	---	5.0 mg/l Minimum at all times		Week Days	Grab	Eff.
pH	---	---	6.0 - 9.0 Standard Units		Week Days	Grab	Eff.
Total Phosphorus ①	MR	MR	MR mg/l	MR mg/l	1/Week	24 Hr C	Eff.
UOD ②	591.5	1183	---	---	1/Month	Calc.	Eff.

① See Part V.G.5.

② See Part I.U.

**DRAFT 6/30/2015**

**DRAFT 6/30/2015**

Part III  
Page 21 of 32  
Permit No. SC0035564

3. **Final Limits:** During the period beginning on the effective date of this permit, and lasting until the expiration date, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

If each E. coli daily maximum (as defined by R.61-68.B.29) during a calendar month reporting period is **less than or equal to** 349 MPN/100 ml **or** the provisions of R.61-68.E.14(c)(12), included as "Bacteria Supplemental Data Sheet" at the end of Part V of this permit, were **not** met, then the following limits apply:

Effluent Characteristics	Discharge Limitations		Monitoring Requirements		
	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type	Sample Point
E. coli (MPN/100ml)	126	349	1/Week	Grab	Effluent

Otherwise, report "Conditional Monitoring-Not Required" on the Discharge Monitoring Report (DMR) form for this portion (Part III.A.3) of the permit, and report all E. coli data for this monitoring period in 4 below.

4. **Final Limits:** During the period beginning on the effective date of this permit, and lasting until the expiration date, the permittee is authorized to discharge from outfall serial number 001. Such discharge shall be limited and monitored by the permittee as specified below:

If any E. coli daily maximum (as defined by R.61-68.B.29) during a calendar month reporting period is **greater than** 349 MPN/100 ml **and** in each instance the provisions of R.61-68.E.14(c)(12), included as "Bacteria Supplemental Data Sheet" at the end of Part V of this permit, **were** met, then the following limits apply:

Effluent Characteristics	Discharge Limitations		Monitoring Requirements		
	Monthly Average	Individual Sample Maximum	Measurement Frequency	Sample Type	Sample Point
E. coli (MPN/100ml)	126	800 ①	1/Week	Grab	Effluent

① For this reporting period only.

Otherwise report "Conditional Monitoring-Not Required" on the Discharge Monitoring Report (DMR) form for this portion (Part III.A.4) of the permit, and report all E. coli data for this monitoring period in # above. In addition, if data is reported in item 4, the "Bacteria Supplemental Data Sheet" contained in Part V of this permit **must** be attached to the Discharge Monitoring Report (DMR) and signed by the authorized DMR representative, documenting compliance with the provisions of R.61-68.E.14(c)(12). If this attachment is not included with the DMR submittal, the permittee may **not** use this portion (Part III.A.4) for reporting E. coli data.

**Note for 3 and 4 above:** Sample results reported should include all data collected for this monitoring period including any additional E. coli samples that might be collected under the provisions of R.61-68.E.14(c)(12).

**DRAFT 6/30/2015**

Part III  
Page 22 of 32  
Permit No. SC0035564

**B. Whole Effluent Toxicity Limitations and Monitoring Requirements**

Not applicable to this permit.

**C. Groundwater Requirements****1. Operation and maintenance of equalization basins****a. Groundwater Monitoring Requirements**

- (1) Each of the below identified equalization basins shall be sampled by the permittee as specified:

Facility Name	BOW Site ID Number	Number of Monitoring Wells	Monitoring Frequency
Spring Hill SD	#00674	2	Semi-Annual
Woodsen SD	#00675	2	Semi-Annual

- (2) Each of the four (4) groundwater monitoring wells identified above shall be sampled by the permittee as specified below:

Parameter	Measurement Frequency	Sample Method
Ammonia (NH <sub>3</sub> )	Semi-Annually	Pump or Bailer Method
Nitrate (N)	Semi-Annually	Pump or Bailer Method
Field pH	Semi-Annually	Pump or Bailer Method
TDS	Semi-Annually	Pump or Bailer Method
Total Phosphorus	Semi-Annually	Pump or Bailer Method
Chloride	Semi-Annually	Pump or Bailer Method
Alkalinity	Semi-Annually	Pump or Bailer Method
Sodium	Semi-Annually	Pump or Bailer Method
Fecal Coliform	Semi-Annually	Pump or Bailer Method
Field Specific Conductance	Semi-Annually	Pump or Bailer Method
Depth to Groundwater (Report within 0.01 feet)	Semi-Annually	Tape
Groundwater Elevation (Report within 0.01 feet above mean sea level)	Semi-Annually	Tape



**DRAFT 6/30/2015**

Part III  
Page 23 of 32  
Permit No. SC0035564

- (3) For purposes of Groundwater Monitoring, the following measurement frequency table shall be utilized:

Measurement Frequency	Sampling Period	Reporting Deadline
Quarterly (Samples must be taken at least 60 days apart.)	January 1 <sup>st</sup> – March 31 <sup>st</sup>	April 28 <sup>th</sup>
	April 1 <sup>st</sup> – June 30 <sup>th</sup>	July 28 <sup>th</sup>
	July 1 <sup>st</sup> – September 30 <sup>th</sup>	October 28 <sup>th</sup>
	October 1 <sup>st</sup> – December 31 <sup>st</sup>	January 28 <sup>th</sup>
Semi-Annually	January 1 <sup>st</sup> – March 31 <sup>st</sup>	April 28 <sup>th</sup>
	July 1 <sup>st</sup> – September 30 <sup>th</sup>	October 28 <sup>th</sup>
Annually	October 1 <sup>st</sup> – December 31 <sup>st</sup>	January 28 <sup>th</sup>

- (4) [Reserved]
- (5) Sample collection methods shall be in accordance with the EPA Region 4 Groundwater Sampling Operation Procedure, EPA publication SESDPROC 301-R3, effective March 6, 2013 or most recent version of the EPA Region 4 Groundwater Sampling Operation Procedure.
- (6) All groundwater monitoring wells must be properly maintained at all times and are to yield a representative sample of the aquifer. If the groundwater elevation drops to a level that prevents the collection of a sample for two consecutive sampling periods, then this well shall be considered as “rendered unusable.” In accordance with Regulation 61-71, any monitoring well which is destroyed, rendered unusable, or abandoned, shall be reported to the Department, and shall be properly abandoned, revitalized, or replaced. The permittee shall revitalize or replace the dry well within six months after recording the second dry sampling period.
- (7) If a deleterious impact to the groundwaters of the State from the permitted use or disposal practices is documented through groundwater monitoring levels exceeding the standards set forth in R.61-68 or a significant adverse trend occurs, then it will be the obligation of the permittee as directed by the Department to conduct an investigation to determine the vertical and horizontal extent of groundwater impact. The Department may require remediation of the groundwater to within acceptable levels for groundwater as set forth in R.61-68.
- (8) The oxidation ponds for the Oak Grove Estates, Spring Hill subdivision, and Woodsen subdivision were converted into equalization basins rather than being closed out or abandoned. These equalization basins will be operated in such a manner that odors and vector attraction will be minimized and groundwater contamination will be prevented.
- (9) The Permittee will maintain all equipment and provide general site management at the equalization sites to include aerators and pumps as well as the basin dikes. The grass will be trimmed and the fences around the equalization basins will be maintained in good repair so as to exclude the public from the site.

#### D. Sludge Disposal Requirements

# DRAFT 6/30/2015

Part III  
Page 24 of 32  
Permit No. SC0035564

1. If in the future the facility must dispose of sludge or solids, the Permittee must apply to the Bureau of Water for a sludge disposal permit or approval and obtain written permission prior to actual removal of sludge.

E. Land Application Requirements

Not applicable to this permit.

F. Instream Biological Assessment

Not applicable to this permit.

**DRAFT 6/30/2015**

Part IV  
Page 25 of 32  
Permit No. SC0035564

**Part IV. Schedule of Compliance****A. Schedule(s)**

1. The existing facility is designated by the 208 Plan as a temporary treatment facility to be connected to the currently operational Town of Lexington (Town) regional sewer (i.e., force main sewer transferring flow from Lexington to Cayce). Such connection would eliminate the discharge to the Saluda River. To connect to the Town, DHEC recognizes that the Public Service Commission (PSC) must approve an agreement related to connection to the regional sewer line. No later than November 30, 2016, the permittee shall either submit to the PSC a request for interconnection to the Town's system or provide a justification as to why pursuit of PSC approval is not warranted at that time.
2. The permittee shall achieve compliance with the effluent limitations specified for discharges in accordance with the following schedules:
  - a. The following schedule shall be utilized to upgrade the treatment facility to meet the more stringent Dissolved Oxygen and Ultimate Oxygen Demand limitations:
    - (1) Submit an administratively and technically complete preliminary engineering report for facility upgrade as required by applicable regulations by November 1, 2015, or if the facility can meet the final limits without an upgrade, submit a written request by November 1, 2015 to place the final limits into effect. If final limits are placed into effect, the remaining schedule dates noted in (2) through (5) below, will no longer be applicable.
    - (2) Submit administratively and technically complete construction permit application (DHEC Form 1970) for facility upgrade as required by applicable regulations by May 1, 2016.
    - (3)
      - (a) Start construction for facility upgrade by September 1, 2016.
      - (b) On or before September 1, 2017 submit an interim report of progress toward completion of construction, indicating a projected completion date.
    - (4) Complete construction for facility upgrade by September 1, 2018.
    - (5) Comply with the final effluent limits by October 1, 2018.
3. The UOD final limit may be subject to a permit modification if changes are made to either the dissolved oxygen model or to the allocation of UOD reductions in conjunction with other dischargers.
4. The permittee shall achieve compliance with the Whole Effluent Toxicity limitations specified for discharges in accordance with the following schedules:

Not applicable to this permit.
5. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each scheduled date.

# DRAFT 6/30/2015

Part V  
Page 26 of 32  
Permit No. SC0035564

## Part V. Other Requirements

### A. Effluent Limitations and Monitoring Requirements

1. There shall be no discharge of floating solids or visible foam in other than trace amounts, nor shall the effluent cause a visible sheen on the receiving waters.
2. a. Effluent samples taken in compliance with the monitoring requirements specified in Part III, shall be taken at the following location(s): nearest accessible point after final treatment but prior to actual discharge or mixing with the receiving waters.  
  
b. Influent samples taken in compliance with the monitoring requirements specified in Part III, shall be taken at the following location(s): nearest accessible point prior to any primary treatment unit (e.g. after the bar screen and before primary treatment).
3. Samples shall be collected in accordance with Part I.
4. MR = Monitor and Report only.

### B. Effluent Toxicity Limitations and Monitoring Requirements

#### 1. Acute Toxicity

Not applicable to this permit.

#### 2. Chronic Toxicity

Not applicable to this permit.

#### 3. Biological Assessment

Not applicable to this permit.

### C. Groundwater Requirements

See Part III.C.

### D. Sludge Disposal Requirements

1. [Reserved]
2. a. The permittee must obtain prior Departmental approval of planned changes in the facility when the alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use of disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.  
  
b. The sludge disposal permit may be modified or revoked and reissued if there are material and substantial alterations or additions to the permitted facility or activity (including a change or changes

**DRAFT 6/30/2015**Part V  
Page 27 of 32  
Permit No. SC0035564

in the permittee's sludge use or disposal practice) which occurred after the permit issuance which justify the application of permit conditions which are different from or absent in the existing permit.

3. The sludge disposal permit may be terminated if there is a change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit.
4. Periodic inspections will be conducted by Department authorized representatives to ensure compliance with State regulations and permit stipulations. Any necessary modification to this permit may be based upon these evaluations.
5. Records of monitoring required by the permits related to sludge use and disposal activities must be kept at least five (5) years (or longer as required by 40 CFR Part 503 or R.61-9.503).
6. Sludge monitoring procedures shall be those specified in 1) R.61-9.503; 2) 40 CFR Part 503; 3) 40 CFR Part 136; or 4) other procedures specified in the sludge permit (in that order of "preference" depending on the availability and applicability of a particular method at the time the sludge permit is issued).
7. The permittee shall submit the results of all sludge monitoring if done more frequently than required by the sludge permit. The permittee may be required to maintain specific records at the facility and on request may also be required to furnish them to the Department.
8. Odor Control Requirements

The permittee shall use best management practices normally associated with the proper operation and maintenance of a sludge wastewater treatment site, any sludge storage or lagoon areas, transportation of sludges, and all individual activities permitted under R.61-9.503 to ensure that an undesirable level of odor does not exist.

- a. The permittee is required to prepare an odor abatement plan for the sewage sludge treatment sites, any sludge storage or lagoon areas, and land application or surface disposal sites. It must be noted this state regulation that went into effect on June 27, 2003, and continues in effect, required permittees that land-apply sludge to prepare the plan by December 24, 2003. Otherwise, the permittee had until June 27, 2004 to prepare the plan and this requirement remains in effect. The plan must have included the following topics:
  - (1) Operation and maintenance practices which are used to eliminate or minimize undesirable odor levels in the form of best management practices for odor control.
  - (2) Use of treatment processes for the reduction of undesirable odors;
  - (3) Use of setbacks.
  - (4) Contingency plans and methods to address odor problems for the different type of disposal/application methods used.
- b. Unless otherwise requested, prior to issuance of a new or expanded land application disposal permit (either NPDES or ND), the Department may review the odor abatement plan for compliance with this Part (503.50). The Department may require changes to the plan as appropriate.

## DRAFT 6/30/2015

Part V  
Page 28 of 32  
Permit No. SC0035564

- c. No permittee may cause, allow, or permit emission into the ambient air of any substance or combinations of substances in quantities that an undesirable level of odor is determined to result unless preventative measures of the type set out below are taken to abate or control the emission to the satisfaction of the Department. When an odor problem comes to the attention of the Department through field surveillance or specific complaints, the Department may determine, in accordance with section 48-1-120 of the Pollution Control Act, if the odor is at an undesirable level by considering the character and degree of injury or interference to:
  - (1) The health or welfare of the people;
  - (2) Plant, animal, freshwater aquatic, or marine life;
  - (3) Property; or
  - (4) Enjoyment of life or use of affected property.
- d. After determining that an undesirable level of odor exists, the Department may require:
  - (1) the permittee to submit a corrective action plan to address the odor problem,
  - (2) remediation of the undesirable level of odor within a reasonable timeframe, and
  - (3) in an order, specific methods to address the problem.
- e. In accordance with R.61-9.503.50(e), if the permittee fails to control or abate the odor problems addressed in this section within the specified timeframe, the Department may revoke disposal/application activities associated with the site or the specific aspect of the sludge management program.

### E. Land Application

Not applicable to this permit.

### F. Pretreatment

- 1. [Reserved]
- 2. Prohibited Discharges

The Permittee shall prohibit in the discharge of pollutant(s) into its treatment works by any non-domestic source(s), if such pollutant(s) may inhibit or interfere with the operation or performance of the works. Further, the Permittee shall prohibit the introduction of the following pollutants into its treatment works:

- a. Pollutant(s) which create a fire or explosion hazard in the Permittee's facility, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
- b. Pollutant(s) which will cause corrosive structural damage to the Permittee's facility, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges.

**DRAFT 6/30/2015**

Part V  
 Page 29 of 32  
 Permit No. SC0035564

- c. Solid or viscous pollutant(s) in amounts which will cause obstruction to the flow in the Permittee's facility resulting in interference.
- d. Any pollutant, including oxygen demanding pollutants, (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the Permittee's facility.
- e. Heat in amounts which will inhibit biological activity in the Permittee's facility resulting in Interference, but in no case heat in such quantities that the temperature at the Permittee's facility exceeds 40°C (104°F) unless the Department, upon request of the Permittee, approves alternate temperature limits.
- f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the Permittee's facility in a quantity that may cause acute worker health and safety problems.
- h. Any trucked or hauled pollutants, except at discharge points designated by the Permittee.

Upon development of specific limits for these pollutant categories, either in an approved Pretreatment Program or otherwise, such limits shall be deemed prohibitions for the purpose of Section 307(d) of the Act and shall be enforceable in lieu of the general prohibitions set forth above.

#### G. Additional Operational Requirements

- 1. The wastewater treatment plant is assigned a classification of Group II-B (Biological) in the Permit to Construct which is issued by the Department. This classification corresponds to an operator with a grade of C.
- 2. The wastewater treatment plant is assigned a Reliability Classification of Class I, in accordance with Section 67.400 "Reliability Classifications" of the Standards for Wastewater Facility Construction: R.61-67.
- 3. For parameters with a sample frequency of once per month or greater, the Permittee shall monitor (at least one sample) consistent with conditions established by this Permit on the first (1<sup>st</sup>) Thursday of every calendar month, unless otherwise approved by the Department. (For example; with a once per week (01/07) sampling frequency, the permittee shall monitor one weekly sample on the day of the week noted during the monthly DMR reporting period.)

For parameters with a sampling frequency of less than once per month (if any), the permittee shall monitor these parameters on specific date noted above on any of the months during the appropriate reporting period unless otherwise approved by the Department. (For example, with a once per quarter (1/90) sampling frequency, the permittee may monitor on the day of the week noted in either the first, second or third month in the quarterly reporting period.)

For parameters requiring multiple samples for a single test the Permittee may collect the samples on any date during the reporting period, unless otherwise approved by the Department. The permittee must notify the Department of the planned sampling dates upon request.

In accordance with R.61-9.122.41(j)(1)(iii), the Department may waive compliance with the permit requirement for a specific sampling event for extenuating circumstances. Additional monitoring, as

**DRAFT 6/30/2015**

Part V  
Page 30 of 32  
Permit No. SC0035564

necessary to meet the frequency requirements of this Permit (Part III.A., III.B., and III.C., if applicable) shall be performed by the Permittee.

4. [Reserved]
5. For the parameters listed that are not quantifiable using EPA-approved analytical methods, the practical quantitation limit (PQL) using the analytical method stated below shall be considered as being in compliance with the limit provided. In cases where the limit is not quantifiable using EPA approved analytical methods, appropriate biological monitoring requirements are incorporated into the permit.

For purposes of reporting, the Permittee shall use the reporting threshold equivalent to the PQL listed below and conduct analyses in accordance with the method specified below:

Parameter	Analytical Method	PQL
Total Residual Chlorine	SM4500Cl B, C, D, F or G	0.050 mg/l
Total Phosphorus	365.1( Rev. 2.0 1993), 365.3, 365.4, or SM 4500 P, E, or F	0.050 mg/l

The Permittee can however use another analytical method (40 CFR Part 136 approved) from a SCDHEC certified laboratory with a PQL equal to or lower than the PQL listed above. If the permittee is using a PQL below the PQL listed above, then for purposes of reporting, the lower PQL shall be used in accordance with Part II.J.4.b.

#### H. Wastewater Design Flow

- a. For the purposes of identification of the treatment capacity (under R.61-67.300.A.8), the design flow is 0.8 MGD.
- b. For NPDES billing (under R.61-30.B(2)(b)), the "actual flow" limit for this wastewater treatment facility shall be identified as the design flow of 0.8 MGD.

#### I. Water Treatment Plant Notification

The permittee shall notify the following downstream water treatment plants of any emergency condition, plant upset, bypass or other system failure, which has the potential to affect the quality of water withdrawn for drinking purposes:

- (1) Intake # S32102 - City of West Columbia, Sunset Plant
- (2) Intake # S32109 - City of Cayce

This notification should be made as soon as possible and in anticipation of such event, if feasible, without taking away any response time necessary to attempt to alleviate this situation.



**DRAFT 6/30/2015**Part V  
Page 31 of 32  
Permit No. SC0035564**BACTERIA SUPPLEMENTAL DATA SHEET****MONITORING PERIOD**

YEAR MO DAY		YEAR MO DAY	
FROM		TO	

Select the current daily maximum limit	<input type="checkbox"/> 349 MPN/100 ml (E.coli)
	<input type="checkbox"/> 104 MPN/100 ml (Enterococci)
	<input type="checkbox"/> 501 MPN/100 ml (Enterococci)
	<input type="checkbox"/> 43 MPN/100 ml (Fecal coliform)

1. Report data and sample time for daily maximum bacteria value greater than the permitted limitation.

Sample Result (MPN/100 ml) §	Sample Date (mm/dd/yyyy)	Sample Time (24 Hr. Format)	Parameter
	/ /	: hrs	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform

§ Sample result above must be less than or equal to 800 MPN/100 ml for E. coli and Enterococci or less than or equal to 200 MPN/100 ml for Fecal Coliform to use this form.

2. Two additional bacterial samples collected within 48 hours of the original sample result (of item #1) that exceeded the daily maximum limitation.

Sample Number	Sample Result (MPN/100 ml)	Sample Date (mm/dd/yyyy)	Sample Time (24 Hr. Format)	Parameter
1.		/ /	: hrs	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform
2.		/ /	: hrs	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform

The two additional sample results in item #2, do not exceed the daily maximum bacteria limits in the permit and were collected within 48-hours of the original sample result of item #1.

☐ Yes

☐ No\*

3. Report the total number of bacterial samples collected in the previous twelve months: \_\_\_\_\_  
(If requested, this data must be provided to the Department to verify this information)

4. Choose one of the following:

- a. ☐ The number from item #3 above is less than 120; and no more than one (1) bacterial sample exceeded the daily maximum limit in the previous twelve (12) months, and that value is identified in item #1 above.

**DRAFT 6/30/2015**Part V  
Page 32 of 32  
Permit No. SC0035564

- b. ☐ The number in item #3 above is 120 samples or more, and no more than four (4) individual bacterial samples exceeded the daily maximum limit in the previous twelve (12) months, and those values were:

Sample Number	Sample Result (MPN/100 ml)	Sample Date (mm/dd/yyyy)	Parameter
1.	Same as Item #1 above	Same as Item #1 above	Same as Item #1 above
2.		/ /	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform
3.		/ /	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform
4.		/ /	<input type="checkbox"/> E.coli <input type="checkbox"/> Enterococci <input type="checkbox"/> Fecal coliform

- c. ☐ Neither (a) **nor** (b) above is true\*.

5. The following statements are true:

- The disinfection equipment and wastewater solids handling system were fully functional and operating during this monitoring period.
- There is neither an existing Consent Order nor Administrative Order is associated with the facility's operation of this disinfection system.
- The laboratory data included with this report is sufficiently sensitive to accurately represent the effluent bacteria concentrations. No values for the monitoring period were reported as ">" greater than.

\* If you check any of the starred boxes or if statements 5(a), (b) or (c) are not true, you cannot use this form.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Name: \_\_\_\_\_

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

**Note:** The bacteria supplemental data sheets are required only in the event the permittee reports bacteria data under Part III.A.4.

# **EXHIBIT I**

# NOTICE OF INTENT TO DENY

TOPIC: Notice of Intent to Deny the NPDES Permit  
Renewal for a discharge to Saluda River



**NOTICE NUMBER: 15-999-D**

**NOTICE DATE: SEPTEMBER 4, 2015**

**PROPOSAL:** Deny the renewal of the NPDES permit for the **Carolina Water Service, Inc., I-20 Wastewater Treatment Plant** (0.8 MGD facility) with a current discharge to the Saluda River, Permit #SC0035564.

**PERMIT APPLICANT:** Carolina Water Service (CWS) Inc., 150 Foster Brothers Drive, West Columbia, SC

**PROJECT LOCATION:** The facility is located near Laurel Meadows Subdivision off Leaphart Road in Lexington County.

**NOTICE PURPOSE:** DHEC proposes to deny the request for permit renewal for disposal of treated wastewater from the CWS I-20 Wastewater Treatment Plant.

## NOTICE OF INTENT TO DENY DETAILS:

- A public hearing was held on Tuesday, August 25, 2015 related to Public Notice #15-137-H.
- Based upon consideration of the public comments and based upon additional review, the Department has made a preliminary decision to deny reissuing this permit in accordance with R.61-9.122.64 (a) (5).
- This permittee has a permit which requires connection to a regional sewer system or other treatment facilities under the water quality management plan under section 208 of the Clean Water Act (CWA) and is ineligible for reissuance of a permit once notified by the Department that a regional sewer system is operational.
- The regional system is operational.

**HOW TO COMMENT?** Provide written comments or request a public hearing on this notice to DHEC's point of contact Michael Montebello: Bureau of Water, 2600 Bull Street, Columbia, SC 29201, montebmj@dhec.sc.gov, phone 803-898-4228. Written comments or a request for a hearing (e-mail OK) must be received no later than close of business **Monday, October 12, 2015**. Please identify the notice number (15-999-D) along with written comments. When there is a significant degree of public interest in a public notice, the Department may hold a public hearing.

**MORE INFO?** DHEC's project file is available for review at the above address and copies can be obtained for a fee by contacting our Freedom of Information Office (2600 Bull Street, Columbia, SC 29201, 803-898-3882).

**MISCELLANEOUS:** DHEC recognizes that a schedule for elimination of the discharge is needed to address the current needs of the 2,100 customers of the system. All people providing written comments will receive a summary response to comments and permit decision information when DHEC takes a final action to either deny the NPDES permit application or schedule a public hearing.



## FACT SHEET NOTICE OF INTENT TO DENY RENEWAL

### APPLICATION FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT TO DISCHARGE TREATED WASTEWATER TO STATE WATERS

---

Application No. SC0035564

Date: September 4, 2015

#### I. SYNOPSIS OF APPLICATION

A. Name and Address of Applicant

Carolina Water Service, Inc., 150 Foster Brothers Drive, West Columbia, SC 29172

The WWTP is located in the rear of the Laurel Meadows subdivision off of Leaphart Road in Lexington County.

B. Production Capacity of Facility (Average Design Flow)

0.8 MGD

C. Applicant's Receiving Waters

Saluda River

D. Description of Existing Pollution Abatement Facilities

Treatment consists of an aerated lagoon with post aeration, chemical disinfection, and dechlorination.

E. Brief Description of the type of facility or activity:

This is a privately owned treatment works designed to treat domestic wastewater.

F. The type and quantity of wastes, fluids, or pollutants, which are proposed to be treated, stored, disposed of, injected, emitted, or discharged:

This facility is designed to treat 0.8 MGD of domestic wastewater prior to discharge.

#### II. PROPOSED EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

*Not applicable.* The proposed Department permit decision is to deny the NPDES permit renewal for a discharge to the Saluda River. See Notice of Intent to Deny for further details. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any other draft permit prepared under R.61-9.124.6.

### III. PROPOSED COMPLIANCE SCHEDULE FOR ATTAINING EFFLUENT LIMITATIONS

- A. *Not applicable.* The proposed Department permit decision is to deny the NPDES permit renewal for a discharge to the Saluda River. See Notice of Intent to Deny for further details. DHEC recognizes that a schedule for elimination of the discharge is needed to address the current needs of the 2,100 customers of the system.

### IV. PROPOSED SPECIAL CONDITIONS WHICH WILL HAVE A SIGNIFICANT IMPACT ON THE DISCHARGE

- A. The existing facility is designated by the 208 Plan as a temporary treatment facility to be connected to the currently operational Town of Lexington (Town) regional sewer (i.e., force main sewer transferring flow from Lexington to Cayce). Such connection would eliminate the discharge to the Saluda River.
- B. On July 8, 2015, the Department and Carolina Water Service reached a settlement to dismiss the 2001 permit appeal and to move forward with a timely permit decision.
- C. On July 16, 2015, the Department issued a public notice (#15-137-H) about a proposed reissuance of the permit to welcome comments and to schedule a hearing. The public hearing was held on Tuesday, August 25, 2015.
- D. Based upon consideration of the public comments and based upon additional review, the Department has made a preliminary decision to deny reissuing this permit in accordance with R.61-9.122.64 (a) (5) as shown below:
- *A permittee with a permit which requires connection to a regional sewer system or other treatment facilities under the water quality management plan under section 208 of the CWA is ineligible for reissuance of a permit once notified by the Department that the regional sewer system is operational.*
- E. This permittee has a permit which requires connection to a regional sewer system or other treatment facilities under the water quality management plan under section 208 of the CWA and is ineligible for reissuance of a permit once notified by the Department that a regional sewer system is operational.
- F. The regional system is operational.

### V. WATER QUALITY STANDARDS AND EFFLUENT STANDARDS APPLIED TO THE DISCHARGE

Not applicable. The proposed Department permit decision is to deny the NPDES permit renewal for a discharge to the Saluda River. See Notice of Intent to Deny for further details.

### VI. PROCEDURES AND DESCRIPTION FOR THE FORMULATION OF FINAL DETERMINATIONS

- A. Comment Period for the Notice of Intent to Deny  
The comment period for this Notice of Intent to Deny the permit application will end on October 12, 2015. All comments received during the public comment period will be considered in the formulation of the final decision on this application.
- B. Public Hearing
1. Procedure for requesting a hearing and the nature of hearing:
    - a. Determinations and Scheduling.
      - i. Within the thirty (30) day comment period or other applicable comment period provided after posting or publishing of a public notice, an applicant, any affected state or interstate agency, the Regional Administrator or any other interested person or agency may file a petition with the Department for a public hearing. A petition for a public hearing shall indicate the specific reasons why a hearing is requested, the existing or proposed discharge identified therein and specifically indicate which portions of the application or other permit form or information constitutes necessity for a public hearing. If the Department determines that a petition constitutes significant cause or that there is sufficient public interest in an application for a public hearing, it may direct the scheduling of a hearing thereon.

- ii. A hearing shall be scheduled after the Department determines the necessity of the hearing in the geographical location of the applicant or, at the discretion of the Department, at another appropriate location, and shall be noticed at least thirty (30) days before the hearing. The notice of public hearing shall be transmitted to the applicant and shall be published in at least one (1) newspaper of general circulation in the geographical area of the existing or proposed discharge identified on the permit application and shall be mailed to any person or group upon request therefor. Notice shall be mailed to all persons and governmental agencies which received a copy of the notice or the fact sheet for the permit application.
  - iii. The Department may hold a single public hearing on related groups of permit applications.
  - iv. The Department may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision;
  - v. Public notice of the hearing shall be given as specified in section R.61-9.124.10.
- b. [Reserved].
- c. Any person may submit oral or written statements and data concerning the Notice of Intent to Deny the permit application. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under section R.61-9.124.10 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.
- d. A recording or written transcript of the hearing shall be made available to the public.
2. This notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any other draft permit prepared under R.61-9.124.6. If the Department's final decision under R.61-9.124.15 is that the tentative decision to deny the permit application was incorrect, it shall withdraw the notice of intent to deny and proceed to prepare a draft permit under R.61-9.124.6(d).
3. Following the public hearing, the Department may make such modifications in the terms and conditions of the proposed action as may be appropriate. Notice of the Department's final decision on the draft permit will be circulated to those who participated in the hearing and to appropriate persons on the DHEC mailing list.

C. Guide to Board Review Pursuant to S.C. Code Ann. § 44-1-60

The Guide to Board review is available on the Department's website at:  
<http://www.scdhec.gov/Agency/BoardofDirectors/GuidetoBoardReview/>

D. Other procedures by which the public may participate in the final decision:

Obligation to raise issues and provide information during the public comment period. All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under section R.61-9.124.10. Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, Department and EPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting materials not already included in the administrative record available.

E. Issuance of the Permit when no Hearing is Held

If no public hearing or adjudicatory hearing is held, and, after review of the comments received, DHEC's determinations are substantially unchanged, the action (to deny the permit renewal) will be issued and become effective on the effective date noted in the decision.