



**United States Department of Agriculture  
Rural Development  
Shelbyville Area Office**

July 20, 2011

North Shelby Water Company  
Attn: Jerry Ruble, Chairman  
4596 Bagdad Road  
Bagdad, KY 40003

Re: Concurrence to Remove Fire Protection Tariff

Dear Chairman Ruble:

2011-00239

Rural Development considered your request to remove the fire protection tariff. The water company provided information to document minimal loss of revenue to the water company by the removal of the tariff.

Rural Development concurs with your request to remove the fire protection tariff, as listed in the letter of conditions dated November 5, 1999, Item 23, and listed below.

“In addition to the above rates, a fire protection tariff of .0075 per square foot of sprinklered space shall be assessed the customer receiving the benefits of this service.”

Please contact me if I may be of further assistance.

Sincerely,

*JEA*

John Johnson  
Area Director

CC: Thomas G. Fern, State Director  
Donald Prather, Local Counsel  
Brent Kirtley, PSC ✓

90 Howard Drive • Suite 3 • Shelbyville, KY 40065  
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United States  
Department of  
Agriculture

Rural  
Development

771 Corporate Drive, Suite 200  
Lexington, KY 40503-5477  
(606) 224-7336 TTY(606) 224-7422

November 5, 1999

Mr. Duncan LeCompte  
President, North Shelby Water Company, Inc.  
P.O. Box 97  
Bagdad, Kentucky 40003

Dear Mr. LeCompte:

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/or 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 and/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 \$568,000, a RUS grant not to exceed \$443,500, a cash contribution from the Shelby County Fiscal Court in the amount of \$5,000, and a cash contribution from the applicant in the amount of \$104,300.

If Rural Development makes the loan, you may make a written request that the interest rate be the lower of the rate in effect at the time of loan approval or the time of loan closing. If you do not request the lower of the two interest rates, the interest rate charged will be the rate in effect at the time of loan approval. 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. If you want the lower of the two rates, your written request should be submitted to Rural Development as soon as practical. In order to avoid possible delays in loan closing, such a request should ordinarily be submitted at least 30 days before loan closing.

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, you are agreeing to complete the following as expeditiously as possible:

1. Number of Users and Their Contribution:

There shall be 3,256 water users, of which 3,254 are existing users and 2 are new users. The Rural Development Manager will review and authenticate the number of prior to advertising for construction bids.

1a. 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.

1b. Drug-Free Work Place:

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

2. 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 two (2) years from the date of the Promissory Note. The Association will 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.

Rural Development encourages the use of the Preauthorized Debit (PAD) payment process, which authorizes the electronic withdrawal of funds from your bank account on the exact installment payment due date (contact the Rural Development Manager for further information).

3. Funded Depreciation Reserve Account:

The Association will be required to deposit \$260.00 per month into a "Funded Depreciation Reserve Account". The per month deposits are for the life of the loan.

The required deposits to the Reserve Account are in addition to the requirements of the Association's prior note resolutions.

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

4. Security Requirements:

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

5. 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.

6. Organization:

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

7. 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, bookkeeping, making and delivering required reports and audits.

8. Accounts, Records and Audits:

The Association will be required to maintain adequate records and accounts and submit statistical and financial reports in accordance with subsection 1780.47 of RUS Instruction 1780 and RUS Staff Instruction 1780-4, a copy of which is enclosed. Annual audits, budgets, and reports will be submitted to Rural Development showing separate accounts, if applicable.

9. 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.

10. 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 \$169,000.
- 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.

11. 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 "20" 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 Rural Development Manager is prepared to furnish the necessary guide for him to follow so as to keep the project plans and documents within our guidelines and requirements. 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.

12. Compliance with Section 504 of the Rehabilitation Act of 1973:

The Association will be required to comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), in order to make sure no handicapped individual, solely by reason of their handicap, is excluded from participation in the use of the water system, be denied the benefits of the water system, or be subjected to discrimination.

13. 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.

14. Compliance with Special Laws and Regulations:

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

15. System Operator:

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

16. Prior to Pre-Closing the Loan, the Association will be Required to Adopt:

- A. Form RD 1942-8, "Resolution of Members or Stockholders."
- B. Form RUS 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. FmHA Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."

The Association must offer the opportunity for all residents in the service area to become users of the facilities regardless of race, creed, color, religion, sex, national origin, marital status, physical or mental handicap or level of income.

17. 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.

18. 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.

19. 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.

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.

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

20. Cost of Facility:

## Breakdown of Costs:

Development	\$ 920,000
Land and Rights	4,000
Legal and Administrative	6,800
Engineering	126,700
Interest	13,000
Contingencies	<u>50,300</u>
TOTAL	\$ 1,120,800

## Financing:

RUS Loan	\$ 568,000
RUS Grant	443,500
Shelby County Fiscal Court Contribution	5,000
Applicant Contribution	<u>104,300</u>
TOTAL	\$ 1,120,800

21. Debt Collection Improvement Act (DCIA) of 1996:

The Debt Collection Improvement Act (DCIA) of 1996 requires that all federal payments after January 1, 1999, must be made by Electronic Funds Transfer/Automated Clearing House (EFT/ACH). Borrowers receiving payments 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.

22. Use of Remaining Project Funds:

The applicant contribution and Shelby County Fiscal Court funds shall be considered as the first funds expended. After providing for all authorized costs, any remaining project funds will be considered to be RUS grant funds and refunded to RUS. If the amount of unused grant funds exceeds the grants, that part would be RUS loan funds.

23. 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:

First	2,000	gallons @ \$	11.14 - Minimum Bill.
Next	3,000	gallons @ \$	4.45 - per 1,000 gallons.
Next	5,000	gallons @ \$	3.33 - per 1,000 gallons.
Next	40,000	gallons @ \$	2.77 - per 1,000 gallons.
All Over	50,000	gallons @ \$	2.21 - per 1,000 gallons.

In addition to the above rates, a fire protection tariff of .0075\* per square foot of sprinklered space shall be assessed the customer receiving the benefits of this service.



24. Water Purchase Contracts:

The Association will submit Water Purchase Contracts for approval by Rural Development before advertising for construction bids. If the contracts are 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.

25. Commitment of Shelby County Fiscal Court Contribution and Applicant Contribution:

This Letter of Conditions is issued contingent upon a firm commitment being in effect prior to advertising for construction bids for the Shelby County fiscal Court contribution in the amount of \$5,000 and for the applicant contribution in the amount of \$104,300.

26. Final Approval Conditions:

Final approval of this loan 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 Rural Development Manager will allot a reasonable portion of his time to provide guidance in application processing.

Sincerely,

*Christine B. Brewer*

*for*

THOMAS G. FERN  
State Director  
Rural Development

Enclosures

cc: Rural Development Manager - Shelbyville, Kentucky  
Community Development Manager - New Castle, Kentucky  
KIPDA - Louisville, Kentucky  
Donald Prather - Shelbyville, Kentucky  
Warner A Broughman, III - Lexington, Kentucky  
PSC - ATTN: James Rice - Frankfort, Kentucky