
EXHIBIT F88

AGREEMENT, DATED MARCH 15, 2010, BY AND AMONG
MIDDLETOWN TOWNSHIP, DELAWARE COUNTY,
SEWER AUTHORITY AND DELCORA

AGREEMENT

This Agreement is made the **15th** day of **March, 2010** by and between Middletown Township, Delaware County, Sewer Authority ("MTSA") and the Delaware County Regional Water Quality Control Authority ("DELCORA").

WHEREAS, MTSA owns and operates a wastewater collection and conveyance system servicing Middletown Township, and parts of Upper Providence and Edgmont Townships and a small portion of Brookhaven Borough, Delaware County, Pennsylvania (the "MTSA System");

WHEREAS, DELCORA owns and operates a wastewater collection system and treatment facility servicing various areas of Delaware County and certain other users;

WHEREAS, MTSA currently conveys wastewater to a system owned and operated by Southwest Delaware County Municipal Authority's ("Southwest") Baldwin Run Treatment Plant;

WHEREAS, MTSA now desires to convey its current flow of wastewater and its anticipated flow of wastewater from future developments to DELCORA for treatment, which wastewater will be conveyed to DELCORA's western regional treatment plant in the City of Chester (the "WRTP"), or other facilities utilized for treatment by DELCORA;

NOW, THEREFORE, in recognition of the above recitals, in exchange for the mutual consideration set forth herein, the legal sufficiency of which each party hereby acknowledges, and intending to be legally bound, the parties hereby agree as follows:

1. Relationship. Upon completion of construction of the Improvements as herein defined, MTSA shall begin to convey wastewater to DELCORA (the "Initial Conveyance") and terminate its current agreement with the Southwest Delaware County Municipal Authority. At the time of the Initial Conveyance, DELCORA shall begin to treat all wastewater conveyed by MTSA through MTSA's collection system to a pump station (the "Pump Station") and force main to the WRTP to be designed, constructed, owned and operated solely by DELCORA (collectively, the "Improvements"). MTSA shall have the right to review and comment upon such design. Nothing set forth herein shall prevent DELCORA, in its discretion, from conveying wastewater it receives from MTSA to the City of Philadelphia's Southwest Wastewater Treatment Plant (the "Philadelphia Plant") for treatment.

2. Standards, Rules and Regulations. Prior to the conveyance of any wastewater to DELCORA, MTSA shall adopt any resolutions necessary to provide equivalency with DELCORA's then-effective standards, rules and regulations for the treatment of wastewater. If, at any time, DELCORA amends its standards, rules and regulations, MTSA shall, to the extent permitted by law, adopt a resolution comparable to such ordinance. The actions required of MTSA in the event of an amendment to DELCORA's standards, rules and regulations shall be adopted within sixty (60) days after DELCORA's written notice of passage of any such amendment, unless MTSA's rules and resolutions already offer such equivalency.

DELCORA and MTSA, by and through intermunicipal agreements to be developed between DELCORA, MTSA, and each of MTSA's municipal customers, shall use their best efforts to have each municipality conveying wastewater through the MTSA System enact an ordinance governing wastewater in such municipality that provides equivalency with DELCORA's then-effective standards, rules and regulations for the treatment of wastewater and that includes criminal and civil penalties for discharges into the MTSA system that violate such standards, rules and regulations, with minimum penalties at least as high as those established by EPA's pretreatment regulations. DELCORA's obligations hereunder shall be contingent upon the completion of the aforementioned intermunicipal agreements in a form satisfactory to DELCORA. In the event of an amendment to DELCORA's standards, rules and regulations, DELCORA and MTSA shall use their best efforts to have each municipality conveying wastewater through the MTSA system amend such municipality's ordinance to provide equivalency with the amended DELCORA standards as soon as is reasonably practicable.

At any time when DELCORA has separate standards, rules and regulations applicable to flows transported to the W RTP versus those transported to Philadelphia Plant, MTSA shall cooperate with DELCORA to seek to cause all municipalities conveying wastewater through MTSA's System to adopt an ordinance that is, at minimum as stringent as the most stringent combination of the two.

3. Industrial Connections. MTSA acknowledges that any and all industrial users discharging into its collection system, including current users, must obtain a permit issued by DELCORA prior to releasing any discharge. MTSA agrees to cooperate with DELCORA in identifying industrial users to its system; both those in operation at the inception of this Agreement and those who begin to operate thereafter. DELCORA and MTSA, by and through their intermunicipal agreements, shall use their best efforts to have each municipality conveying wastewater through MTSA's System adopt an ordinance that requires all industrial users in such municipality to obtain a discharge permit, grants DELCORA the power to enforce such requirement, and sets civil and criminal penalties for the failure to do so at least as high as those established by EPA's pretreatment regulations.

4. Improper Discharges. MTSA will provide DELCORA with assistance in determining the source of any wastewater discharge into DELCORA's system from the MTSA System that violates any rule, standard or regulation set forth in any current resolution duly adopted by DELCORA and applicable to such flow. Upon notice from and at the direction of DELCORA, MTSA will assist DELCORA in terminating such flow. All damages caused to DELCORA's and/or MTSA's property as the result of such flow shall be recoverable from the person or entity which is the source of the improper discharge. If DELCORA is unable to recover its damages caused by such discharge after pursuing a civil action against the source to its conclusion, DELCORA shall recover the excess damages through the treatment component of the Service Charges (as defined hereafter) in succeeding years. MTSA shall indemnify and hold harmless DELCORA with respect to any damages or losses suffered by DELCORA due to an improper discharge or improper wastewater conveyed to DELCORA by the MTSA System from an MTSA customer. The term "improper" as used in this paragraph shall refer to any discharge or wastewater in violation of any federal, state or local law, ordinance, rule or regulation or in violation of DELCORA's standards, rules and regulations.

5. Tapping Fees. DELCORA shall not charge a tapping fee to any MTSA customer who is either an existing customer at the time of the Initial Conveyance or who, prior to the time of Initial Conveyance, received final and unappealable land development and/or zoning approval for the particular use of such customer requiring connection. DELCORA may institute a tapping fee applicable to any new MTSA customers that connect to the MTSA's collection system after two years following the Initial Conveyance. In no event shall MTSA customers be subject to a tapping fee that would violate Municipal Authorities Act.

6. Easements. MTSA shall be required to acquire all easements needed to upgrade or improve its collection system within its existing service area including easements for construction of the interceptor necessary to convey MTSA's wastewater to the Pump Station. DELCORA, at MTSA's request, shall assist MTSA in obtaining said easements. DELCORA shall bear sole responsibility to obtain such easements as may be necessary for the construction of the Improvements contemplated by Paragraph 1 of this Agreement.

7. Sewage Facilities Planning Modules. The parties acknowledge that every proposed connection to the MTSA System that requires a planning module or a planning module exemption under the Pennsylvania Sewage Act will require approval from the municipality in which such flows originate for collection, MTSA for conveyance, DELCORA for conveyance, and DELCORA for treatment. Such approvals shall be obtained before the proposed connection may take place.

8. 537 Planning. MTSA shall have the sole responsibility for authoring the MTSA Act 537 Plan and any amendments thereto. DELCORA shall have sole responsibility for implementing that Plan as to the conveyance from the Pump Station and the treatment, provided same remains consistent with the terms of this Agreement. DELCORA will accept consultation from MTSA on the timing of such implementation; however, MTSA acknowledges that any changes DELCORA may make in its implementation schedule based upon such consultation could affect the cost to MTSA's customers. DELCORA shall have sole responsibility for authoring its Act 537 Plan and any amendments thereto.

9. Measurement of Wastewater Flows.

- a. Installation of Meters. Metering stations will be constructed at the pump station as part of the Southwest Middletown diversion force main project. Design and installation of meters will be done in such a way so as to allow for continuous measurements of the total Southwest and Middletown flow to DELCORA and individual flows from each municipal entity. Data will be transmitted to the DELCORA SCADA system for use in process control and billing. A historical record will be maintained for transmitted data.
- b. Meter Technology, Readings, Maintenance and Calibration. Employment of meter technology will be:

- For total station flow best available electromagnetic flow meters with integral diagnostics for total station flow allowing for an accuracy of +/- 1% of total meter span. Meters will be installed in strict accordance with the manufacturer's specifications unless the specifics of the installation site make this impossible. In so far as possible, equivalent or next best available technology will be utilized for measurements of the flow from each municipal entity so as to allow for the most accurate apportionment of flow to each municipality;
 - Meter technology will be based on industry standards for wastewater flow measurement;
 - On site, redundant, flow rate and flow total recording equipment will be utilized on all measurement points to provide for backup record keeping capability;
 - Totalizers will be utilized to compute total daily flow from each measurement point for the purpose of accurate apportionment of flow from each municipality;
 - Records will be kept of the material balance of flows entering and leaving the pump station. Analysis of the balance will be done at least monthly;
 - DELCORA will maintain historical records of the wastewater flow through the station meters for inspection by interested parties;
 - Meters will be maintained, inspected and calibrated for accuracy at least quarterly by an independent company qualified to make such inspections and calibrations as part of annual operating costs;
 - At the request and at the expense of any interested municipal entity flow meters will be removed and sent to the meter manufacturer or another qualified company for absolute calibration in a flow proving loop. During the meter outage period estimates will be made of flow based on prior and subsequent flows.
- c. Access to Meters. Municipal entities whose waste water flows go to the pump station shall have the right of access to all meters for inspection or other data verification purposes at their expense.
- d. Missing or Inaccurate Flow Records. In the case of missing or inaccurate flow records due to faulty meter operation or otherwise, an estimate of flows shall be made by DELCORA based on records of past flows or similar flows as applied to the current conditions, for use in place of meter readings.

10. Service Charges. The parties acknowledge that all costs associated with the design, construction, financing, operation, maintenance and administration of the Improvements shall be borne by the MTSA System's users in proportion to all users of the Improvements, as set forth below. DELCORA shall be responsible for all aspects of construction, including engaging professionals, bidding and awarding construction contracts and management of sewer installation.

“Service Charges” is defined as the annual charges to be paid by MTSA to DELCORA and shall consist of three separate components: treatment, conveyance, and construction cost/debt service of the Improvements as herein defined. To the extent that Conveyance Costs (as defined herein) are billed to MTSA, they shall be based upon the proportion which the flows from MTSA bear to the total flows conveyed to DELCORA from the Pump Station. To the extent that treatment costs are billed to MTSA, they shall be based upon the proportion which the flows from MTSA bear to the total flows conveyed to DELCORA for treatment.

- a. Treatment costs shall be based upon rates that are uniform for all users within a particular class and that are equitable among classes.

Service Charges for any industrial users of MTSA served by this Agreement who are required to obtain an industrial discharge permit shall be shown separately on each DELCORA invoice. Charges for such industries shall include a volume charge (based upon wastewater flow or water consumption as deemed appropriate by DELCORA) and any applicable surcharges for high strength flows. Such rates and surcharges shall be equitable and consistent with rates and surcharges established for industrial users in other parts of the Western Service Area. Charges for industrial users will be reconciled at year end based on actual flows and loadings.

DELCORA’s good faith determination as to elements of costs, classifications of customers, size of reasonable reserves and like matters shall be conclusive.

- b. Conveyance costs (“Conveyance Costs”) shall include all costs associated with the operation and maintenance of the Improvements in proportion to the metered flows from MTSA to the total flows to DELCORA received at the Pump Station. DELCORA will exercise best efforts to continuously operate, maintain and repair the Improvements or cause the Improvements to be maintained and repaired so that Improvements will at all times be in efficient operating conditions and at all times in compliance with the standards proscribed by all appropriate regulatory agencies for the purpose of this Agreement. It is contemplated that additional municipalities may contract with DELCORA to deliver wastewater to the Pump Station for conveyance and treatment at the W RTP. Any additional flows accepted by DELCORA will result in a prospective reduction of MTSA’s proportionate share of the Conveyance Costs for the period during which DELCORA accepts such flows.
- c. Construction costs and debt service shall consist of all costs associated with the design, approvals, easements, and construction of the Improvements as defined herein, which costs will be amortized over periods(s) determined by DELCORA following consultation with MTSA. MTSA will be responsible for the construction cost and debt service in proportion to its annual metered flows to the total annual flows to DELCORA received at the Pump Station. It is contemplated that additional municipalities may contract with DELCORA

to deliver wastewater to the Pump Station for conveyance and treatment at the W RTP. Any additional flows accepted by DELCORA will result in a prospective reduction of MTSA's proportionate share of the construction costs and debt service for all subsequent years.

11. Estimates of Service Charges. On or before December 1st of each year following the Initial Conveyance, DELCORA will prepare and submit to MTSA a statement approved by the DELCORA Board of Directors showing, in reasonable detail, for the next succeeding calendar year: (1) the estimated amounts to be paid by MTSA during such year as its estimated Service Charge determined in accordance with the provisions hereof; (2) the amount, if any, to be credited against the estimated Service Charge for such year as the result of any overpayments or adjustments of payments for any preceding year, as provided under Paragraph 15, below; and (3) the amount of any prior bill not paid pursuant to Paragraph 13 ("Estimated Service Charges"). On or before November 1st of each year following the Initial Conveyance, DELCORA will prepare and submit to MTSA preliminary Estimated Service Charged. For the partial year following the Initial Conveyance, DELCORA will prepare Estimated Service Charges and submit to MTSA as soon as reasonably possible.

12. Amended Estimates. In the event of unusual contingencies requiring an upward revision in the current budget adopted by DELCORA, or in the event of a material change in the quantity or quality of MTSA's wastewater flow, DELCORA may amend the Estimated Service Charges to reflect such changed conditions. A statement showing the amended estimated payments, in reasonable detail, and the reasons therefore shall be submitted to MTSA. Thereafter, commencing with the next quarterly payment, the payments made by MTSA shall be based upon the amended estimate.

13. Payments on Estimates. MTSA agrees to pay its Estimated Service Charges for such next succeeding calendar year in four (4) equal installments to be paid on or before March 15, June 15, September 15, and December 15 of each year. Actual usage of DELCORA's sewer system will be reconciled with the estimates utilized in calculating quarterly billings and adjustments made pursuant to Paragraph 15, below.

14. Audited Statements. DELCORA shall cause to be prepared and certified by an Independent Public Accountant on or before April 30th of each year a report setting forth in reasonable detail: (a) the Operating and Capital Costs of the W RTP for the preceding calendar year; and (b) the final Service Charge chargeable to MTSA for such year determined in accordance with the provisions of Paragraphs 10 through 13. Such report shall contain statements setting forth the payments theretofore made by MTSA as estimated payments of Service Charges and the amount by which the final service charge to MTSA exceeds or is less than the aggregate of the payments and credits theretofore made by or allowed to MTSA on account of such service charge.

15. Payment of Final Service Charges; Credit for Overpayments. If the Final Service Charge to MTSA for any calendar year as shown by such certified report differs from the aggregate of the payments and credits theretofore made by it based upon the aforesaid estimates, then MTSA will pay to DELCORA the amount of any deficiency within thirty (30) days after the delivery of such certified report, and any excess of such payments and credits on account of

estimates over the Final Service Charges shall be refunded to MTSA within thirty (30) days or applied as a credit for payments due under Paragraph 14 above at MTSA's option.

16. Grants. DELCORA may make application to any entity for any available grants, subsidies or other payments and for all permits and approvals with respect to design, construction and maintenance of the sewers and sewage related facilities. MTSA agrees to cooperate in such applications as may be necessary, and will take such action, within its legal powers, as may be required to comply with applicable laws and regulations relating to such grants and/or subsidies. To the extent that DELCORA receives any funding as a result of such an application including, but not limited to, grants or subsidies, MTSA shall be entitled to benefit proportionally from any such funding.

17. Contingencies. The parties' obligations under this Agreement will be contingent upon DEP approval of any necessary amendments to either party's, or such party's member municipalities' or incorporating municipality's Act 537 plan, and DEP issuance of permits required to construct the Improvements. The parties' obligations under this Agreement will also be contingent upon the adoption of the resolutions and ordinances contemplated by Paragraph 3 of this Agreement and upon DELCORA acquiring such easements as may be necessary to the construction of the Improvements and MTSA acquiring such easements as are necessary for the construction of its Interceptor to the Pump Station.

18. Insurance. DELCORA shall maintain the following types and amounts of insurance during the term of this Agreement. MTSA shall be named as an additional insured in the applicable liability insurance policies for claims arising out of DELCORA's negligence:

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Worker's Compensation	Statutory
General Liability	\$2,000,000
Excess General Liability	\$5,000,000
Automobile Liability	\$500,000
Excess Automobile Liability	\$5,000,000
Pollution Control and Liability	\$1,000,000

DELCORA will provide the MTSA with a certificate of insurance evidencing it is listed as an additional insured. DELCORA further agrees to maintain property damage, and to the extent possible, loss of use coverage on the Improvements, the W RTP and the DELCORA conveyance system.

19. Pass Throughs. MTSA shall not allow any customers to pass through its system for the purpose of conveying their flow to DELCORA, unless such customers have entered into intermunicipal agreements with MTSA and DELCORA for conveyance and treatment. DELCORA shall bear the responsibility for obtaining such agreements.

20. Debt. Should MTSA divert all or any portion of its flow to any other facility

while any debt, or the refinancing of any debt, for the Improvements remains outstanding, MTSA will remain liable for its share of such debt. The amount diverted (the "MTSA Initial Diverted Flow") shall be the total metered flow diverted. MTSA's liability shall be recalculated annually on a proportional basis by determining the product of MTSA's then-current annual flows to DELCORA plus MTSA's Initial Diverted Flow, then dividing by the product of the total annual flows to DELCORA through the Improvements plus MTSA's Initial Diverted Flow. By way of example, the calculation of MTSA's annual percentage share of the debt is as follows:

$$\frac{\text{MTSA current annual flow to DELCORA} + \text{MTSA Initial Diverted Flow}}{\text{DELCORA current annual flow} + \text{MTSA Initial Diverted Flow}}$$

An example of such calculation, solely for illustration purposes, is attached hereto as Exhibit A.

The permissibility of any such diversion shall be subject to the terms of any such financing or refinancing, as the case may be. In the event that MTSA must send flow to another facility because DELCORA does not have the capacity for such flow, this shall not constitute diverted flow. DELCORA will require identical provisions in all Treatment Agreements with other municipalities or authorities who send wastewater through the Improvements.

21. Inspection. Each party shall provide the other from time to time all information relevant to the proper administration of its responsibilities under this Agreement, or in respect to the interpretation hereof, as, and in such form and detail as, may be reasonably requested and each shall at all reasonable times and from time to time permit the other's representatives to examine and inspect its records relevant to the subject matter of this Agreement.

22. Force Majeure. Notwithstanding any other provision of this Agreement, neither party hereto shall be responsible in damages to the other for any failure to comply with this Agreement resulting from an act of God, riot, sabotage, public calamity, flood, strike, breakdown of conveyance or treatment facilities, or other event beyond reasonable control.

23. Indemnity. To the extent permitted by the Political Subdivision Claims Act, or successor statute, each party agrees to indemnify, defend and save harmless the other against all costs, claims, losses, damages or legal actions of any nature on account of injury to persons or property occurring in the performance of this Agreement due to the negligence of the indemnifying party, its agents, employees, contractors or subcontractors.

MTSA will indemnify, defend and hold DELCORA harmless from and against any suit, liability, action or cause of action in any way related to the operation of MTSA's collection system, or the collection of any fees in any way related to such system or in any claim of successor liability for MTSA's debt, or any claim related to MTSA's facilities or the conveyance of wastewater there through.

DELCORA will indemnify, defend and hold MTSA harmless from and against any suit, liability, action or cause of action in any way related to the operation of DELCORA's system or the collection of any fees in any way related to such system, prior to the time that its flows are diverted to the WRTP, or in any claim of successor liability for DELCORA's debt, or any claim

related to DELCORA's facilities, including its conveyance system, the WRTP and the Improvements, or the conveyance or treatment of wastewater there through except to the extent that such claim arises out of MTSA's facilities or the conveyance of wastewater there through.

24. No Joint Ownership. No provision of this Agreement shall be construed to create any type of joint ownership of any property, any partnership or joint venture, or create any other rights or liabilities except as otherwise expressly set forth herein.

25. Acceptance of Wastewater. DELCORA agrees to accept those discharges from the MTSA System which are in compliance with the then-applicable DELCORA standards, rules and regulations and applicable 537 Plans, subject to the availability of capacity at the applicable treatment facility.

26. Future Development. MTSA acknowledges that capacity at the WRTP is provided to DELCORA customers on a first come, first served basis, and that DELCORA does not reserve capacity for any customer. DELCORA acknowledges that capacity will be provided for all existing MTSA customers at the time of the Initial Conveyance as well as all potential customers identified in Middletown Township's amended Act 537 plan as referenced in paragraph 8 above. Request for capacity shall be accomplished through the planning module process or through Act 537 revisions.

27. Severability. Should any provision hereof for any reason be held illegal or invalid, no other provision of this Agreement shall be affected, and this Agreement shall then be construed and enforced as if such illegal or invalid provision had not been contained herein, unless such illegal or invalid provision contains an unsatisfied precondition to performance.

28. Waiver. The failure of a party hereto to insist upon strict performance of this Agreement or of any of the terms or conditions hereof shall not be construed as a waiver of any of its rights hereunder.

29. Counterparts. This Agreement may be executed in counterparts, each of which shall be regarded for all purposes as an original, but such counterparts shall together constitute but one and the same instrument.

30. Successors and Assigns. Except as otherwise provided herein, this Agreement may not be voluntarily assigned by either party without the consent of the other that is not to be unreasonably withheld. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

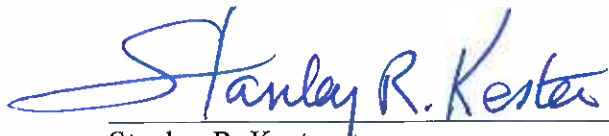
31. Term. The term of this Agreement shall be for 25 years starting as of the date of the Initial Conveyance. MTSA shall have a total of five (5) options to extend this Agreement at its then-current term, with each extension being for a period of five (5) years. MTSA shall be deemed to have exercised an option to extend at each five year interval unless it gives DELCORA written notice to the contrary. Provided, however, that the term of this Agreement and the options to extend shall depend upon any appropriate extensions of the period of existence of DELCORA and MTSA.

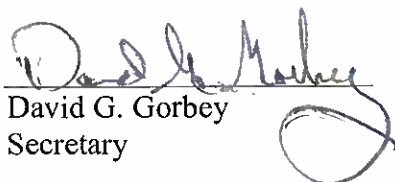
32. Headings. The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the date below their respective signatures.

DELAWARE COUNTY REGIONAL
WATER QUALITY CONTROL AUTHORITY

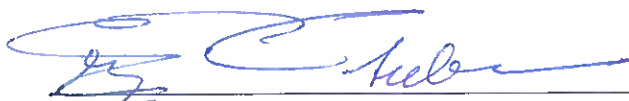
[Seal]


Stanley R. Kester
Chairman

Attest: 
David G. Gorbey
Secretary

MIDDLETOWN TOWNSHIP DELAWARE COUNTY
SEWER AUTHORITY

[Seal]


Timothy F. Sullivan, Esquire
Chairman

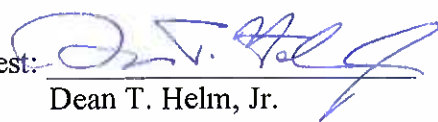
Attest: 
Dean T. Helm, Jr.
Secretary

EXHIBIT A

Hypothetical calculations to demonstrate changes in shares of debt service on Improvements:

Calculation #1 (1st year)

DELCORA PS at start up handles6,000,000 GPD or 100%

MTSA INITIAL FLOWS TO DELCORA = 2,400,000 GPD or 40%

SWMA " " " " = 3,600,000 GPD or 60%

Calculation #2 (Say, 5th year)

In year 5 MTSA diverts 400,000 or eliminates 400,000 GPD

MTSA current flow (2,000,000) + initial diverted flow (400,000) = 2,400,000 = 40%

DELCORA current total flow (5,600,000) + diverted (400,000) = 6,000,000

Calculation #3 (Say 6th year)

In year 6 DELCORA picks up 500,000 GPD from Edgmont:

MTSA current flow (2,000,000) + initial diverted flow (400,000) = 2,400,000 = 36.9%

DELCORA current total flow (6,100,000) + initial diverted (400,000) = 6,500,000

Summary of proportionate shares: MTSA = 36.93

SWMA = 55.38

ETSA = 7.69

Total = 100%

Note: The diverted flows from MTSA are still included in MTSA's initial obligation but as other users connect MTSA's and SWMA proportionate shares are reduced.

Prepared by Mike Majeski 12/28/09

Salvucci Addition – 12/28/09:

SWMA reduces flow through I&I reduction to 3,000,000 GPD

MTSA current flow (2,000,000) + initial diverted flow (400,000) = 2,400,000

Edgmont 500,000

SWMA 3,000,000

Total Flow 5,900,000

MTSA Share 40.7%

SWMA Share 50.8%

Edgmont Share 8.5%

100.0%