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IN OHIO AND WEST VIRGINIA

May 5, 2017

Dr. Talina Mathews  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

**RECEIVED**

MAY 8 2017

PUBLIC SERVICE  
COMMISSION

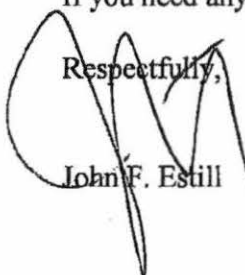
RE: Buffalo Trail Water Association- KRS 278.023 Application- Sardis Water Tank Project

Dear Dr. Mathews:

Enclosed please find the original and ten (10) copies of the Application of the Buffalo Trail Water Association for a Certificate of Public Convenience and Necessity to construct and finance pursuant to KRS 278.023. The Water Association will not be raising rates to fund this project.

If you need any additional information or documentation, please let us know.

Respectfully,

  
John F. Estill

**RECEIVED**

MAY 8-2017

PUBLIC SERVICE  
COMMISSION

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**APPLICATION OF BUFFALO TRAIL WATER )  
SEWER DISTRICT FOR A CERTIFICATE OF )  
PUBLIC CONVENIENCE AND NECESSITY TO ) CASE No. 2017-00193  
CONSTRUCT AND APPROVAL TO FINANCE A )  
SANITARY SEWER EXTENSION PROJECT )**

**APPLICATION**

This Application of the Buffalo Trail Water Association ("Applicant") respectfully shows:

1. That Applicant is a water association of Bracken, Harrison, Mason, Nicholas, Pendleton, and Robertson Counties, Kentucky, created and existing under and by virtue of Chapter 273 of the Kentucky Revised Statutes.

2. That the address of Applicant is:  
Buffalo Trail Water Association  
c/o Mr. William Clary  
41135 U.S. Route 62  
Mayslick, Kentucky 41055

3. That Applicant, pursuant to the provisions of KRS 278.020 and 278.023, seeks (i) a Certificate of Public Convenience and Necessity, permitting Applicant to construct a water works construction project, consisting of a new elevated storage tank (the "Sardis Water Tank Project") to the existing waterworks system of Applicant; and (ii) approval of the proposed plan of financing said Water Tank Project.

4. That the Water Tank Project consists of a new 100,000-gallon elevated storage tank.

5. That Applicant proposes to finance the construction of the Water Tank Project through a loan not to exceed \$480,000; and a grant not to exceed \$160,000 (Sardis Water Tank Project). Applicant has a commitment from the U.S. Department of Agriculture, acting through Rural Development ("RD"), at an interest rate of not exceeding 1.875% per annum as set out in the RD Letter of Conditions, as amended filed herewith as an Exhibit.

6. That Applicant does not contemplate having the Water Tank Project constructed with any deviation from minimum construction standards of this Public Service Commission.

7. That Applicant files herewith the following Exhibits pursuant to 807 KAR 5:069 in support of this Application:

- A. Copy of the March 2, 2016 RD Letter of Conditions.
- B. Copy of RD Letter of Concurrence in Contract Award.
- C. Copy of Preliminary and Final Engineering Reports.
- D. Certified statement from the Chairman of Applicant, based upon statements of the Engineers for Applicant, concerning the following:
  - (1) The proposed plans and specifications for the Water Tank Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066, Section 4 (3) and (4); Section 5 (1); Sections 6 and 7; Section 8 (1) through (3); Section 9 (1) and Section 10;
  - (2) All other state approvals or permits have already been obtained;
  - (3) Setting out the dates when it is anticipated that construction will begin and end.

8. That the foregoing constitutes the documents necessary to obtain the approval of the Kentucky Public Service Commission in accordance with Section 278.023 of the Kentucky Revised Statutes and in accordance with the "Filing Requirements" specified in 807 KAR 5:069, Section I.

WHEREFORE, Applicant, the Buffalo Trail Water Association asks that the Public Service Commission of the Commonwealth of Kentucky grant to Applicant the following:

- a. A Certificate of Public Convenience and Necessity permitting Applicant to construct a waterworks project consisting of extensions, additions, and improvements to the existing waterworks system of Applicant.
- b. An Order approving the financing arrangements made by Applicant, viz., loan not to exceed \$480,000; and a grant not to exceed \$160,000 (Sardis Water Tank Project) at an interest rate of not exceeding 1.875% per annum.

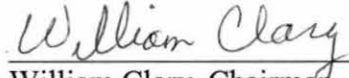
BUFFALO TRAIL WATER ASSOCIATION

By: William L. Dick'Clary  
Chairman

COMMONWEALTH OF KENTUCKY )  
 ) SS:  
COUNTY OF MASON )

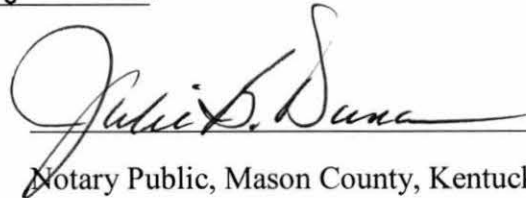
The undersigned, William Clary, being duly sworn, deposes and states that he is the Chairman of the Board of Directors of the Buffalo Trail Water Association, Applicant, in the above proceedings; that he has read the foregoing Application and has noted the contents thereof; that the same is true of his own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, believes same to be true.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this May 2, 2017

  
\_\_\_\_\_  
William Clary, Chairman  
Buffalo Trail Water Association

Subscribed and sworn to before me by William Clary, Chairman of the Board of Directors of the Buffalo Water Association, on this May 2, 2017

My Commission expires: 7/30/18.

  
\_\_\_\_\_  
Notary Public, Mason County, Kentucky





March 2, 2016

William Clary  
Buffalo Trail Water Association, Inc.  
P.O. Box 6026  
Maysville, Kentucky 41056

Dear Chairman Clary:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area office staff of USDA Rural Development. Any changes in project cost, source of funds, scope of services or any other significant changes in the project or applicant must be reported to and approved by USDA Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application. It should also be understood that Rural Development is under no obligation to provide additional funds to meet an overrun in construction costs.

This letter is not to be considered as loan or grant approval or as a representation as to the availability of funds. The docket may be completed on the basis of a RUS loan not to exceed \$480,000; and a RUS grant not to exceed \$160,000. No applicant cash contribution will be required.

Project Description – funds will be used to construct a 500,000 gallon standpipe tank and a 100,000 gallon elevated storage tank.

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

Please complete and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire that further consideration be given to your application.

The "Letter of Intent to Meet Conditions" must be executed within three weeks from the date of this letter or it becomes invalid unless a time extension is granted by Rural Development.

If the conditions set forth in this letter are not met within 240 days from the date hereof, Rural Development reserves the right to discontinue the processing of the application. In signing Form RD 1942-46, "Letter of Intent to Meet Conditions," you are agreeing to complete the following as expeditiously as possible:

**Rural Development • Kentucky State Office**  
771 Corporate Drive, Suite 200, Lexington, Kentucky 40502  
Voice (859) 224-7300 • Fax (855) 661-8335 • TTY (859) 224-7422

USDA is an equal opportunity provider, employer and lender.

1. Number of Users and Their Contribution:

There shall be 1448 water users, of which all are existing users. The Area Director will review and authenticate the number of users prior to advertising for construction bids.

2. Grant Agreement:

Attached is a copy of RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," for your review. You will be required to execute a completed form at the time of grant closing.

3. Drug-Free Work Place:

Prior to grant closing, the Association will be required to execute Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals."

4. Repayment Period:

The loan will be scheduled for repayment over a period not to exceed 40 years from the date of the Promissory Note. Principal payment will not be deferred for a period in excess of one year from the date of the Promissory Note. The Association may be required to adopt a supplemental payment agreement providing for monthly payments of principal and interest so long as the Promissory Note is held or insured by RUS. Monthly payments will be approximate amortized installments.

5. Recommended Repayment Method:

Payments on this loan shall be made using the Preauthorized Debit (PAD) payment method. This procedure eliminates the need for paper checks and ensures timely receipt of RD loan payments. To initiate PAD payments, Form RD 3550-28, "Authorization Agreement for Preauthorized Payments," should be signed by the Association to authorize the electronic withdrawal of funds from your designated bank account on the exact installment payment due date. The Area Director will furnish the necessary forms and further guidance on the PAD procedure.

6. Reserve Accounts:

Reserves must be properly budgeted to maintain the financial viability of any operation. Reserves are important to fund unanticipated emergency maintenance, pay for repairs, and assist with debt service should the need arise.

The Association will be required to deposit \$150 per month into a "Funded Debt Reserve Account" until the account reaches \$18,000. The deposits are to be resumed any time the account falls below the \$18,000.

The required monthly deposits to the Reserve Account and required Reserve Account levels are in addition to the requirements of the Association's prior loan resolutions.

The monthly deposits to the Reserve Account are required to commence with the first month of the first full fiscal year after the facility becomes operational.



The Association also needs to fund an account for short-lived assets by depositing a sum of \$1,250 monthly to the account. The funds in the short-lived asset account may be used by the Association as needed to replace or add short-lived assets in the Association's water system.

7. Security Requirements:

The loan will be secured by a real estate mortgage, a financing statement, and a pledge of gross water revenue, in the Loan Resolution and Financing Statement.

8. Land Rights and Real Property:

The Association will be required to furnish satisfactory title, easements, etc., necessary to install, maintain and operate the facility to serve the intended users. The pipelines will be on private rights-of-way where feasible. Easements and options are to be secured prior to advertising for construction bids.

9. Organization:

The Association will be legally organized under applicable KRS, which will permit them to perform this service, borrow, or repay money.

The Association must maintain a current registration of their Dun and Bradstreet Data Universal Numbering System (DUNS) number in SAM.gov (System for Award Management) in order to receive federal loan and/or grant financial assistance. This registration must be updated/renewed at least annually.

10. Business Operations:

The Association will be required to operate the system under a well-established set of resolutions, rules and regulations. A budget must be established annually and adopted by the Association after review by Rural Development. At no later than loan pre-closing, the Association will be required to furnish a prior approved management plan to include, as a minimum, provisions for management, maintenance, meter reading, miscellaneous services, billing, collecting, delayed payment penalties, disconnect/reconnect fees, bookkeeping, making and delivering required reports and audits.

11. Conflict of Interest Policy:

Prior to obligation of funds, you will certify in writing that your organization has in place an up-to-date written policy on conflict of interest.

The policy will include, at a minimum: (1) a requirement for those with a conflict/potential conflict; (2) a prohibition of interested members of the applicant's governing body from voting on any matter in which there is a conflict, and (3) the specific process defining how the governing body will manage identified or potential conflicts.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Sample conflict of interest policies may be found at the National Council of Nonprofits website,

<https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure of the same format is required if no conflicts are anticipated.

Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

12. Accounts, Records and Audits:

The Association will be required to maintain adequate records and accounts and submit annual budgets and year-end reports (annual audits)/statistical and financial reports, quarterly and annually, in accordance with subsection 1780.47 of RUS Instruction 1780.

The Association shall be required to submit a copy of its audit agreement for review and concurrence by Rural Development prior to pre-closing the loan.

13. Accomplish Audits for Years in Which Federal Financial Assistance is Received:

The Association will accomplish audits in accordance with OMB Circular A-133, during the years in which federal funds are received. The Association will provide copies of the audits to the Area Office and the appropriate Federal cognizant agency as designated by OMB Circular A-133.

14. Insurance and Bonding:

The following insurance and bonding will be required:

- A. Adequate Liability and Property Damage Insurance including vehicular coverage, if applicable, must be obtained and maintained by the Association. The Association should obtain amounts of coverage as recommended by its attorney, consulting engineer and/or insurance provider.
- B. Worker's Compensation - The Association will carry worker's compensation insurance for employees in accordance with applicable state laws.
- C. Fidelity Bond - The Association will provide Fidelity Bond Coverage for all persons who have access to funds. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage required for all RUS loans is \$59,000.
- D. Real Property Insurance - The Association will obtain and maintain adequate fire and extended coverage on all structures including major items of equipment or machinery located in the structures. The amounts of coverage should be based on recommendations obtained by the Association from its attorney, consulting engineer and/or insurance

provider. Subsurface lift stations do not have to be covered except for the value of electrical and pumping equipment therein.

- E. Flood Insurance - The Association will obtain and maintain adequate coverage on any facilities located in special flood and mudslide prone areas.

15. Planning and Performing Development:

- A. The engineer should not be authorized to commence work on final plans and specifications until a determination has been made that the project can be planned and constructed within the estimated cost shown in paragraph "25" of this letter. The engineer may then proceed to develop final plans and specifications to be completed no later than 210 days from this date, and prepare bid documents. The Area Director is prepared to furnish the necessary guide to follow so as to keep the project plans and documents within our guidelines and requirements. The project must be constructed by the design/bid/build method of construction. The project should not be advertised for construction bids until all easements and enforceable options have been obtained, and total funds are committed or available for the project.
- B. The following documents will be submitted to Rural Development for review and must be concurred in by Rural Development prior to advertisement for construction bids:
  1. Final plans, specifications and bid documents.
  2. Applicant's letter on efforts to encourage small business and minority - owned business participation.
  3. Legal Service Agreements.
  4. Engineering Agreements.

Revision in these documents will be subject to Rural Development concurrence. Any agreements, contracts, etc. not reviewed and approved by Rural Development will not be eligible for payment from project funds or revenues from facilities financed by this Agency.

16. Civil Rights & Equal Opportunity:

You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

- A. Section 504 of the Rehabilitation Act of 1973:

Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Rural Development financial assistance.



B. Civil Rights Act of 1964:

All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Subpart E of Part 1901 of this Title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this Title.

C. The Americans with Disabilities Act (ADA) of 1990:

This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, state and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by state and local public entities that provide services, programs, and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities that accommodate the public.

D. Age Discrimination Act of 1975:

This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

E. Limited English Proficiency (LEP) under Executive Order 13166:

LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides.

These protections are pursuant to Executive Order 13166 entitled, "Improving Access to Services by Persons with Limited English Proficiency" and further affirmed in the USDA Departmental Regulation 4330-005, "Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA."

Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during compliance reviews.

17. Closing Instructions:

The Office of General Counsel, our Regional Attorney, will be required to write closing instructions in connection with this loan. Conditions listed therein must be met by the Association.

18. Compliance with Special Laws and Regulations:

The Association will be required to conform to any and all state and local laws and regulations affecting this type project.

19. Treatment Plant and System Operator:

The Association is reminded that the system operator must have an Operator's Certificate issued by the State.

20. Prior to Closing the Loan, the Association Will Be Required to Adopt:

- A. Form RD 1942-8, "Resolution of Members or Stockholders."
- B. Form RUS Bulletin 1780-28, "Loan Resolution Security Agreement."
- C. Form RD 400-1, "Equal Opportunity Agreement."
- D. Form RD 400-4, "Assurance Agreement."
- E. Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transaction."
- F. Form RD 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."
- G. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."
- H. RUS Bulletin 1780-22, "Eligibility Certification."

21. Refinancing and Graduation Requirements:

The Association is reminded that if at any time it shall appear to the Government that the Association is able to refinance the amount of the RUS indebtedness then outstanding, in whole or in part, by obtaining a loan from commercial sources at reasonable rates and terms, upon the request of the Government, the Association will apply for and accept such loan in sufficient amount to repay the Government.

22. Commercial Interim Financing:

The Association will be required to use commercial interim financing for the project during construction for the RUS loan portion of the financing, if available at reasonable rates and terms.



Before the loan is closed, the Association will be required to provide Rural Development with statements from the contractor, engineer and attorneys that they have been paid to date in accordance with their contract or other agreements and, in the case of the contractor, that he has paid his suppliers and sub-contractors.

23. Disbursement of Project Funds:

A construction account for the purpose of disbursement of project funds (RUS) will be established by the Association prior to start of construction. The position of officials entrusted with the receipt and disbursement of RUS project funds will be covered by a "Fidelity Bond," with USDA Rural Development as Co-Obligee, in the amount of construction funds on hand at any one time during the construction phase.

For each "construction account" as established, if the amount of RUS loan and grant funds plus any applicant contributions or funds from other sources to be deposited into the account are expected to exceed \$250,000 at any time, the financial institution will secure the amount in excess of \$250,000 by pledging collateral with the Federal Reserve Bank in an amount not less than the excess in accordance with 7 CFR, 1902.7(a).

During construction, the Association shall disburse project funds in a manner consistent with subsection 1780.76 (e) of RUS Instruction 1780. Form RD 1924-18, "Partial Payment Estimate," or similar form approved by Rural Development, shall be used for the purpose of documenting periodic construction estimates, and shall be submitted to Rural Development for review and acceptance. Prior to disbursement of funds by the Association, the Board of Directors shall review and approve each payment estimate. All bills and vouchers must be approved by Rural Development prior to payment by the Association.

Form RD 440-11, "Estimate of Funds Needed for 30-Day Period Commencing \_\_\_\_\_," will be prepared by the Association and submitted to Rural Development in order that a periodic advance of federal cash may be requested.

Borrowers receiving federal loan and/or grant funds by EFT will have funds directly deposited to a specified account at a financial institution with funds being available to the recipient on the date of payment.

The borrower should complete Form SF-3881, "Electronic Funds Transfer Payment Enrollment Form," for each account where funds will be electronically received. The completed form(s) must be received by Rural Development at least thirty (30) days prior to the first advance of funds.

Monthly audits of the Association's construction account records shall be made by Rural Development.

24. Disbursement of Grant Funds:

The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of obligations due and payable by the Association. Grant funds, upon receipt, must be deposited in an interest bearing account in accordance with 7 CFR part 3019 (as applicable). Interest earned on grant funds in excess of \$250 (as applicable) per year will be submitted to RUS at least quarterly.



25. Cost of Facility:

## Breakdown of Costs:

Development	\$ 460,000
Legal and Administrative	15,000
Engineering	10,000
Interest	95,000
Environmental	10,000
Contingencies	<u>50,000</u>
TOTAL	\$ 640,000

## Financing:

RUS Loan	\$ 480,000
RUS Grant	<u>160,000</u>
TOTAL	\$ 640,000

26. Construction Completion Timeframe:

All projects are required to be completed and all funds disbursed within five years of obligation. If funds are not disbursed within five years of obligation, you must submit a written waiver request with adequate justification of extenuating circumstances beyond your control for an extension of time.

Any additional requests for waivers beyond the initial extension will be submitted through the State Office to the Assistant Administrator for concurrence decision.

27. Use of Remaining Project Funds:

After providing for all authorized costs, any remaining project funds will be considered to be RUS grant funds and refunded in proportion to participation in the project. If the amount of unused project funds exceeds the grants, that part would be RUS loan funds.

28. Proposed Operating Budget:

You will be required to submit to Rural Development a copy of your proposed annual operating budget that supports the proposed loan repayment prior to this agency giving you written authorization to proceed with the bidding phase. The operating budget should be based on a typical year cash flow, subject to completion of this project in the first full year of operation. Form RD 442-7, Operating Budget, or similar form may be utilized for this purpose.

29. Rates and Charges:

Rates and charges for facilities and services rendered by the Association must be at least adequate to meet cost of maintaining, repairing and operating the water system and meeting required principal and interest payments and the required deposits to debt service and/or depreciation reserve.

Water rates will be at least:

**5/8" x 3/4" Meter**

First	1,000	gallons @ \$	14.83. - Minimum Bill.
Next	4,000	gallons @ \$	6.28. - per 1,000 gallons.
Next	5,000	gallons @ \$	4.48. - per 1,000 gallons.
All Over	10,000	gallons @ \$	4.03. - per 1,000 gallons.

**3/4 " Meter**

First	5,000	gallons @ \$	39.95. - Minimum Bill.
Next	5,000	gallons @ \$	4.48. - per 1,000 gallons.
All Over	10,000	gallons @ \$	4.03. - per 1,000 gallons.

**1" Meter**

First	10,000	gallons @ \$	62.35. - Minimum Bill.
All Over	10,000	gallons @ \$	4.03. - per 1,000 gallons.

**1 1/2" Meter**

First	15,000	gallons @ \$	82.50. - Minimum Bill.
All Over	15,000	gallons @ \$	4.03. - per 1,000 gallons.

**2" Meter**

First	20,000	gallons @ \$	102.65. - Minimum Bill.
All Over	20,000	gallons @ \$	4.03. - per 1,000 gallons.

30. Water Purchase Contract:

The Association will submit a Water Purchase Contract for approval by Rural Development before advertising for construction bids. If the contract is not on Form RD 442-30, "Water Purchase Contract," the contract will require approval by our Regional Attorney. The contract must meet the requirements of subsection 1780.62 of RUS Instruction 1780.

31. Vulnerability Assessment/Emergency Response Plan (VA/ERP):

The Agency requires all financed water and wastewater systems to have a VA/ERP in place. Borrowers with existing systems must provide a certification that a VA/ERP has been completed prior to advertising for bids. The documents are not submitted to the Agency for VA/ERP requirements throughout the life of the loan.

32. Floodplain Construction:

The Association will be required to pass and adopt a Resolution or amend its By-Laws whereby the Association will deny any water service to any future customer wishing to build on or develop property located within a designated floodplain. If a customer or developer requests service for construction in a designated floodplain, the customer or developer must provide evidence and a justification for approval by the

Association and Rural Development officials that there are no other alternatives to construction or development within the designated floodplain. The community must be a participant in the National Flood Insurance Program (NFIP) and the customer or developer must obtain the required permits prior to the tap on restrictions being waived.

33. Division of Water (DOW) Health & Sanitary Certification:

The Median Household Income (MHI) for the Association's service area qualifies this project for the poverty interest rate. A certification from the Division of Water stating this project will remove a health or sanitary problem will be required. This certification must be obtained prior to loan pre-closing. ?

34. Mitigation Measures:

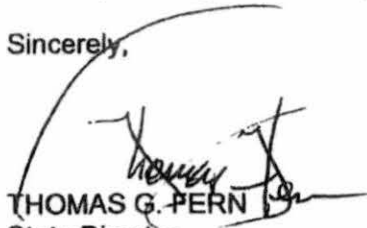
- A. The project shall be in compliance with all requirements noted in the Governor's Office for Local Development letter dated September 14, 2015, from Ms. Lee Nalley.
- B. The line design and construction shall be accomplished in a way that will leave flood plains and farmland without effect after construction is complete. The Army Corps of Engineers Nationwide Permit No. 12 applies to all floodplain and wetland utility line construction.
- C. Any excavation by Contractor that uncovers a historical or archaeological artifact shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO).
- D. The design and construction shall be in compliance with all local, state and federal environmental statutes, regulations and executive orders applicable to the project.
- E. Best Management Practices shall be incorporated into the project design, construction, and maintenance.

35. Final Approval Conditions:

Final approval of this assistance will depend on your willingness, with the assistance of all your co-workers, to meet the conditions of this letter in an orderly and systematic manner. Then too, final approval will depend on funds being available.

If you desire to proceed with your application, the Area Director will allot a reasonable portion of time to provide guidance in application processing.

Sincerely,

  
THOMAS G. PERNA  
State Director

**Enclosures**

cc: Area Director - Morehead, Kentucky  
Buffalo Trace ADD – Maysville, Kentucky  
Cann-Tech, LLC - Lawrenceburg, Kentucky  
John Estill - Maysville, Kentucky  
PSC - ATTN: Jeff Derouen - Frankfort, Kentucky



United States Department of Agriculture

Rural Development May 5, 2017

Kentucky State Office

771 Corporate Drive,  
Suite 200  
Lexington, KY  
40503

Voice 859.224.7300  
Fax 859.224.7425  
TTY 859.224.7422

SUBJECT: Buffalo Trail Water Association  
Sardis Water Tank  
Contract Award Concurrence

TO: Area Office  
Morehead, Kentucky

Based on the bids received and the recommendation of the consulting engineer, Rural Development concurs in the award of subject contract to the low bidder, Caldwell Tank, in the amount of \$509,000.

If you have any questions, please contact Julie Anderson, State Engineer, at (859) 224-7348.

  
Jeff Jones  
Acting State Director  
Rural Development

cc: Cann-Tech  
Lawrenceburg, Kentucky

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

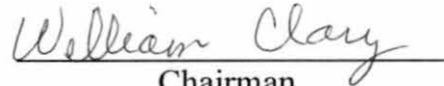
**CERTIFICATE OF CHAIRMAN OF BUFFALO TRAIL WATER  
ASSOCIATION AS TO STATEMENT REQUIRED  
BY SECTION 1(5) OF 807 KAR 5:069**

I, William Clary, hereby certify that I am the duly qualified and acting Chairman of the Buffalo Trail Water Association, and that said Association is in the process of arranging to finance the construction of a water tank project of the District (the "Sardis Water Tank"), in cooperation with Cann-Tech, L.L.C. Lawrenceburg, Kentucky, the Engineers for the District (the "Engineers").

Based on information furnished to me by said Engineers for the District, I hereby certify as follows:

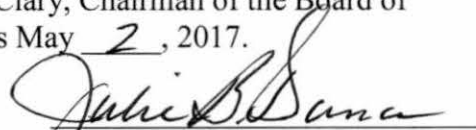
1. That the proposed plans and specifications for the Sardis Water Tank Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066 Section 4(3) and (4); Section 5(1); Sections 6 and 7; Section 8(1) through (3); Section 9(1) and Section I 0.
2. That all other state approvals and/or permits have already been obtained.
3. That it is now contemplated that construction of the Sardis Tank Project will begin on or about July 1, 2017, and will end on or about December 31, 2011.

IN TESTIMONY WHEREOF, witness my signature this May 2, 2017.

  
Chairman  
Buffalo Trail Water Association

STATE OF KENTUCKY   )  
  ) SS  
COUNTY OF MASON    )

Subscribed and sworn to before me by William Clary, Chairman of the Board of Directors of the Buffalo Trail Water Association, on this May 2, 2017.

  
Notary Public  
Mason County, Kentucky





March 22, 2017

Mr. Dick Clary  
Buffalo Trail Water Association  
41135 US 62  
Mays Lick, KY 41055

RE: Sardis Elevated Water Storage Tank

Dear Mr. Clary:

As you are aware, the above referenced project was bid March 21, 2017. The low bidder was Caldwell Tanks, Inc. from Louisville, KY with a Total Base Bid of \$509,000.00.

Please find attached a copy of the bid tabulation. The following is a summary of the budget for this project.

Project Budget	Original Letter of Conditions	Current (As Bid)
Development	\$460,000	\$509,000
Legal and Administrative	\$15,000	\$15,000
Engineering and inspection	\$95,000	\$93,260
Environmental Assessment	\$10,000	\$5,000
Interest	\$10,000	\$10,000
Contingencies	\$50,000	\$25,740
Total Project Cost	\$640,000	\$658,000

Based upon the Letter of Conditions from Rural Development, the proposed funding for the above project cost is as follows:

March 22, 2017

Page 2

Project Financing	Revised Letter of Conditions	Final Budget
RUS Loan	\$480,000	\$480,000
RUS Grant	\$160,000	\$160,000
Applicant (BTWA)	\$0	\$18,000
Total Project Cost	\$640,000	\$658,000

It appears the project can now be completed within the available funding with \$18,000 of funds from Buffalo Trail Water Association. References have been checked for the contractor and they have an excellent reputation. Therefore, we recommend the contract be approved and allowed to go forward.

If you have any questions or need additional information please contact me at our office.

Sincerely,

**CANN-TECH, LLC**

Matthew Baker, P.E.

Project Manager

Attachments

CC: Ms. Teresa Shields, Rural Development  
Mr. Elwood Howe, Rural Development  
Mr. John Estill  
All Bidding Contractors – Bid Tab Only



**Bid Tabulation**  
**Sardis Elevated Water Storage Tank**  
**Buffalo Trail Water Association**  
**March 21, 2017**

We certify that, to the best of our knowledge, the bid tabulation is an accurate representation of the bids received on March 21, 2017

\_\_\_\_\_  
 Cann-Tech, LLC

NO.	ITEM	QTY.	UNIT	Engineer's Estimate	Caldwell Tanks, Inc.	Phoenix Fabricators and Erectors, Inc.
				Lump Sum Price	Lump Sum Price	Lump Sum Price
1	Complete Elevated Storage Tank	1	L.S.	\$460,000.00	\$509,000.00	\$601,316.00
				<b>Total: \$460,000.00</b>	<b>Total: \$509,000.00</b>	<b>Total: \$601,316.00</b>

**PRELIMINARY ENGINEERING REPORT  
SARDIS ELEVATED TANK**

Prepared For:

**BUFFALO TRAIL WATER ASSOCIATION  
41135 US 62  
MAYSVILLE, KY 41056**

Prepared By



1100 Glensboro Road  
Parkview Center, Suite 9  
Lawrenceburg, Kentucky 40342  
Phone (502) 859-0907  
Fax (502) 859-0668  
Cell (502)343-0224  
E-mail: [Waterboy@kih.net](mailto:Waterboy@kih.net)

SEPTEMBER 2015

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## APPENDIX A

## ABBREVIATIONS

O&M – Operations and Maintenance  
PER – Preliminary Engineering Report  
RUS – Rural Utilities Service  
WTP-Water Treatment Plant  
BTWA-Buffalo Trail Water Association  
DOW-Division of Water

## **GENERAL**

The Buffalo Trail Water Association (BTWA) serves approximately 1,500 customers in Robertson and Mason Counties, Kentucky. The BTWA currently purchases water from the City of Maysville and Western Fleming Water Association.

The BTWA is a progressive water system and is trying to take steps now to help them comply with current, as well as, future drinking water regulations. The work proposed in this project will replace an aging 100,000 gallon standpipe with a 100,000 gallon elevated water storage tank.

The new elevated tank will increase water available to customers and will have better turnover compared to the existing standpipe. This will help BTWA comply with current and future water quality regulations.

Name of Applicant and Owner of the WTP:

Buffalo Trail Water Association  
41135 US 62  
Maysville, KY 41056  
William "Dick" Clary 606 763-6516

The location of the proposed work at the water treatment plant is shown in the attached Appendix A.

### **1. PROJECT PLANNING AREA**

The area affected by this project will include all of the BTWA service area East of the City of Mt. Olivet. The new tank will improve water quality for all customers that purchase water east of Sardis. The more efficient operation and ability to comply with future regulations will benefit all BTWA customers including the City of Mt. Olivet.

- A. Location. Please see the map attached in Appendix A delineating the BTWA service area and as well as the location of the proposed tank.
- B. Environmental Resources Present. The environmental resources present in the BTWA service area will not be affected by this project. No new construction is proposed outside of areas previously disturbed by construction activities.
- C. Population Trends. The proposed work does not include increasing the capacity of the BTWA system. No significant population growth is projected within the BTWA service area.
- D. Community Engagement. There has not been an effort to engage the community in this project. The age of the existing tank and compliance with Division of Water and Public Service Commission regulations are creating the need for the project.

## 2. EXISTING FACILITIES

- A. Location Map. Appendix A shows the location of the existing water storage tank.
- B. History. The water storage tank was built in 1977. This was BTWA's first water tank. The tank has had two major leaks that required taking the tank out of service and welding additional steel to the tank to repair the leaks. Based on tank inspections, there is a high likelihood of the steel continuing to develop leaks.
- C. Condition of Facilities. The current facilities are working as designed. However, all of the tank steel has received the same coatings and maintenance over the tank's service life. So, additional leaks are likely to start occurring on parts of the structure that have not already been repaired. Additionally, due to the pressure required out in the BTWA system, the tank water level cannot be lowered more than approximately 10%. This does not allow the tank to mix and turnover at the same rate as an elevated tank.
- D. Financial Status of any Existing Facilities. Currently, BTWA is repaying an RUS loan for their Milford Project. The BTWA plans on implementing a rate increase to cover the additional debt service created by this project. Based on the recommendations from RUS and the summary addendum, the exact amount of the rate increase will be determined at a later date. Existing debt and audit information is being submitted to RUS along with this preliminary engineering report.

## 3. NEED FOR PROJECT

- A. Health, Sanitation, and Security. This project will provide the same water storage volume, but in an elevated tank. This will allow the water to mix and turnover more. The Division of Water has encouraged better tank mixing and turnover as a means to reduce the formation of disinfection byproducts (THMs and HAAs). Currently BTWA is in compliance with the applicable water quality standards. However, as the standards continue to become stricter, BTWA will be better able to comply with future regulations. Additionally, the elevated tank will allow more of the water to be used before low pressure becomes a concern. This will reduce the areas that lose pressure during line breaks or major leaks and therefore will reduce the number of customers put on boil water advisories.
- B. Aging Infrastructure. The existing tank is approximately 38 years old. It is nearing the end of its useful life. As stated above, all of the tank steel has received the same coatings and maintenance over the life of the tank. The likelihood of other areas of the tank failing is great. The cost of repairs is very high and the disruption of service is very inconvenient and both will only become more frequent as the tank continues to age.
- C. Reasonable Growth. No significant population growth is projected within the BTWA service area.

## 4. ALTERNATIVES CONSIDERED

There is no reasonable alternative to this project. The Public Service Commission requires a minimum of 24 hours of storage capacity. Without the 100,000 gallon tank, BTWA cannot meet this requirement. Therefore, the only way to stay in compliance with the regulation is to add 100,000 gallons of storage. Increasing the capacity of existing elevated tanks is not an option. The only feasible project is a new water storage tank with a capacity of 100,000 gallons.

**5. SELECTION OF AN ALTERNATIVE**

The only feasible project is a new water storage tank with a capacity of 100,000 gallons.

**6. PROPOSED PROJECT (RECOMMENDED ALTERNATIVE)**

A. Project Design.

- (1) Water Supply. The BTWA will continue to purchase water from Western Fleming Water Association and the City of Maysville.
- (2) Treatment. BTWA purchases treated water and does not provide any additional water treatment. This project will not change this method of operation. However, the elevated storage tank should greatly reduce disinfection by-product formation compared to their existing standpipe.
- (3) Storage. A 100,000 gallon elevated storage tank and the demolition of the existing 100,000 standpipe is proposed. Both facilities are shown in appendix A.
- (4) Pumping Stations. No new pumping stations are proposed.
- (5) Distribution Layout. No changes to the distribution layout are proposed.

B. Project Schedule.

environmental review	9/15/2015
DOW approval	11/15/2015
Bid advertise	12/1/2015
bid opening	12/15/2015
PSC approval	1/15/2016
contract award	3/15/2016
construction	4/1/2016
initiation of operation	9/15/2016
completion	10/15/2016
closeout	11/1/2016

- C. Permit Requirements. Division of Water construction permit will be required for this project.
- D. Total Project Cost Estimate.

**(1) Construction Cost Estimate**

Item	
100,000 gal. elevated tank	\$440,000
Stand pipe demolition	\$10,000
Connection to existing line	\$10,000
<b>Total</b>	<b>\$460,000</b>

**(2) Total Project Cost Estimate**

administration	\$5,000
environmental	\$5,000
PE REPORT	\$10,000
land acquisition	\$15,000
geotech	\$10,000
surveying	\$2,000
archeological	\$5,000
construction	\$460,000
contingency	\$45,000
engineering design	\$38,000
engineering construction	\$10,000
engineering inspection	\$35,000
<b>TOTAL:</b>	<b>\$640,000</b>

**(3) Project Funding**

Item	Total
RUS Grant	\$192,000
RUS Loan	\$448,000
<b>Total</b>	<b>\$640,000</b>

## **7. CONCLUSIONS AND RECOMMENDATIONS**

It is recommended the project be funded by a Rural Development Loan and Grant and a Letter of Conditions be issued as soon as possible. BTWA has the ability to repay the financing and the project will benefit the entire BTWA service area as well as the City of Mt. Olivet. While BTWA is anticipating a rate increase with this project, the exact amount will be determined upon completion of the summary addendum.





United States Department of Agriculture

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March 2, 2016

William Clary  
Buffalo Trail Water Association, Inc.  
P.O. Box 6026  
Maysville, Kentucky 41056

Dear Chairman Clary:

This letter establishes conditions which must be understood and agreed to by you before further consideration may be given to the application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area office staff of USDA Rural Development. Any changes in project cost, source of funds, scope of services or any other significant changes in the project or applicant must be reported to and approved by USDA Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application. It should also be understood that Rural Development is under no obligation to provide additional funds to meet an overrun in construction costs.

This letter is not to be considered as loan or grant approval or as a representation as to the availability of funds. The docket may be completed on the basis of a RUS loan not to exceed \$480,000; and a RUS grant not to exceed \$160,000. No applicant cash contribution will be required.

Project Description – funds will be used to construct a 500,000 gallon standpipe tank and a 100,000 gallon elevated storage tank.

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

Please complete and return the attached Form RD 1942-46, "Letter of Intent to Meet Conditions," if you desire that further consideration be given to your application.

The "Letter of Intent to Meet Conditions" must be executed within three weeks from the date of this letter or it becomes invalid unless a time extension is granted by Rural Development.

If the conditions set forth in this letter are not met within 240 days from the date hereof, Rural Development reserves the right to discontinue the processing of the application. In signing Form RD 1942-46, "Letter of Intent to Meet Conditions," you are agreeing to complete the following as expeditiously as possible:

**Rural Development • Kentucky State Office**  
771 Corporate Drive, Suite 200, Lexington, Kentucky 40502  
Voice (859) 224-7300 • Fax (855) 661-8335 • TTY (859) 224-7422

USDA is an equal opportunity provider, employer and lender.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).

1. Number of Users and Their Contribution:

There shall be 1448 water users, of which all are existing users. The Area Director will review and authenticate the number of users prior to advertising for construction bids.

2. Grant Agreement:

Attached is a copy of RUS Bulletin 1780-12, "Water and Waste System Grant Agreement," for your review. You will be required to execute a completed form at the time of grant closing.

3. Drug-Free Work Place:

Prior to grant closing, the Association will be required to execute Form-AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals."

4. Repayment Period:

The loan will be scheduled for repayment over a period not to exceed 40 years from the date of the Promissory Note. Principal payment will not be deferred for a period in excess of one year from the date of the Promissory Note. The Association may be required to adopt a supplemental payment agreement providing for monthly payments of principal and interest so long as the Promissory Note is held or insured by RUS. Monthly payments will be approximate amortized installments.

5. Recommended Repayment Method:

Payments on this loan shall be made using the Preauthorized Debit (PAD) payment method. This procedure eliminates the need for paper checks and ensures timely receipt of RD loan payments. To initiate PAD payments, Form RD 3550-28, "Authorization Agreement for Preauthorized Payments," should be signed by the Association to authorize the electronic withdrawal of funds from your designated bank account on the exact installment payment due date. The Area Director will furnish the necessary forms and further guidance on the PAD procedure.

6. Reserve Accounts:

Reserves must be properly budgeted to maintain the financial viability of any operation. Reserves are important to fund unanticipated emergency maintenance, pay for repairs, and assist with debt service should the need arise.

The Association will be required to deposit \$150 per month into a "Funded Debt Reserve Account" until the account reaches \$18,000. The deposits are to be resumed any time the account falls below the \$18,000.

The required monthly deposits to the Reserve Account and required Reserve Account levels are in addition to the requirements of the Association's prior loan resolutions.

The monthly deposits to the Reserve Account are required to commence with the first month of the first full fiscal year after the facility becomes operational.

The Association also needs to fund an account for short-lived assets by depositing a sum of \$1,250 monthly to the account. The funds in the short-lived asset account may be used by the Association as needed to replace or add short-lived assets in the Association's water system.

7. Security Requirements:

The loan will be secured by a real estate mortgage, a financing statement, and a pledge of gross water revenue, in the Loan Resolution and Financing Statement.

8. Land Rights and Real Property:

The Association will be required to furnish satisfactory title, easements, etc., necessary to install, maintain and operate the facility to serve the intended users. The pipelines will be on private rights-of-way where feasible. Easements and options are to be secured prior to advertising for construction bids.

9. Organization:

The Association will be legally organized under applicable KRS, which will permit them to perform this service, borrow, or repay money.

The Association must maintain a current registration of their Dun and Bradstreet Data Universal Numbering System (DUNS) number in SAM.gov (System for Award Management) in order to receive federal loan and/or grant financial assistance. This registration must be updated/renewed at least annually.

10. Business Operations:

The Association will be required to operate the system under a well-established set of resolutions, rules and regulations. A budget must be established annually and adopted by the Association after review by Rural Development. At no later than loan pre-closing, the Association will be required to furnish a prior approved management plan to include, as a minimum, provisions for management, maintenance, meter reading, miscellaneous services, billing, collecting, delayed payment penalties, disconnect/reconnect fees, bookkeeping, making and delivering required reports and audits.

11. Conflict of Interest Policy:

Prior to obligation of funds, you will certify in writing that your organization has in place an up-to-date written policy on conflict of interest.

The policy will include, at a minimum: (1) a requirement for those with a conflict/potential conflict; (2) a prohibition of interested members of the applicant's governing body from voting on any matter in which there is a conflict, and (3) the specific process defining how the governing body will manage identified or potential conflicts.

You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Sample conflict of interest policies may be found at the National Council of Nonprofits website,

<https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

Disclosure must be in the form of a written letter signed and dated by the applicant's official. A negative disclosure of the same format is required if no conflicts are anticipated.

Assistance in developing a conflict of interest policy is available through Agency-contracted technical assistance providers if desired.

12. Accounts, Records and Audits:

The Association will be required to maintain adequate records and accounts and submit annual budgets and year-end reports (annual audits)/statistical and financial reports, quarterly and annually, in accordance with subsection 1780.47 of RUS Instruction 1780.

The Association shall be required to submit a copy of its audit agreement for review and concurrence by Rural Development prior to pre-closing the loan.

13. Accomplish Audits for Years in Which Federal Financial Assistance is Received:

The Association will accomplish audits in accordance with OMB Circular A-133, during the years in which federal funds are received. The Association will provide copies of the audits to the Area Office and the appropriate Federal cognizant agency as designated by OMB Circular A-133.

14. Insurance and Bonding:

The following insurance and bonding will be required:

- A. Adequate Liability and Property Damage Insurance including vehicular coverage, if applicable, must be obtained and maintained by the Association. The Association should obtain amounts of coverage as recommended by its attorney, consulting engineer and/or insurance provider.
- B. Worker's Compensation - The Association will carry worker's compensation insurance for employees in accordance with applicable state laws.
- C. Fidelity Bond - The Association will provide Fidelity Bond Coverage for all persons who have access to funds. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage required for all RUS loans is \$59,000.
- D. Real Property Insurance - The Association will obtain and maintain adequate fire and extended coverage on all structures including major items of equipment or machinery located in the structures. The amounts of coverage should be based on recommendations obtained by the Association from its attorney, consulting engineer and/or insurance

provider. Subsurface lift stations do not have to be covered except for the value of electrical and pumping equipment therein.

- E. Flood Insurance - The Association will obtain and maintain adequate coverage on any facilities located in special flood and mudslide prone areas.

15. Planning and Performing Development:

- A. The engineer should not be authorized to commence work on final plans and specifications until a determination has been made that the project can be planned and constructed within the estimated cost shown in paragraph "25" of this letter. The engineer may then proceed to develop final plans and specifications to be completed no later than 210 days from this date, and prepare bid documents. The Area Director is prepared to furnish the necessary guide to follow so as to keep the project plans and documents within our guidelines and requirements. The project must be constructed by the design/bid/build method of construction. The project should not be advertised for construction bids until all easements and enforceable options have been obtained, and total funds are committed or available for the project.
- B. The following documents will be submitted to Rural Development for review and must be concurred in by Rural Development prior to advertisement for construction bids:
  1. Final plans, specifications and bid documents.
  2. Applicant's letter on efforts to encourage small business and minority - owned business participation.
  3. Legal Service Agreements.
  4. Engineering Agreements.

Revision in these documents will be subject to Rural Development concurrence. Any agreements, contracts, etc. not reviewed and approved by Rural Development will not be eligible for payment from project funds or revenues from facilities financed by this Agency.

16. Civil Rights & Equal Opportunity:

You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

A. Section 504 of the Rehabilitation Act of 1973:

Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Rural Development financial assistance.

B. Civil Rights Act of 1964:

All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Subpart E of Part 1901 of this Title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this Title.

C. The Americans with Disabilities Act (ADA) of 1990:

This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, state and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by state and local public entities that provide services, programs, and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities that accommodate the public.

D. Age Discrimination Act of 1975:

This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

E. Limited English Proficiency (LEP) under Executive Order 13166:

LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally-assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English. These individuals may be entitled to language assistance, free of charge. You must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides.

These protections are pursuant to Executive Order 13166 entitled, "Improving Access to Services by Persons with Limited English Proficiency" and further affirmed in the USDA Departmental Regulation 4330-005, "Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA."

Agency financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap. You must display posters (provided by the Agency) informing users of these requirements, and the Agency will monitor your compliance with these requirements during compliance reviews.



17. Closing Instructions:

The Office of General Counsel, our Regional Attorney, will be required to write closing instructions in connection with this loan. Conditions listed therein must be met by the Association.

18. Compliance with Special Laws and Regulations:

The Association will be required to conform to any and all state and local laws and regulations affecting this type project.

19. Treatment Plant and System Operator:

The Association is reminded that the system operator must have an Operator's Certificate issued by the State.

20. Prior to Closing the Loan, the Association Will Be Required to Adopt:

- A. Form RD 1942-8, "Resolution of Members or Stockholders."
- B. Form RUS Bulletin 1780-28, "Loan Resolution Security Agreement."
- C. Form RD 400-1, "Equal Opportunity Agreement."
- D. Form RD 400-4, "Assurance Agreement."
- E. Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transaction."
- F. Form RD 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."
- G. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."
- H. RUS Bulletin 1780-22, "Eligibility Certification."

21. Refinancing and Graduation Requirements:

The Association is reminded that if at any time it shall appear to the Government that the Association is able to refinance the amount of the RUS indebtedness then outstanding, in whole or in part, by obtaining a loan from commercial sources at reasonable rates and terms, upon the request of the Government, the Association will apply for and accept such loan in sufficient amount to repay the Government.

22. Commercial Interim Financing:

The Association will be required to use commercial interim financing for the project during construction for the RUS loan portion of the financing, if available at reasonable rates and terms.

Before the loan is closed, the Association will be required to provide Rural Development with statements from the contractor, engineer and attorneys that they have been paid to date in accordance with their contract or other agreements and, in the case of the contractor, that he has paid his suppliers and sub-contractors.

23. Disbursement of Project Funds:

A construction account for the purpose of disbursement of project funds (RUS) will be established by the Association prior to start of construction. The position of officials entrusted with the receipt and disbursement of RUS project funds will be covered by a "Fidelity Bond," with USDA Rural Development as Co-Obligee, in the amount of construction funds on hand at any one time during the construction phase.

For each "construction account" as established, if the amount of RUS loan and grant funds plus any applicant contributions or funds from other sources to be deposited into the account are expected to exceed \$250,000 at any time, the financial institution will secure the amount in excess of \$250,000 by pledging collateral with the Federal Reserve Bank in an amount not less than the excess in accordance with 7 CFR, 1902.7(a).

During construction, the Association shall disburse project funds in a manner consistent with subsection 1780.76 (e) of RUS Instruction 1780. Form RD 1924-18, "Partial Payment Estimate," or similar form approved by Rural Development, shall be used for the purpose of documenting periodic construction estimates, and shall be submitted to Rural Development for review and acceptance. Prior to disbursement of funds by the Association, the Board of Directors shall review and approve each payment estimate. All bills and vouchers must be approved by Rural Development prior to payment by the Association.

Form RD 440-11, "Estimate of Funds Needed for 30-Day Period Commencing \_\_\_\_\_," will be prepared by the Association and submitted to Rural Development in order that a periodic advance of federal cash may be requested.

Borrowers receiving federal loan and/or grant funds by EFT will have funds directly deposited to a specified account at a financial institution with funds being available to the recipient on the date of payment.

The borrower should complete Form SF-3881, "Electronic Funds Transfer Payment Enrollment Form," for each account where funds will be electronically received. The completed form(s) must be received by Rural Development at least thirty (30) days prior to the first advance of funds.

Monthly audits of the Association's construction account records shall be made by Rural Development.

24. Disbursement of Grant Funds:

The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of obligations due and payable by the Association. Grant funds, upon receipt, must be deposited in an interest bearing account in accordance with 7 CFR part 3019 (as applicable). Interest earned on grant funds in excess of \$250 (as applicable) per year will be submitted to RUS at least quarterly.



25. Cost of Facility:

## Breakdown of Costs:

Development	\$ 460,000
Legal and Administrative	15,000
Engineering	10,000
Interest	95,000
Environmental	10,000
Contingencies	<u>50,000</u>
TOTAL	\$ 640,000

## Financing:

RUS Loan	\$ 480,000
RUS Grant	<u>160,000</u>
TOTAL	\$ 640,000

26. Construction Completion Timeframe:

All projects are required to be completed and all funds disbursed within five years of obligation. If funds are not disbursed within five years of obligation, you must submit a written waiver request with adequate justification of extenuating circumstances beyond your control for an extension of time.

Any additional requests for waivers beyond the initial extension will be submitted through the State Office to the Assistant Administrator for concurrence decision.

27. Use of Remaining Project Funds:

After providing for all authorized costs, any remaining project funds will be considered to be RUS grant funds and refunded in proportion to participation in the project. If the amount of unused project funds exceeds the grants, that part would be RUS loan funds.

28. Proposed Operating Budget:

You will be required to submit to Rural Development a copy of your proposed annual operating budget that supports the proposed loan repayment prior to this agency giving you written authorization to proceed with the bidding phase. The operating budget should be based on a typical year cash flow, subject to completion of this project in the first full year of operation. Form RD 442-7, Operating Budget, or similar form may be utilized for this purpose.

29. Rates and Charges:

Rates and charges for facilities and services rendered by the Association must be at least adequate to meet cost of maintaining, repairing and operating the water system and meeting required principal and interest payments and the required deposits to debt service and/or depreciation reserve.

Water rates will be at least:

**5/8" x 3/4" Meter**

First	1,000	gallons @ \$	14.83. - Minimum Bill.
Next	4,000	gallons @ \$	6.28. – per 1,000 gallons.
Next	5,000	gallons @ \$	4.48. – per 1,000 gallons.
All Over	10,000	gallons @ \$	4.03. - per 1,000 gallons.

**3/4 " Meter**

First	5,000	gallons @ \$	39.95. - Minimum Bill.
Next	5,000	gallons @ \$	4.48. – per 1,000 gallons.
All Over	10,000	gallons @ \$	4.03. - per 1,000 gallons.

**1" Meter**

First	10,000	gallons @ \$	62.35. - Minimum Bill.
All Over	10,000	gallons @ \$	4.03. - per 1,000 gallons.

**1 1/2" Meter**

First	15,000	gallons @ \$	82.50. - Minimum Bill.
All Over	15,000	gallons @ \$	4.03. - per 1,000 gallons.

**2" Meter**

First	20,000	gallons @ \$	102.65. - Minimum Bill.
All Over	20,000	gallons @ \$	4.03. - per 1,000 gallons.

30. Water Purchase Contract:

The Association will submit a Water Purchase Contract for approval by Rural Development before advertising for construction bids. If the contract is not on Form RD 442-30, "Water Purchase Contract," the contract will require approval by our Regional Attorney. The contract must meet the requirements of subsection 1780.62 of RUS Instruction 1780.

31. Vulnerability Assessment/Emergency Response Plan (VA/ERP):

The Agency requires all financed water and wastewater systems to have a VA/ERP in place. Borrowers with existing systems must provide a certification that a VA/ERP has been completed prior to advertising for bids. The documents are not submitted to the Agency for VA/ERP requirements throughout the life of the loan.

32. Floodplain Construction:

The Association will be required to pass and adopt a Resolution or amend its By-Laws whereby the Association will deny any water service to any future customer wishing to build on or develop property located within a designated floodplain. If a customer or developer requests service for construction in a designated floodplain, the customer or developer must provide evidence and a justification for approval by the

Association and Rural Development officials that there are no other alternatives to construction or development within the designated floodplain. The community must be a participant in the National Flood Insurance Program (NFIP) and the customer or developer must obtain the required permits prior to the tap on restrictions being waived.

33. Division of Water (DOW) Health & Sanitary Certification:

The Median Household Income (MHI) for the Association's service area qualifies this project for the poverty interest rate. A certification from the Division of Water stating this project will remove a health or sanitary problem will be required. This certification must be obtained prior to loan pre-closing. ?

34. Mitigation Measures:

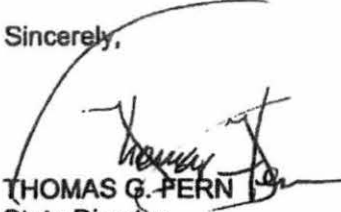
- A. The project shall be in compliance with all requirements noted in the Governor's Office for Local Development letter dated September 14, 2015, from Ms. Lee Nalley.
- B. The line design and construction shall be accomplished in a way that will leave flood plains and farmland without effect after construction is complete. The Army Corps of Engineers Nationwide Permit No. 12 applies to all floodplain and wetland utility line construction.
- C. Any excavation by Contractor that uncovers a historical or archaeological artifact shall be immediately reported to Owner and a representative of Agency. Construction shall be temporarily halted pending the notification process and further directions issued by Agency after consultation with the State Historic Preservation Officer (SHPO).
- D. The design and construction shall be in compliance with all local, state and federal environmental statutes, regulations and executive orders applicable to the project.
- E. Best Management Practices shall be incorporated into the project design, construction, and maintenance.

35. Final Approval Conditions:

Final approval of this assistance will depend on your willingness, with the assistance of all your co-workers, to meet the conditions of this letter in an orderly and systematic manner. Then too, final approval will depend on funds being available.

If you desire to proceed with your application, the Area Director will allot a reasonable portion of time to provide guidance in application processing.

Sincerely,

  
THOMAS G. PERNA  
State Director

**Enclosures**

cc: Area Director - Morehead, Kentucky  
Buffalo Trace ADD – Maysville, Kentucky  
Cann-Tech, LLC - Lawrenceburg, Kentucky  
John Estill - Maysville, Kentucky  
PSC - ATTN: Jeff Derouen - Frankfort, Kentucky

**COMMONWEALTH OF KENTUCKY**

**BEFORE THE PUBLIC SERVICE COMMISSION**

**In the Matter of:**

**APPLICATION OF BUFFALO TRAIL WATER )  
SEWER DISTRICT FOR A CERTIFICATE OF )  
PUBLIC CONVENIENCE AND NECESSITY TO ) CASE No. 2017-\_\_\_\_\_  
CONSTRUCT AND APPROVAL TO FINANCE A )  
SANITARY SEWER EXTENSION PROJECT )**

**APPLICATION**

This Application of the Buffalo Trail Water Association ("Applicant") respectfully shows:

1. That Applicant is a water district of Mason and Robertson Counties, Kentucky, created and existing under and by virtue of Chapter 273 of the Kentucky Revised Statutes.
2. That the post office address of Applicant is:  
Buffalo Trail Water Association  
c/o Mr. William Clary  
41135 U.S. Route 62  
Mayslick, Kentucky 41055
4. That Applicant, pursuant to the provisions of KRS 278.020 and 278.023, seeks (i) a Certificate of Public Convenience and Necessity, permitting Applicant to construct a water works construction project, consisting of a new elevated storage tank (the "Phase 1 Project") to the existing waterworks system of Applicant; and (ii) approval of the proposed plan of financing said Water Tank Project.
5. That the Water Tank Project consists of a new 100,000-gallon elevated storage tank.
6. That Applicant proposes to finance the construction of the Water Tank Project through the issuance of \$640,000 of its Waterworks Revenue Bonds, Series 2017 (Water Tank Project). Applicant has a commitment from the U.S. Department of Agriculture, acting through Rural Development ("RD") to purchase said \$640,000 of Bonds maturing over a 40-year period, at an interest rate of not exceeding 4.50% per annum as set out in the RD Letter of Conditions, as amended filed herewith as an Exhibit.

7. That Applicant does not contemplate having the Water Tank Project constructed with any deviation from minimum construction standards of this Public Service Commission.

8. That Applicant files herewith the following Exhibits pursuant to 807 KAR 5:069 in support of this Application:

- A. Copy of the March 2, 2016 RD Letter of Conditions.
- B. Copy of RD Letter of Concurrence in Contract Award.
- C. Copy of Preliminary and Final Engineering Reports.
- D. Certified statement from the Chairman of Applicant, based upon statements of the Engineers for Applicant, concerning the following:
  - (1) The proposed plans and specifications for the Water Tank Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066, Section 4 (3) and (4); Section S (1); Sections 6 and 7; Section 8 (1) through (3); Section 9 (1) and Section 10;
  - (2) All other state approvals or permits have already been obtained;
  - (3) Setting out the dates when it is anticipated that construction will begin and end.

8. That the foregoing constitutes the documents necessary to obtain the approval of the Kentucky Public Service Commission in accordance with Section 278.023 of the Kentucky Revised Statutes and in accordance with the "Filing Requirements" specified in 807 KAR S:069, Section I.

WHEREFORE, Applicant, the Buffalo Trail Water Association asks that the Public Service Commission of the Commonwealth of Kentucky grant to Applicant the following:

- a. A Certificate of Public Convenience and Necessity permitting Applicant to construct a waterworks project consisting of extensions, additions, and improvements to the existing waterworks system of Applicant.
- b. An Order approving the financing arrangements made by Applicant, viz., the issuance of \$640,000 of Buffalo Trail Water Association Waterworks Revenue Bonds, Series 2017 (Water Tank Project) at an interest rate of not exceeding 4.50% per annum.

BUFFALO TRAIL WATER ASSOCIATION

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

Chairman



COMMONWEALTH OF KENTUCKY     )  
   ) SS:  
COUNTY OF MASON                             )

The undersigned, William Clary, being duly sworn, deposes and states that he is the Chairman of the Board of Directors of the Buffalo Trail Water Association, Applicant, in the above proceedings; that he has read the foregoing Application and has noted the contents thereof; that the same is true of his own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, believes same *to* be true.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this May \_\_\_\_, 2017.

\_\_\_\_\_  
William Clary, Chairman  
Buffalo Trail Water Association

Subscribed and sworn to before me by William Clary, Chairman of the Board of Directors of the Buffalo Water Association, on this May \_\_\_\_, 2017

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, Mason County, Kentucky



Rural Development

April 11, 2017

Kentucky State Office

771 Corporate Drive,  
Suite 200  
Lexington, KY  
40503

Voice 859.224.7300  
Fax 855.661.8335  
TTY 859.224.7422

SUBJECT: Buffalo Trail Water Association, Inc.  
Loan Closing Instructions  
RUS Loan \$480,000 and RUS Grant \$160,000

TO: Area Director  
Morehead, Kentucky

The Regional Attorney's Closing Instructions and the subject loan docket are enclosed for you to prepare for loan pre-closing.

Prior to pre-closing, you should review the following items in order to determine that all required conditions and/or requirements have been met:

1. Form RD 1780-10, "Processing Check List."
2. Letter of Conditions.
3. Regional Attorney's Closing Instructions.

Also, please review the state office memorandum granting authorization to advertise for construction bids to ensure those items as requested have been completed.

If you have any questions concerning the above, please contact this office.



JEFF JONES  
Acting State Director

Enclosures

cc: William Clary  
Maysville, Kentucky

Cann-Tech, LLC  
Lawrenceburg, Kentucky

John Estill  
Maysville, Kentucky

**RECEIVED**

APR 13 2017

**Cann-Tech, LLC**

USDA is an equal opportunity provider, employer and lender.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).



United States Department of Agriculture  
*Office of the General Counsel*

Eastern Region  
1718 Peachtree Street, NW, Suite 576  
Atlanta, Georgia 30309-2437

Telephone: 404-347-1060  
Facsimile: 844-217-8320

April 4, 2017

Mr. Thomas G. Fern  
State Director  
Rural Development  
Lexington, Kentucky

ATTN: Anthony Hollinsworth

Subject: Buffalo Trail Water Association, Inc.  
RUS Loan - \$480,000.00  
RUS Grant - \$160,000.00

Dear Mr. Fern:

Enclosed please find data as submitted for closing instructions.

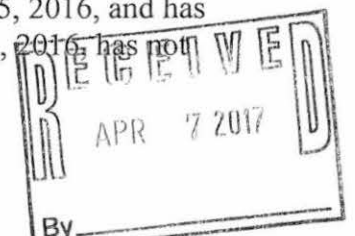
The proposed project consists of the replacement of an aging 100,000 gallon tank with a 100,000 gallon elevated water storage tank. The new elevated tank will increase water available to customers and will have better turnover than the existing standpipe. The loan will be secured by a real estate mortgage, financing statement, and a pledge of gross water revenue. A security agreement and financing statement will be completed which contains a pledge of the gross water revenue from the System. The interest rate of 1.8750% is in accordance with 7 U.S.C. 1927 and 1927a, as amended.

The docket includes a certification from the Corporation's attorney stating that the Corporation was properly created. The certification is outdated. A new one should be obtained. The Articles of Incorporation and Bylaws were not submitted with the docket. The Agency must ensure that the Corporation's organizational documents have been reviewed and approved by OGC. The Agency must also obtain a Certificate of Good Standing, if such was not obtained previously with an OGC organizational review.

The submitted Loan Resolution Security Agreement, RUS Bulletin 1780-28, was executed on April 5, 2016, indicates that the loan was approved by all 5 members which constitutes a quorum.

The Resolution of Members or Stockholders, Form RD 1942-8, indicates that the number of members is five and that all five voted in approval of the resolution constituting a quorum. The document is dated April 5, 2016, and has been properly completed.

The submitted Form RD 400-1, Equal Opportunity Agreement is dated April 5, 2016, and has been properly executed. Form RD 400-4, Assurance Agreement dated April 5, 2016, has not



been properly prepared and executed. The Title of the signor has been omitted. This information can be added to the existing document.

The docket is to contain a copy of the most recent annual corporation report filed with the secretary of state pursuant to KRS 273.3671 and a certified list of the directors and officers showing their respective terms.

Property evidence has been presented in the form of a Preliminary Title Opinion describing fee simple property vested in the Association. Should any additional property be acquired, the title opinions should be included in the final docket.

The promissory note is to be prepared by RD or under its supervision in accordance with 7 U.S.C. 1927a. The docket is to contain a conformed copy of the properly completed and executed note.

The docket is to contain Certificate of Rights-of-Way and Opinion of Counsel Relative to Rights-of-Way, Forms RD 1942-21 and 1942-22, which are to be inclusive of the date of closing.

The docket contains a Water Purchase Contract between the Western Fleming Water District and the Association. The contract, which is barely legible, was entered into on April 12 or 17, 1979, and is drafted on Form FHA 442-30 and is scheduled to run for a period of 40 years. The contract was amended on May 7, 1979. The Agency must ensure that the contract will run for the entire period of the loan.

The Association has a second loan Water Purchase Agreement with the City of Maysville. The contract was entered into on January 9, 2003, and extends for 40 years. The Agency must ensure that the contract will run for the life of the loan.

From the documents contained in the docket, it appears that the Association has retained the services of Mr. John F. Estill of Maysville, Kentucky to serve as local counsel. The real estate mortgage is to be prepared by the attorney. The docket is to contain the original or a certified copy of the recorded mortgage.

The project will require the preparation and filing of a security agreement and financing statement. The Agency must ensure that the documents accurately reflect the security for the loan. The documents are to be properly completed and executed, and the collateral is to be described in the appropriate space or upon an attached Schedule "A" to the security agreement and financing statement. Such collateral is to be specified by serial number, manufacturer's identification number or other legally acceptable description. If accounts are involved, the account number must be included. The docket is to contain a duplicate original of the security agreement and a certified copy of the financing statement, which is to be filed. The security documents should be filed in accordance with Revised Article 9 of the Uniform Commercial Code. The agency should refer to the web site for the Kentucky Secretary of State to ensure the proper filing locations and requirements.

Subsequent to closing and filing of the financing statement, the attorney is to issue a brief certification that, by virtue of the security agreement and financing statement, the United States has a valid lien upon the revenue and income of the Association, and such other collateral as may be specified within these instruments. The attorney must ensure that filing is proper and our lien position secured. This certificate is to also specify proper corporate status under Kentucky law and that no litigation is pending.

All forms and documents to be executed on behalf of the Association are to be signed by the president and attested by the secretary with the corporate seal affixed thereto. All documents requiring certification, except those which are by their nature to be certified by the clerk of the court or other public official, are to be certified by the secretary with the seal affixed thereto. Please have the corporate officers indicate their respective offices under their signatures.

All applicable requirements of RD Instructions, the requirements of the national office and any other conditions must be complied with prior to or at the time of closing the loan; also at the time of closing the loan or immediately thereafter, there will be obtained additional copies of various documents as administratively required.

The certificate below must be executed by the county supervisor or district director and the attorney for the Association after all requirements herein have been met.

For final approval, there are to be submitted to this office, after having been reviewed by the state office, the following:

1. Certified list of directors and officers with terms and copy of current annual corporation report.
2. Conformed copy of promissory note.
3. Form RD 1942-8, Resolution of Members or Stockholders
4. Form RD 1780-28, Loan Resolution Security Agreement
5. Forms RD 400-1 and 400-4.
6. Original or certified copy of recorded real estate mortgage.
7. Preliminary and Final Title Opinions, Forms RD 427-9 and 427-10, if applicable.
8. Certificate of Rights-of-Way and Opinion of Counsel Relative to Rights-of-Way, Forms RD 442-21 and 442-22, if applicable.
9. Duplicate original of security agreement.
10. Certified copy of filed financing statements.

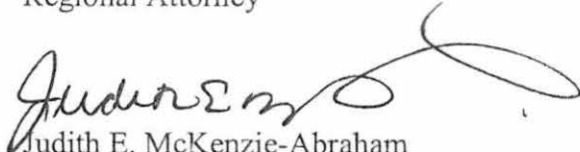


11. Attorney's certificate as to lien upon revenue, corporate status, and non-litigation.

12. Certified closing instructions.

Sincerely,

ANDREA L. FOSTER  
Regional Attorney



Judith E. McKenzie-Abraham  
Attorney

Enclosures

JEMA/

CERTIFICATE

We certify that all requirements of these instructions have been met.

Date:

\_\_\_\_\_  
Attorney for the Association

Date:

\_\_\_\_\_  
USDA