

# Rubin & Hays

ATTORNEYS AT LAW

Kentucky Home Trust Building, 450 South Third Street, Louisville, Kentucky 40202-1410  
Telephone (502) 569-7525 Telefax (502) 569-7555 www.rubinhays.com

CHARLES S. MUSSON  
W. RANDALL JONES  
CHRISTIAN L. JUCKETT

September 4, 2014

RECEIVED

SEP 8 - 2014

PUBLIC SERVICE  
COMMISSION

Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

*Case No. 2014-00325*

Re: Nicholas County Water District PSC Application - KRS 278.023

Dear Mr. Derouen:

Enclosed please find the original and ten (10) copies of the Application of the Nicholas County Water District for a Certificate of Public Convenience and Necessity to construct, finance and increase rates pursuant to KRS 278.023.

Also enclosed are eleven (11) copies of the exhibits required pursuant to 807 KAR 5.069, with the **exception of the Preliminary and Final Engineering Reports, of which two copies are enclosed.**

The Engineers on this Project will file the electronic copy of the Plans and Specifications in the near future.

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

Sincerely,

Rubin & Hays

By



W. Randall Jones

WRJ:ilm  
Enclosures  
cc: Distribution List

## DISTRIBUTION LIST

**Re: Nicholas County Water District Waterworks Revenue Bonds, Series 2014, in the principal amount of \$555,000**

### **Rural Development**

Mr. Thomas G. Fern  
State Director  
USDA, Rural Development  
771 Corporate Drive, Suite 200  
Lexington, Kentucky 40503-5477

Telephone: (859) 224-7336  
Fax: (859) 224-7425

Mr. Elwood Howe  
USDA, Rural Development  
220 West First Street  
Morehead, Kentucky 40351

Telephone: (606) 784-6447  
Fax: (606) 784-2076

### **District Officials**

Ms. Deborah Sweet, Chairperson  
Ms. Georgia Livingood, Office Manager  
Nicholas County Water District  
1639 Old Paris Road  
Carlisle, Kentucky 40311

Telephone: (859) 289-3157  
Fax: (859) 289-8131

### **Engineer**

Joseph F. Sisler, P.E.  
Sisler - Maggard Engineering, PLLC  
220 East Reynolds Road, Suite A3  
Lexington, Kentucky 40517

Telephone: (859) 271-2978  
Fax: (859) 271-5670

### **Local Counsel**

Dawn Curran Letcher, Esq.  
Attorney at Law  
125 East Main Street  
Carlisle, Kentucky 40311

Telephone: (859) 289-3745  
Fax: (859) 289-3746

### **Bond Counsel**

W. Randall Jones, Esq.  
Rubin & Hays  
Kentucky Home Trust Building  
450 South Third Street  
Louisville, Kentucky 40202

Telephone: (502) 569-7525  
Fax: (502) 569-7555

RECEIVED

SEP 8 - 2014

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE NICHOLAS COUNTY )  
WATER DISTRICT FOR A CERTIFICATE )  
OF PUBLIC CONVENIENCE AND ) Case No. 2014- 00325  
NECESSITY TO CONSTRUCT, FINANCE AND )  
INCREASE RATES PURSUANT TO KRS 278.023 )

APPLICATION

This Application of the Nicholas County Water District ("Applicant"), respectfully shows:

1. That Applicant is a water district created and existing under and by virtue of Chapter 74 of the Kentucky Revised Statutes.

2. That the post office address of Applicant is:

Nicholas County Water District  
c/o Ms. Debbie Sweet, Chairperson  
1639 Old Paris Road  
Carlisle, Kentucky 40311  
email address: [ncwd@bellsouth.net](mailto:ncwd@bellsouth.net)

3. That Applicant, pursuant to the provisions of KRS 278.023, seeks (i) a Certificate of Public Convenience and Necessity, permitting Applicant to construct the Water System Improvements Project Phase X (the "Project"); (ii) an Order approving increased water rates; and (iii) approval of the proposed plan of financing said Project.

4. That the Project consists of the construction, installation and/or replacement of (i) certain undersized lines and asbestos cement lines along Headquarters Road; and (ii) waterlines along a portion of Crooked Creek Road. The Project also includes the refinancing of certain short term debt incurred to fund the Phase IX project (see PSC Case No. 2009-00126).

5. That Applicant proposes to finance the construction of the Project through (i) the issuance of \$555,000 of its Waterworks Revenue Bonds; (ii) a USDA, Rural Development ("RD") grant in the amount of \$200,000; and (iii) a Tobacco Settlement grant in the amount of \$185,000. Applicant has a commitment from RD to purchase said \$555,000 of bonds maturing over a 40-year

period, at an interest rate not to exceed 2.75% per annum as set out in the RD Letter of Conditions filed herewith as an Exhibit.

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

7. That Applicant files herewith the following Exhibits pursuant to 807 KAR 5:069, Section 2 in support of this Application:

- A. Copy of RD Letter of Conditions (**Exhibit "A"**).
- B. Copy of RD Letter of Concurrence in Contract Award (**Exhibit "B"**).
- C. Copy of Preliminary Engineering Report, Final Engineering Report and certified bid tabulations.
- D. Certified statement from the Chairman of Applicant (**Exhibit "C"**), based upon statements of the Engineers for Applicant, concerning the following:
  - (1) The proposed plans and specifications for the 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 been obtained;
  - (3) The proposed rates of Applicant shall produce the total revenue requirements recommended in the engineering reports; and
  - (4) Setting out the dates when it is anticipated that construction will begin and end.

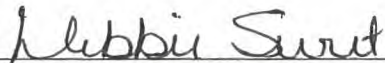
8. That Applicant has complied with the "public postings" requirement of 807 KAR 5:069, Section 3(1)(a) by posting a copy of the Notice of Proposed Rate Change (the "Notice") in its place of business. Applicant does not maintain a website. Applicant has also arranged for the publication, prior to or at the same time this Application is filed, of the Notice pursuant to 807 KAR 5:069, Section 3(2) in the newspaper of general circulation in Applicant's service area. Said Notice sets out the content requirements of 807 KAR 5:069, Section 3(4). A copy of said Notice is filed herewith as **Exhibit "D"**. Applicant shall file with this Commission no later than fifteen (15) days from the date this Application was initially filed, an affidavit and tearsheet from the publisher as required by 807 KAR 5:069 Section 3(3)(b).

9. That the foregoing constitutes the documents necessary to obtain the approval of this 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 2.

WHEREFORE, Applicant, the Nicholas County Water District, 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 water system improvement project.
- b. An Order approving the financing arrangements made by Applicant, viz., (i) the issuance of \$555,000 of Nicholas County Water District Waterworks Revenue Bonds at an interest rate not to exceed 2.75% per annum; (ii) an RD grant in the amount of \$200,000; and (iii) a Tobacco Settlement grant in the amount of \$185,000.
- c. An Order approving the proposed water rates as set out in Section 28 of the RD Letter of Conditions filed herewith as an Exhibit.

Nicholas County Water District

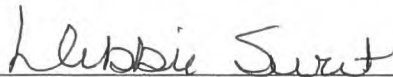
By:   
Chairperson  
Board of Water Commissioners

  
W. Randall Jones, Esq.  
Rubin & Hays  
Counsel for Applicant  
Kentucky Home Trust Building  
450 South Third Street  
Louisville, Kentucky 40202  
(502) 569-7525  
[wrjones@rubinhays.com](mailto:wrjones@rubinhays.com)

COMMONWEALTH OF KENTUCKY )  
 ) SS:  
COUNTY OF NICHOLAS )

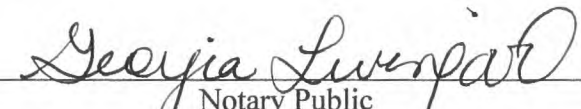
The undersigned, Debbie Sweet, being duly sworn, deposes and states that she is the Chairperson of the Board of Commissioners of the Nicholas County Water District, Applicant, in the above proceedings; that she has read the foregoing Application and has noted the contents thereof; that the same is true of her own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, she believes same to be true.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this August 29, 2014.

  
\_\_\_\_\_  
Debbie Sweet, Chairperson  
Nicholas County Water District

Subscribed and sworn to before me by Debbie Sweet, Chairperson of the Board of Commissioners of the Nicholas County Water District, on this August 29, 2014.

My Commission expires: August 26, 2017

  
\_\_\_\_\_  
Notary Public





Rural Development

July 26, 2013

JUL 29 2013

Kentucky State Office

771 Corporate Drive,  
Suite 200  
Lexington, KY  
40503

Ms. Deborah Sweet, Chairperson  
Nicholas County Water District  
1639 Old Paris Road  
Carlisle, Kentucky 40311

Voice 859.224.7300  
Fax 859.224.7425  
TTY 859.224.7422

Dear Ms. Sweet:

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 and 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 \$555,000; a RUS grant not to exceed \$200,000; and a State of Kentucky Tobacco Settlement grant in the amount of \$185,000.

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:

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).



1. Number of Users and Their Contribution:

There shall be 1,532 water users, of which 1,530 are existing users and 2 are new 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 District 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 Bond. Principal payment will not be deferred for a period in excess of 2 years from the date of the Bond. Payments will be in accordance with applicable KRS, which requires interest to be paid semi-annually (January 1st and July 1st) and principal will be due on or before the first of January. Rural Development may require the District to adopt a supplemental payment agreement providing for monthly payments of principal and interest so long as the bond 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 District 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 District will be required to deposit \$195 per month into a "Funded Debt Reserve Account" until the account reaches \$23,400. The deposits are to be resumed any time the account falls below the \$23,400.

The required monthly deposits to the Reserve Account and required Reserve Account levels are in addition to the requirements of the District's prior bond 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 District also needs to fund an account for short-lived assets by depositing a sum of \$834 monthly into the account. The funds in the short-lived asset account may be used by the District as needed to replace or add short-lived assets in the District's water system. This short-lived asset reserve amount replaces any previous short-lived assets requirements previously set with any prior RUS loan.

7. Security Requirements:

A pledge of gross water revenue will be provided in the Bond Resolution. Bonds shall rank on a parity with existing bonds, if possible.

If this is not possible, the bond will be subordinate and junior to the existing bonds, in which case the District will be required to abrogate its right to issue additional bonds ranking on a parity with the existing bonds, so long as any unpaid indebtedness remains on this bond issue.

8. Land Rights and Real Property:

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

10. Business Operations:

The District 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 District after review by Rural Development. At no later than loan pre-closing, the District 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. Accounts, Records and Audits:

The District 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.

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

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

13. 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 District. The District should obtain amounts of coverage as recommended by its attorney, consulting engineer and/or insurance provider.
- B. Worker's Compensation - The District will carry worker's compensation insurance for employees in accordance with applicable state laws.
- C. Fidelity Bond - The District 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 \$160,000.
- D. Real Property Insurance - The District 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 District 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 District will obtain and maintain adequate coverage on any facilities located in a special flood and mudslide prone areas.

14. 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 "24" 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 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.

Prior to receipt of an authorization to advertise for construction bids, the District will obtain advance clearance from Bond Counsel regarding compliance with KRS 424 pertaining to publishing of the advertisement for construction bids in local newspapers and the period of time the notice is required to be published.

15. 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.

Rural Development financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

16. 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 District.

17. Compliance with Special Laws and Regulations:

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

18. Treatment Plant and System Operator:

The District is reminded that the treatment plant and system operator must have an Operator's Certificate issued by the State.

19. Prior to Pre-Closing the Loan, the District Will Be Required to Adopt:

- A. Form RUS Bulletin 1780-27, "Loan Resolution (Public Bodies)."
- B. Form RD 400-1, "Equal Opportunity Agreement."
- C. Form RD 400-4, "Assurance Agreement."
- D. Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transaction."
- E. Form RD 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts."
- F. RD Instruction 1940-Q, Exhibit A-1, "Certification for Contracts, Grants and Loans."
- G. RUS Bulletin 1780-22, "Eligibility Certification."

20. Refinancing and Graduation Requirements:

The District is reminded that if at any time it shall appear to the Government that the District 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 District will apply for and accept such loan in sufficient amount to repay the Government.

21. Commercial Interim Financing:

The District 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 District 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.

22. Disbursement of Project Funds:

A construction account for the purpose of disbursement of project funds (RUS) will be established by the District 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 District 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 District, 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 District.

Form RD 440-11, "Estimate of Funds Needed for 30-Day Period Commencing \_\_\_\_\_," will be prepared by the District 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 District's construction account records shall be made by Rural Development.

23. 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 District. Grant funds, upon receipt, must be deposited in an interest bearing account in accordance with 7 CFR part 3016 (as applicable). Interest earned on grant funds in excess of \$100 (as applicable) per year will be submitted to RUS at least quarterly.

24. Cost of Facility:

Breakdown of Costs:

Development	\$ 620,000
Development Phase 10	200,000
Legal and Administrative	20,000
Engineering	59,200
Interest	15,000
Contingencies	<u>25,800</u>
TOTAL	\$ <u>940,000</u>

Financing:

RUS Loan	\$ 555,000
RUS Grant	200,000
Tobacco Settlement Grant	<u>185,000</u>
TOTAL	\$ <u>940,000</u>

25. Commitment of Other Project Funds:

This Letter of Conditions is issued contingent upon a firm commitment being in effect prior to advertising for construction bids for the Tobacco Settlement grant in the amount of \$185,000.

26. Use of Remaining Project Funds:

After providing for all authorized costs, any remaining project funds will be considered to be RUS/Tobacco Settlement 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.

27. 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.

28. Rates and Charges:

Rates and charges for facilities and services rendered by the District 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 Size:

First	1,000	gallons @ \$	14.42. - Minimum Bill.
Next	2,000	gallons @ \$	6.75. - per 1,000 gallons.
Next	2,000	gallons @ \$	5.50. - per 1,000 gallons.
Next	5,000	gallons @ \$	4.35. - per 1,000 gallons.
Next	15,000	gallons @ \$	3.90. - per 1,000 gallons.
All Over	25,000	gallons @ \$	3.67. - per 1,000 gallons.

1" Meter Size:

First	3,000	gallons @ \$	27.92. - Minimum Bill.
Next	2,000	gallons @ \$	5.50. - per 1,000 gallons.
Next	5,000	gallons @ \$	4.35. - per 1,000 gallons.
Next	15,000	gallons @ \$	3.90. - per 1,000 gallons.
All Over	25,000	gallons @ \$	3.67. - per 1,000 gallons.

1 1/2" Meter Size:

First	5,000	gallons @ \$	38.92. - Minimum Bill.
Next	5,000	gallons @ \$	4.35. - per 1,000 gallons.
Next	15,000	gallons @ \$	3.90. - per 1,000 gallons.
All Over	25,000	gallons @ \$	3.67. - per 1,000 gallons.

2" Meter Size:

First	10,000	gallons @ \$	60.67. - Minimum Bill.
Next	15,000	gallons @ \$	3.90. - per 1,000 gallons.
All Over	25,000	gallons @ \$	3.67. - per 1,000 gallons.

3" Meter Size:

First	15,000	gallons @ \$	80.17. - Minimum Bill.
Next	10,000	gallons @ \$	3.90. - per 1,000 gallons.
All Over	25,000	gallons @ \$	3.67. - per 1,000 gallons.

4" Meter Size:

First	25,000	gallons @ \$	119.17. - Minimum Bill.
All Over	25,000	gallons @ \$	3.67. - per 1,000 gallons.

Wholesale rate will be according to existing rates.



29. Water Purchase Contract:

The District 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.

30. Compliance with the Bioterrorism Act:

Prior to pre-closing the loan, the District will provide a certification they have completed a Vulnerability Assessment (VA) and prepared an emergency response plan (ERP) as required by the Safe Drinking Water Act (SDWA).

31. Floodplain Construction:

The District will be required to pass and adopt a Resolution or amend its By-Laws whereby the District 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 District 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.

32. Mitigation Measures:

- A. The project shall be in compliance with all requirements noted in the Governor's Office for Local Development letter dated June 20, 2013, from Ms. Lee Nalley.
- B. The design and construction shall be in compliance with the requirements of the U.S. Fish and Wildlife Service as requested by letter dated June 19, 2013, and signed by Virgil Lee Andrews, Jr., Field Supervisor.
- C. 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.
- D. 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).
- E. The design and construction shall be in compliance with all local, state and federal environmental statutes, regulations and executive orders applicable to the project.

- F. Best Management Practices shall be incorporated into the project design, construction, and maintenance.

33. 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,

A handwritten signature in black ink, appearing to read "Thomas G. Fern". The signature is written over a horizontal line and is somewhat stylized.

THOMAS G. FERN  
State Director

Enclosures

- cc: Area Director - Morehead, Kentucky  
Bluegrass ADD - Lexington, Kentucky  
Dawn Letcher - Carlisle, Kentucky  
Rubin & Hays - Louisville, Kentucky  
Sisler-Maggard - Lexington, Kentucky  
PSC - ATTN: Jeff Derouen - Frankfort, Kentucky





United States Department of Agriculture

Rural Development

August 29, 2014

Kentucky State Office

771 Corporate Drive,  
Suite 200  
Lexington, KY  
40503

**SUBJECT:** Nicholas County Water District  
Phase X Water Improvements  
Contract Award Concurrence

Voice 859.224.7300  
Fax 859.224.7425  
TTY 859.224.7422

**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, BP Pipeline, Inc., in the amount of \$227,964.00.

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

  
THOMAS G. FERN  
State Director  
Rural Development

cc: Sisler Maggard  
Lexington, Kentucky

Randy Jones  
Louisville, Kentucky

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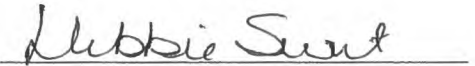
**CERTIFICATE OF CHAIRPERSON OF NICHOLAS COUNTY WATER DISTRICT,  
AS TO STATEMENT REQUIRED BY SECTION 2(6) OF 807 KAR 5:069**

I, the undersigned, hereby certify that I am the duly qualified and acting Chairperson of the Nicholas County Water District, and that said District is in the process of arranging to finance the construction of improvements to the water system (the "Project"), in cooperation with Sisler-Maggard Engineers, Lexington, Kentucky, the Engineers for the District (the "Engineers").

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

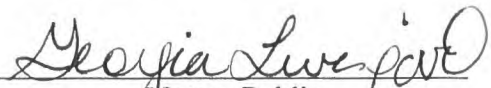
1. That the proposed plans and specifications for the Project have been designed to meet the minimum construction and operating requirements set out in 807 KAR 5:066 Section 4(3) and (4); Section 5(1); Sections 6 and 7; Section 8(1) through (3); Section 9(1) and Section 10.
2. That all other state approvals and/or permits have been obtained.
3. That the rates proposed by the District in its current Application filed with the Kentucky Public Service Commission are contemplated to produce total revenue requirements recommended in the Engineering Reports prepared by such Engineers and filed with the Public Service Commission.
4. That it is now contemplated that construction of the Project will begin on or about October 1, 2014, and will end on or about March 29, 2015.

IN TESTIMONY WHEREOF, witness my signature this August 29, 2014.

  
\_\_\_\_\_  
Chairperson  
Nicholas County Water District

STATE OF KENTUCKY            )  
  ) SS  
COUNTY OF NICHOLAS        )

Subscribed and sworn to before me by Debbie Sweet, Chairperson of the Board of Commissioners of the Nicholas County Water District, on this August 29, 2014.

  
\_\_\_\_\_  
Notary Public  
In and For Said State and County



## NOTICE OF PROPOSED RATE CHANGE

In accordance with the requirements of the Kentucky Public Service Commission (“PSC”) as set out in 807 KAR 5:069, Section 3, notice is hereby given to the customers of the Nicholas County Water District (the “District”) of a change in water rates for users of the District's water system. The changes in water rates are required by the U.S. Department of Agriculture, acting through Rural Development (“RD”) in connection with a loan by RD to the District in the amount of \$555,000 to be evidenced by the issuance by the District of its waterworks revenue bonds in such amount, which RD has agreed to purchase provided the District meets certain conditions of RD, including revising the water rates as set forth below:

### Current Monthly Rates

<u>5/8 inch x 3/4 inch Meters</u>		<u>Monthly Rate</u>
First	1,000 gallons	\$13.13 minimum bill
Next	2,000 gallons	6.17 per 1,000 gallons
Next	2,000 gallons	5.38 per 1,000 gallons
Next	5,000 gallons	4.19 per 1,000 gallons
Next	15,000 gallons	3.80 per 1,000 gallons
Over	25,000 gallons	3.40 per 1,000 gallons

<u>1 inch Meters</u>		<u>Monthly Rate</u>
First	3,000 gallons	\$25.47 minimum bill
Next	2,000 gallons	5.38 per 1,000 gallons
Next	5,000 gallons	4.19 per 1,000 gallons
Next	15,000 gallons	3.80 per 1,000 gallons
Over	25,000 gallons	3.40 per 1,000 gallons

<u>1-1/2 inch Meters</u>		<u>Monthly Rate</u>
First	8,400 gallons	\$48.80 minimum bill
Next	1,600 gallons	4.19 per 1,000 gallons
Next	15,000 gallons	3.80 per 1,000 gallons
Over	25,000 gallons	3.40 per 1,000 gallons

<u>2 inch Meters</u>		<u>Monthly Rate</u>
First	12,667 gallons	\$68.58 minimum bill
Next	12,333 gallons	3.80 per 1,000 gallons
Over	25,000 gallons	3.40 per 1,000 gallons



<u>3 inch Meters</u>		<u>Monthly Rate</u>
First	41,125 gallons	\$165.18 minimum bill
Over	41,125 gallons	3.40 per 1,000 gallons

<u>4 inch Meters</u>		<u>Monthly Rate</u>
First	66,125 gallons	\$250.18 minimum bill
Over	66,125 gallons	3.40 per 1,000 gallons

### **Proposed Monthly Water Rates**

<u>5/8 inch x 3/4 inch Meters</u>		<u>New Monthly Rate</u>	<u>Dollar Change</u>	<u>Percentage Change</u>
First	1,000 gallons	\$14.42 minimum bill	\$1.29	9.82%
Next	2,000 gallons	6.75 per 1,000 gallons	0.58	9.40
Next	2,000 gallons	5.50 per 1,000 gallons	0.12	2.23
Next	5,000 gallons	4.35 per 1,000 gallons	0.16	3.82
Next	15,000 gallons	3.90 per 1,000 gallons	0.10	2.63
Over	25,000 gallons	3.67 per 1,000 gallons	0.27	7.94

<u>1 inch Meters</u>		<u>New Monthly Rate</u>	<u>Dollar Change</u>	<u>Percentage Change</u>
First	3,000 gallons	\$27.92 minimum bill	\$2.45	9.62%
Next	2,000 gallons	5.50 per 1,000 gallons	0.12	2.23
Next	5,000 gallons	4.35 per 1,000 gallons	0.16	3.82
Next	15,000 gallons	3.90 per 1,000 gallons	0.10	2.63
Over	25,000 gallons	3.67 per 1,000 gallons	0.27	7.94

<u>1-1/2 inch Meters</u>		<u>New Monthly Rate</u>	<u>Dollar Change</u>	<u>Percentage Change</u>
First	5,000 gallons *	\$38.92 minimum bill	\$(9.88)	(20.25)%
Next	5,000 gallons	4.35 per 1,000 gallons	0.16	3.82
Next	15,000 gallons	3.90 per 1,000 gallons	0.10	2.63
Over	25,000 gallons	3.67 per 1,000 gallons	0.27	7.94

<u>2 inch Meters</u>		<u>New Monthly Rate</u>	<u>Dollar Change</u>	<u>Percentage Change</u>
First	10,000 gallons *	\$60.67 minimum bill	\$(7.91)	(11.53)%
Next	15,000 gallons	3.90 per 1,000 gallons	0.10	2.63
Over	25,000 gallons	3.67 per 1,000 gallons	0.27	7.94

<u>3 inch Meters</u>		<u>New Monthly Rate</u>	<u>Dollar Change</u>	<u>Percentage Change</u>
First	15,000 gallons *	\$80.17 minimum bill	\$(85.01)	(51.47)%
Next	10,000 gallons	3.90 per 1,000 gallons	0.10	2.63
Over	25,000 gallons	3.67 per 1,000 gallons	0.27	7.94

<u>4 inch Meters</u>		<u>New Monthly Rate</u>	<u>Dollar Change</u>	<u>Percentage Change</u>
First	25,000 gallons *	\$119.17 minimum bill	\$(131.01)	(52.37)%
Over	25,000 gallons	3.67 per 1,000 gallons	0.27	7.94

\*The amount of gallons in these gallonage blocks has been lowered from the existing blocks to the proposed blocks.

The proposed monthly water rates shall be effective for water sold after the date of the final approving Order of the PSC, which Order is expected to be issued with 30 days of the filing of the Application.

The amount of average usage for all customers in the calendar year 2013 was 4,530 gallons per month thus generating an average monthly billing based on current rates of \$33.68. The proposed monthly rates will increase the average monthly billing to \$36.34 for an impact of \$2.66 or 7.89%.

The Application for approval of the rate change has been filed with the PSC and may be examined during normal business hours at the following locations: (i) Nicholas County Water District office, 1639 Old Paris Road, Carlisle, Kentucky; (ii) PSC, 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., E.T.; and (iii) via the PSC website at <http://psc.ky.gov>. Comments regarding the Application may be submitted to the PSC via its website or by mail to PSC, P.O. Box 615, Frankfort, Kentucky 40602.

The proposed rates are required under the terms of an agreement between the District and RD and KRS 278.023 does not grant the PSC any discretionary authority to modify or reject any portion of the agreement between the District and RD, or to defer the issuance of all necessary orders to implement the terms of the agreement.

The RD loan proceeds will be used in conjunction with a \$200,000 RD grant and a \$185,000 Tobacco Settlement grant to finance the cost of the construction, installation and/or replacement of (i) certain undersized lines and asbestos cement lines along Headquarters Road; and (ii) waterlines along a portion of Crooked Creek Road. The Project also includes the refinancing of certain short term debt incurred to fund the Phase IX project. Signed, Debbie Sweet, Chairperson, Nicholas County Water District.