

# 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

February 12, 2007

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

RECEIVED

FEB 13 2007

PUBLIC SERVICE  
COMMISSION

Re: Letcher County Water and Sewer District - Public Service Commission Application

Dear Ms. O'Donnell:

*Case No. 2007-00070*

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


Also enclosed are eleven (11) copies of the exhibits required, with the exception of the Preliminary and Final Engineering Reports which are being sent under separate cover.

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**

Account No. 611.0000

**Re: Letcher County Water and Sewer District Waterworks Revenue Bonds, Series  
2007, in the principal amount of \$1,000,000**

Mr. Kenneth H. Slone  
State Director  
Rural Development  
771 Corporate Drive, Suite 200  
Lexington, Kentucky 40503-5477

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

Mr. Barry Turner  
Rural Development  
95 South Laurel Road, Suite A  
London, Kentucky 40744

Telephone: (606) 864-2172  
Fax: (606) 878-7717

Mr. Jim Tolliver  
Letcher County Water and Sewer District  
P.O. Box 827  
Whitesburg, Kentucky 41858

Telephone: (606) 633-2129

Mr. Stephen Caudill  
Howard K. Bell Consulting Engineers, Inc.  
354 Waller Avenue  
P.O. Box 546  
Lexington, Kentucky 40588-0546

Telephone: (859) 278-5412  
Fax: (859) 278-2911

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

Telephone: (502) 569-7525  
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**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

**THE APPLICATION OF LETCHER COUNTY WATER  
AND SEWER DISTRICT FOR A CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY TO  
CONSTRUCT AND FINANCE PURSUANT TO  
KRS 278.023**

)  
) Case No. 2007-00070  
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**RECEIVED**

FEB 13 2007

PUBLIC SERVICE  
COMMISSION

**A P P L I C A T I O N**

This Application of the Letcher County Water and Sewer District ("Applicant") of Letcher County, Kentucky, respectfully shows:

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

2. That the post office address of Applicant is:

Letcher County Water and Sewer District  
c/o Mr. Don Profitt, Chairman  
P.O. Box 827  
Whitesburg, Kentucky 41858

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 project, consisting of extensions, additions, and improvements (the "Project") to the existing water system of Applicant; (ii) an Order approving the proposed plan of financing said Project; and (iii) an Order approving the assumption of certain outstanding debt of the City of Blackey.

4. That the Project consists of the construction and installation of approximately 37,500 linear feet of 8 inch water line; 100 linear feet of 6 inch water line; 650 linear feet of 4 inch water line; 550 linear feet of 3 inch water line and appurtenances; the acquisition of the City of Blackey water treatment plant and distribution system; and the assumption of the outstanding City of Blackey Water System Revenue Bonds, Series 1998, in the original principal amount of \$507,000, with an outstanding balance of \$461,000 - see paragraph no. 31 of Amendment No. 1 to the RD Letter of Conditions.

5. That Applicant proposes to finance the construction of the Project through (i) the issuance of \$1,000,000 of its Waterworks Revenue Bonds; and (ii) a Rural Development ("RD") grant in the amount of \$800,000. Applicant has a commitment from RD to purchase said \$1,000,000 of bonds maturing over a 40-year period, at an interest rate of not exceeding 4.125% 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 Public Service Commission.

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

**EXHIBIT A.** Copy of RD Letter of Conditions, as amended.

**EXHIBIT B.** Copy of RD Letter of Concurrence in Bid Award.

**EXHIBIT C.** 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 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) The existing rates of Applicant shall produce the total revenue requirements set out in the engineering reports; and
- (4) Setting out the dates when it is anticipated that construction will begin and end.


Applicant also files herewith two (2) copies of Preliminary and Final Engineering Reports.

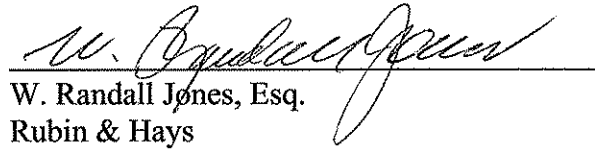
8. That the foregoing constitutes the documents necessary to obtain the approval of the Kentucky Public Service Commission in accordance with Section 278.023 of the Kentucky Revised Statutes and in accordance with the filing requirements" specified in 807 KAR 5:069.

WHEREFORE, Applicant, the Letcher County Water and Sewer 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 project consisting of extensions, additions, and improvements to the water system of Applicant.
- b. An Order approving the financing arrangements made by Applicant, viz., the issuance of (i) \$1,000,000 of Letcher County Water and Sewer District Waterworks Revenue Bonds at an interest rate of not exceeding 4.125% per annum; and (ii) a RD grant in the amount of \$800,000.
- c. An Order approving the assumption by the Applicant of the outstanding City of Blackey Water System Revenue Bonds, Series 1998, as set forth in paragraph no. 31 of the RD Letter of Conditions, as amended, filed herewith as an Exhibit.

Letcher County Water and Sewer District


By:   
Chairman  
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

COMMONWEALTH OF KENTUCKY )  
 ) SS:  
COUNTY OF LETCHER )


The undersigned, Don Profitt, being duly sworn, deposes and states that he is the Chairman of the Board of Commissioners of the Letcher County Water and Sewer District, 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, he believes same to be true.

IN TESTIMONY WHEREOF, witness the signature of the undersigned on this February 2, 2007.

  
\_\_\_\_\_  
Don Profitt, Chairman  
Letcher County Water and Sewer District

Subscribed and sworn to before me by Don Profitt, Chairman of the Board of Commissioners of the Letcher County Water and Sewer District, on this February 2, 2007.

My Commission expires: 5 15 2009 .

  
\_\_\_\_\_  
Notary Public  
In and for said County and State





**United States Department of Agriculture  
Rural Development  
Kentucky State Office**

August 17, 2005

Mr. Don Profitt, Chairman  
Letcher County Water and Sewer District  
P.O. Box 827  
Whitesburg, Kentucky 41858

Dear Mr. Profitt:

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 \$1,000,000, a RUS grant not to exceed \$800,000, a Coal Settlement grant of \$1,500,000, a Coal Severance grant of \$2,800,000, and an Abandoned Mine Lands grant of \$400,000.

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:

771 Corporate Drive • Suite 200 • Lexington, KY 40503  
Phone: (859) 224-7300 • Fax: (859) 224-7425 • TDD: (859) 224-7422 • Web: <http://www.rurdev.usda.gov/ky>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."  
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14<sup>th</sup> and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD).



1. Number of Users and Their Contribution:

There shall be 1,335 water users, of which 670 are existing users and 665 are new users. Loan funds in the amount of \$50,000 will be used to establish an Operation and Maintenance (O&M) Reserve Account at the time of loan pre-closing. Funds from this account may be used to fund deficit O&M expenses, principal and interest payments, and other miscellaneous expenses as needed

The Area Director will review and authenticate the number of users prior to advertising for construction bids. No contribution is required from the Water District.

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 Water District 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 bond. Principal payment will not be deferred for a period in excess of two 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 Water 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.

3. Recommended Repayment Method:

Payments on this loan can 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 SF 5510, "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.

4. Reserve Accounts:

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

The District will be required to deposit \$440.00 per month into a "Funded Depreciation Reserve Account" until the account reaches \$52,800. The deposits are to be resumed any time the account falls below the \$52,800.

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 \$1,850 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 utility system.

5. Security Requirements:

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

6. Land Rights and Real Property:

The Water 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.

7. Organization:

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

8. Business Operations:

The Water 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 Water District after review by Rural Development. At no later than loan pre-closing, the Water 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, bookkeeping, making and delivering required reports and audits.

9. Accounts, Records and Audits:

The Water District will be required to maintain adequate records and accounts and submit statistical and financial reports, quarterly and annually, in accordance with subsection 1780.47 of RUS Instruction 1780 and RUS Staff Instruction 1780-4, a copy of which is enclosed. The enclosed audit booklet will be used as a guide for preparation of audits. The Water District shall be required to submit a copy of its audit agreement for review and concurrence by Rural Development prior to pre-closing the loan.

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

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

11. 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 Water District. The Water District should obtain amounts of coverage as recommended by its attorney, consulting engineer and/or insurance provider.
- B. Worker's Compensation - The Water District will carry worker's compensation insurance for employees in accordance with applicable state laws.
- C. Fidelity Bond - The Water 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 \$100,000.
- D. Real Property Insurance - The Water 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 Water 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 Water District will obtain and maintain adequate coverage on any facilities located in a special flood and mudslide prone areas.

12. 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 "22" 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 Water 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.

13. 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.

14. 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 Water District.

15. Compliance with Special Laws and Regulations:

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

16. System Operator:

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

17. Prior to Pre-Closing the Loan, the Water 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."

18. Refinancing and Graduation Requirements:

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

19. Commercial Interim Financing:

The Water 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 Water 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.

20. Disbursement of Project Funds:

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

During construction, the Water 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 Water 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 Water District.

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

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

21. 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 Water 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.

22. Cost of Facility:

## Breakdown of Costs:

Development	\$ 5,270,000
Land and Rights	27,000
Legal and Administrative	60,000
Engineering	486,000
Interest	80,000
Initial O&M	50,000
Contingencies	<u>527,000</u>
TOTAL	\$ 6,500,000

## Financing:

RUS Loan	\$ 1,000,000
RUS Grant	800,000
Coal Settlement Grant	1,500,000
Coal Severance Grant	2,800,000
Abandoned Mine Lands Grant	<u>400,000</u>
TOTAL	\$ 6,500,000

23. Use of Remaining Project Funds:

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

24. 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.

25. Rates and Charges:

Rates and charges for facilities and services rendered by the Water District must be at least adequate to meet cost of maintaining, repairing and operating the utility 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 @ \$	22.00 - Minimum Bill.
All Over	2,000	gallons @ \$	6.00 - per 1,000 gallons.

26. Water Purchase Contract:

The Water 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.

27. 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 Coal Settlement grant in the amount of \$1,500,000, for the Coal Severance grant in the amount of \$2,800,000, and for the Abandoned Mine Lands grant in the amount of \$400,000.

28. Floodplain Construction:

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

29. Mitigation Measures:

- A. The project shall be in compliance with all requirements noted in the Kentucky Department for Local Government letter dated March 7, 2005, from Mr. Ronald W. Cook, Manager.
- 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 October 4, 2004, 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 affect after construction is complete. The Army Corps of Engineers Nationwide Permit No. 12 applies to all floodplain and wetland utility line construction.
- 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.



30. 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,

  
KENNETH SLONE  
State Director

Enclosures

cc: Area Director - London, Kentucky  
Rural Development Manager - Hazard, Kentucky  
Kentucky River ADD - Hazard, Kentucky  
Harold Bolling - Whitesburg, Kentucky  
✓Rubin and Hays - Louisville, Kentucky  
Howard K. Bell Engineers, Inc. - Lexington, Kentucky  
PSC - ATTN: Bob Amato - Frankfort, Kentucky



United States Department of Agriculture  
Rural Development  
Kentucky State Office

February 8, 2007

Mr. Don Proffitt, Chairman  
Letcher County Water and Sewer District  
P.O. Box 827  
Whitesburg, Kentucky 41858

Re: Letter of Conditions Dated August 17, 2005

Dear Mr. Proffitt:

This letter shall serve as Amendment No. 1 to the Letter of Conditions dated August 17, 2005. The purpose of this amendment is to change the water system's number of existing customers, include the purchase of assets and assumption by Letcher County Water and Sewer District of the existing debt owed by the City of Blackey, Kentucky, and revise the cost of the facility and financing.

The Second Paragraph on Page 1 is revised to read as follows:

" 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 \$1,000,000 and a RUS grant not to exceed \$800,000. "

Paragraph numbered "1" is revised to read as follows:

" 1. Number of Users and Their Contribution:

There shall be 1,552 water users, of which 887 are existing users, which includes the existing customers served by the City of Blackey water system, and 665 are new users. Loan funds in the amount of \$25,000 will be used to establish an Operation and Maintenance (O&M) Reserve Account at the time of loan pre-closing. Funds from this account may be used to fund deficit O&M expenses, principal and interest payments, and other miscellaneous expenses as needed. If not needed at the end of five years, the funds will be transferred to the Funded Depreciated Account. "

Paragraph numbered "11" is revised to read as follows:

" 11. Insurance and Bonding:

The following insurance and bonding will be required:

- C. Fidelity Bond - The Water 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

771 Corporate Drive • Suite 200 • Lexington, KY 40503  
Phone: (859) 224-7336 • Fax: (859) 224-7444 • TDD: (859) 224-7422 • Web: <http://www.surdev.usda.gov/ky>

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1400 Independence Avenue, SW, Washington, DC 20250-9410  
or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).

"blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage required for all RUS loans is \$131,000. "

Paragraph numbered "22" is revised to read as follows:

" 22. Cost of Facility:

Breakdown of Costs:

Development	\$ 1,400,129
Legal and Administrative	30,000
Engineering	149,581
Interest	50,000
Initial O&M	25,000
Contingencies	<u>145,290</u>
TOTAL	\$ 1,800,000

Financing:

RUS Loan	\$ 1,000,000
RUS Grant	<u>800,000</u>
TOTAL	\$ 1,800,000 "

Paragraph numbered "27" is revised to read as follows:

" 27. Commitment of Other Project Funds and Rural Development Concurrence in Addition of Alternates:

In that the Trust Funds will not be available until certain events happen, Rural Development will not concur in the contract change order adding the alternates until Trust Funds are released. "

Paragraph numbered "31" is added to read as follows:

" 31. Purchase of Assets and Assumption of Existing Indebtedness:

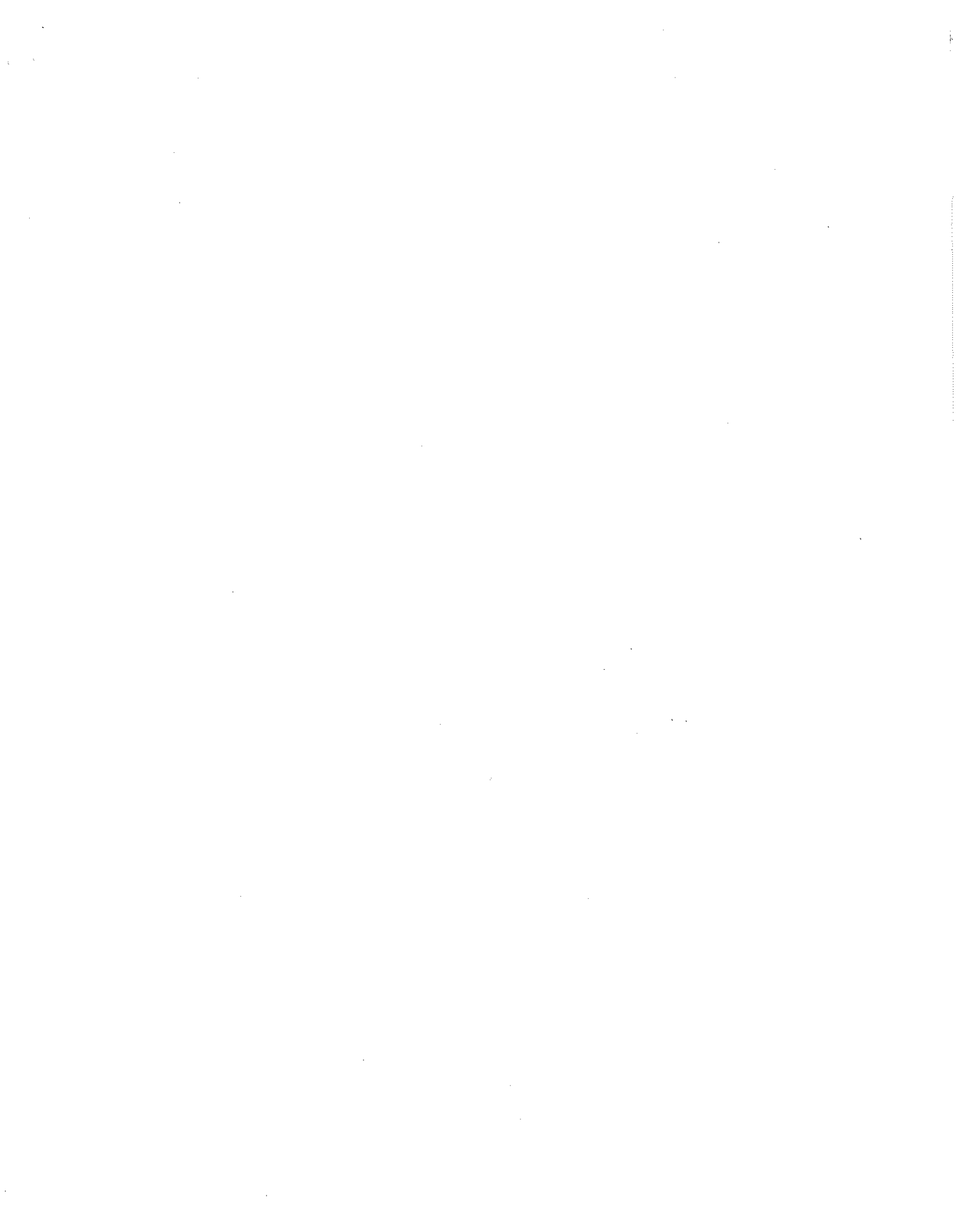
Letcher County Water and Sewer District will take legal ownership of the existing City of Blackey Water Treatment Plant and distribution system. The Water and Sewer District presently operates the system and Letcher County Fiscal Court has advanced \$27,870 toward repairs and operation of the system. This advance will be forgiven by the Letcher County Fiscal Court. The City of Blackey's original Bond was a Water Bond Series 1998, with an original amount of \$507,000 @ 4.50% interest rate for 40 years amortization. The present balance of principal is \$461,000. The original rates and terms will remain unchanged. "

All other provisions of the referenced Letter of Conditions remain in full force and unchanged.

Sincerely,

  
KENNETH SLONE  
State Director

cc: Area Director - London, Kentucky  
Rural Development Manager - Hazard, Kentucky  
Kentucky River ADD - Hazard, Kentucky  
Harold Bolling - Whitesburg, Kentucky  
Rubin and Hays - Louisville, Kentucky  
Howard K. Bell Engineers, Inc. - Lexington, Kentucky  
PSC - ATTN: Bob Amato - Frankfort, Kentucky





United States Department of Agriculture  
Rural Development  
Kentucky State Office

February 7, 2007

SUBJECT: Letcher County Water and Sewer  
Sandlick/Camp Branch Water Extensions  
Contract Award Concurrence

TO: Area Director  
London, 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 for Contract 1, Akins Excavating, Inc., in the amount of \$661,910.00, and the low bidder for Contract 2, Akins Excavating, Inc., in the amount of \$738,218.95.

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

KENNETH SLONE  
State Director  
Rural Development

cc: Bell Engineers, Inc.  
Lexington, Kentucky

Rubin and Hayes  
Louisville, Kentucky

771 Corporate Drive • Suite 200 • Lexington, KY 40503  
Phone: (859) 224-7300 • Fax: (859) 224-7425 • TDD: (859) 224-7422 • Web: <http://www.rurdev.usda.gov/ky>

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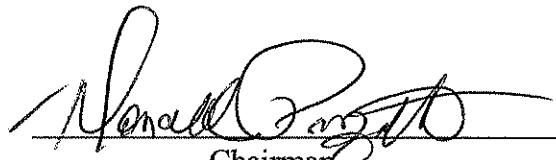
**CERTIFICATE OF CHAIRMAN OF THE LETCHER COUNTY  
WATER AND SEWER DISTRICT AS TO STATEMENT REQUIRED BY  
SECTION 1(5) OF 807 KAR 5:069**

I, Don Proffitt, hereby certify that I am the duly qualified and acting Chairman of the Letcher County Water and Sewer District of Letcher County, Kentucky, and that said District is in the process of arranging to finance the construction of extensions, additions and improvements to the water system of the District (the "Project"), in cooperation with Howard K. Bell Consulting Engineers, Inc., Lexington, 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 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 already been obtained.
3. That the existing rates of the District in its current Application filed with the Public Service Commission of Kentucky are contemplated to produce total revenue requirements set out 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 March 15, 2007, and will end on or about August 15, 2007.

IN TESTIMONY WHEREOF, witness my signature this February 9, 2007.

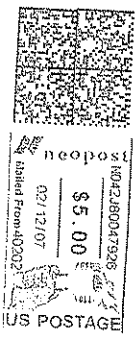
  
\_\_\_\_\_  
Chairman  
Letcher County Water and Sewer District

STATE OF KENTUCKY    )  
                                  ) SS  
COUNTY OF LETCHER    )

Subscribed and sworn to before me by Don Proffitt, Chairman of the Board of Commissioners of the Letcher County Water and Sewer District, on this February 9, 2007.

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





ATTORNEYS AT LAW

**Rubin & Hays**

Kentucky Home Trust Bldg., 450 South Third St., Louisville, KY 40202

To

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, Kentucky 40602

**RECEIVED**

**FEB 13 2007**

**PUBLIC SERVICE  
COMMISSION**

