

CAPTION SHEET

CASE MANAGEMENT SYSTEM

1. REPORT DATE: 00/00/00	:	
2. BUREAU: FUS	:	
3. SECTION(S):	:	
5. APPROVED BY:	:	4. PUBLIC MEETING DATE:
DIRECTOR:	:	00/00/00
SUPERVISOR:	:	
6. PERSON IN CHARGE:	:	7. DATE FILED: 11/24/03
8. DOCKET NO: A-230073 F0008	:	9. EFFECTIVE DATE: 00/00/00

PARTY/COMPLAINANT: EAST FALLOWFIELD TOWNSHIP

RESPONDENT/APPLICANT: PA-AMERICAN WATER CO-WASTEWATER

COMP/APP COUNTY: UTILITY CODE: 230073

ALLEGATION OR SUBJECT

APPLICATION OF PENNSYLVANIA-AMERICAN WATER COMPANY FOR APPROVAL OF: 1) THE TRANSFER, BY SALE, OF THE PUBLIC WASTEWATER SYSTEM WITHIN THE TOWNSHIP OF EAST FALLOWFIELD, CHESTER COUNTY, PA, TO PA AMERICAN WATER COMPANY; 2) THE RIGHT OF PA AMERICAN WATER TO BEGIN TO OFFER AND FURNISH WASTEWATER SERVICE TO THE PUBLIC IN ADDITIONAL AREAS OF EAST FALLOWFIELD, CHESTER COUNTY, PA, DOCKETED AT A-230073F0008 AND 3) THE WASTEWATER SERVICE AND ASSET PURCHASE AGREEMENT BETWEEN THE TOWNSHIP OF EAST FALLOWFIELD, CHESTER COUNTY, PA, AND PENNSYLVANIA AMERICAN WATER COMPANY, DOCKETED AT U-00035003.

DOCUMENT  
FOLDER

**DOCKETED**

DEC 03 2003

1. REPORT DATE: 00/00/00 :  
 2. BUREAU: ALJ :  
 3. SECTION(S) :  
 5. APPROVED BY: : 4. PUBLIC MEETING DATE:  
 DIRECTOR: : 00/00/00  
 SUPERVISOR: :  
 6. PERSON IN CHARGE: : 7. DATE FILED: 11/24/03  
 8. DOCKET NO: A-230073 F0008 : 9. EFFECTIVE DATE: 00/00/00

*Revised*

PARTY/COMPLAINANT: EAST FALLOWFIELD TOWNSHIP

RESPONDENT/APPLICANT: PA-AMERICAN WATER CO-WASTEWATER

COMP/APP COUNTY: UTILITY CODE: 230073

ALLEGATION OR SUBJECT

APPLICATION OF PENNSYLVANIA-AMERICAN WATER COMPANY FOR APPROVAL OF (1) THE TRANSFER, BY SALE OF PUBLIC WATER SYSTEM WITHIN THE TOWNSHIP OF EAST FALLOWFIELD CHESTER COUNTY, PENNSYLVANIA, DOCKETED AT A-212285F0115 AND (2) TRANSFER OF THE WASTEWATER SYSTEM OF THE TOWNSHIP OF EAST FALLOWFIELD, CHESTER COUNTY, PENNSYLVANIA, TO PENNSYLVANIA-AMERICAN WATER COMPANY, DOCKETED A-230073F0008 AND (3) THE RIGHT OF PENNSYLVANIA-AMERICAN WATER COMPANY TO BEGIN TO OFFER AND FURNISH WATER AND WASTEWATER SERVICE TO THE PUBLIC IN ADDITIONAL AREAS OF EAST FALLOWFIELD, CHESTER COUNTY, PENNSYLVANIA, DOCKETED AT A-212285F0115 AND A-230073F0008 4) THE WATER AND WASTEWATER SERVICE AND ASSET PURCHASE AGREEMENT BETWEEN THE TOWNSHIP OF EAST FALLOWFIELD, CHESTER COUNTY, PENNSYLVANIA AND PENNSYLVANIA-AMERICAN WATER COMPANY, DOCKETED AT U-00035002 AND U-00035003.

**DOCKETED**  
 AUG 26 2004

**DOCUMENT  
 FOLDER**

ORIGINAL

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November 24, 2003

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VIA UPS OVERNIGHT

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

RECEIVED

NOV 24 2003

A PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: In Re Application of Pennsylvania-American Water Company for Approval of (1) the Transfer, by Sale of Public Water System Within the Township of East Fallowfield, Chester County, Pennsylvania; (2) Transfer of the Wastewater System of the Township of East Fallowfield, Chester County, Pennsylvania to Pennsylvania-American Water Company; (3) the Right of /Pennsylvania-American Water Company to Begin to Offer and Furnish Water and Wastewater Service to the Public in Additional Areas of East Fallowfield, Chester County, Pennsylvania; and (4) the Water and Wastewater Service and Asset Purchase Agreement between the Township of East Fallowfield, Chester County, Pennsylvania and Pennsylvania-American Water Company  
Application No. A-230073 F008

Dear Secretary McNulty:

Enclosed for filing by Pennsylvania-American Water Company are an original and three (3) copies of an Application in the above-referenced matter. The Certificate of Service has also been served on all the parties of record.

If you have any questions, please contact me.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP



Carl J. Engleman, Jr.

Enclosures

CJE:jab

c: As per Certificate of Service  
East Fallowfield Township

DOCUMENT  
FOLDER

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re Application of Pennsylvania-American:  
Water Company for Approval of (1) the :  
Transfer, by Sale of Public Water System :  
Within the Township of East Fallowfield, :  
Chester County, Pennsylvania; (2) Transfer :  
of the Wastewater System of the Township :  
of East Fallowfield, Chester County, :  
Pennsylvania to Pennsylvania-American :  
Water Company; (3) the Right of :  
Pennsylvania-American Water Company :  
to Begin to Offer and Furnish Water :  
and Wastewater Service to the Public in :  
Additional Areas of East Fallowfield, :  
Chester County, Pennsylvania; and (4) :  
the Water and Wastewater Service and Asset:  
Purchase Agreement between the Township :  
of East Fallowfield, Chester County, :  
Pennsylvania and Pennsylvania-American :  
Water Company :

Application No. A-230073F0008

RECEIVED

NOV 24 2003

A PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the Application upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by UPS Overnight, postage prepaid, addressed as follows:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

DOCUMENT  
FOLDER

Dated: November 24, 2003



Carl J. Engleman, Jr.  
RYAN, RUSSELL, OGDEN & SELTZER LLP  
1105 Berkshire Boulevard, Suite 330  
Wyomissing, Pennsylvania 19610-1221  
(610) 372-4761

Attorneys for  
Pennsylvania-American Water Company.

# ORIGINAL

## BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

### DOCUMENT FOLDER

In Re Application of Pennsylvania-American:  
 Water Company for Approval of (1) the :  
 Transfer, by Sale of Public Water System :  
 Within the Township of East Fallowfield, :  
 Chester County, Pennsylvania; (2) Transfer :  
 of the Wastewater System of the Township :  
 of East Fallowfield, Chester County, :  
 Pennsylvania to Pennsylvania-American :  
 Water Company; (3) the Right of :  
 Pennsylvania-American Water Company :  
 to Begin to Offer and Furnish Water :  
 and Wastewater Service to the Public in :  
 Additional Areas of East Fallowfield, :  
 Chester County, Pennsylvania; and (4) :  
 the Water and Wastewater Service and :  
 Purchase Agreement between the Township :  
 of East Fallowfield, Chester County, :  
 Pennsylvania and Pennsylvania-American :  
 Water Company :

Application No. A-230073F0008

### RECEIVED

NOV 24 2003

### DOCKETED

DEC 03 2003

PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

### TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. Pennsylvania-American Water Company ("Pennsylvania-American" or "PAWC") hereby requests that the Pennsylvania Public Utility Commission ("PaPUC" or the "Commission") issue a Certificate of Public Convenience granting its approval under Section 1102(a) of the Public Utility Code, 66 Pa.C.S. § 1102(a), of (1) Pennsylvania-American's acquisition of the East Fallowfield Township ("Township") water system, (2) acquisition of the Township's wastewater system, (3) Pennsylvania-American's right to offer, render, furnish, and supply water service and wastewater service in additional areas of East Fallowfield; and approval under Section 507 of the Public Utility Code, 66 Pa.C.S. § 507, of (4) the Water and Wastewater Service and Asset Purchase Agreement between the Township and Pennsylvania-American ("Agreement").

2. The name and address of the Applicant are:

Pennsylvania-American Water Company  
800 West Hersheypark Drive  
Hershey, PA 17033

3. The name and address of the Applicant's attorneys are:

Jeffrey A. Franklin, Esquire  
Carl J. Engleman, Jr., Esquire  
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Fax: (717) 531-3252

#### **A. BACKGROUND**

4. Pennsylvania-American currently operates, maintains, and utilizes the water system and the wastewater system (collectively referred to as the "Systems") to provide public water and wastewater services in the Township pursuant to leases with the Township.

5. On September 30, 2003 Pennsylvania-American entered into an Agreement with the Township that would transfer the Systems, land, property, easements, rights-of-way, lines, pumping stations and all other facilities to Pennsylvania-American contingent upon, inter alia, receiving the necessary approvals from this Honorable Commission. The Agreement is attached hereto and incorporated herein as Exhibit A. Terms not otherwise defined herein are defined in the Agreement.

6. Pennsylvania-American is a regulated public utility corporation duly organized and existing under the laws of the Commonwealth of Pennsylvania and is engaged in the business of collecting, treating, storing, supplying, distributing, and selling water to the public and collecting, treating, transporting, and disposing of wastewater and sewage for the public. Pennsylvania-American furnishes water service to the public in a service territory that includes a combined population of over two (2) million people. Pennsylvania-American furnishes wastewater service to the public in a service territory that includes over fourteen (14) thousand people. Descriptions of Pennsylvania-American's water and wastewater service territories are included in their effective water and wastewater tariffs as amended and supplemented.

7. Pennsylvania-American will provide public utility water and wastewater service to the Township in accordance with the Agreement and its tariff as amended and supplemented. Descriptions and maps that illustrate the existing portions of the Township currently served by PAWC as well as portions of the Township that PAWC proposes to serve are attached hereto as Exhibit B, with water service descriptions and maps contained in Exhibit B-1 and wastewater service descriptions and maps contained in Exhibit B-2.

**B. Transfer, by sale, of the water system and wastewater system of the Township to Pennsylvania-American.**

All of the preceding and succeeding paragraphs are incorporated herein by reference.

**SUMMARY OF THE TRANSACTION**

8. Pennsylvania-American has leased the Systems from the Township and has operated the Systems since March 22, 2001.

9. Pennsylvania-American and the Township have entered into an Agreement for the Systems, and pending approval from this Commission the Township will transfer ownership of the Systems to Pennsylvania-American for the sum of one dollar (\$1.00), and other goods and valuable consideration as set forth in Sections 3.3 (d) and 3.3 (f) of the Agreement.

10. This Application seeks approval of the transfer of the Systems from the Township to Pennsylvania-American. The terms and conditions of the transaction are memorialized in the executed Agreement attached hereto as Exhibit A.

11. The consideration for the transfer of the Systems is one dollar (\$1.00), as well as Pennsylvania-American's commitment to construct a sewer line and a water line, and to provide refunds for developer-funded extensions for a period of ten (10) years after the start-up of a booster station and upgrade of a trunk line (Sections 1.4, 3.3(d), and 3.3(f) of the Agreement).

12. No investment securities will be transferred as part of this transaction.

13. A certified copy of the resolution adopted by the Board of Directors of Pennsylvania-American authorizing the execution of the Agreement and the consummation of the proposed sale and transfer is attached hereto as Exhibit C.

14. Correspondence from the Board of Supervisors of the Township expressing the Township's support for Pennsylvania-American's request to provide water and wastewater service in additional areas of the Township as set forth in this filing is attached hereto as Exhibit D.

15. The proposed transfer will have no detrimental effect on the service provided to Pennsylvania-American's current customers, including customers currently served by the Systems. As previously stated, Pennsylvania-American currently operates both Systems under lease agreements with the Township. Customers served by the Systems are already customers of Pennsylvania-American and receive the benefit of Pennsylvania-American's vast experience in managing and operating water and wastewater systems. Transferring ownership of the Systems to Pennsylvania-American is in the public interest and satisfies the applicable standards of Section 1103 in that it will allow the parties to terminate the existing lease agreements which were originally executed between the City of Coatesville Authority (CCA) and the Township. The Township held legal title to the Systems and acquired legal title to any extensions, leased said Systems back to Pennsylvania-American (successor in interest to (CCA), and restricted Pennsylvania-American's ability to extend service within the Township. As a regulated public utility, Pennsylvania-American has demonstrated that it has the expertise to safely and adequately operate the Systems in compliance with the Public Utility Code, the Safe Drinking Water Act, the Clean Streams Law, the Clean Water Act, and all regulatory requirements necessary for operations of the Systems. Pennsylvania-American has also demonstrated its capacity and capabilities to improve Systems when required and to adequately plan for their long-term care and maintenance.

**C. Right of Pennsylvania-American to begin to offer and furnish water and wastewater service to the public in additional areas of the Township**

16. As indicated at paragraph 7 above, the proposed additional service territory is described in Exhibits B-1 and B-2. The applied-for wastewater territory

includes two proposed developments. The first development ("Scott Development") consists of 75 customers and is located west of Mt. Carmel Road. The Second development ("Beagle Development") has 214 customers and is located west of Hepzibah Hill Road. The applied-for water territory includes three proposed developments. The three developments consist of 74 customers south of Oaklyn Road ("Mendenhall Development"), 75 customers in the Scott Development and 214 customers in the Beagle Development. The locations of the developments are shown on Exhibit B-1 and B-2. Pennsylvania-American is certificated to serve in portions of the Township under Docket Nos. A-212285 F0071 and A-230073 F002.

17. The water line extensions shall consist of the following approximate water main lengths: Strasburg Road – 7,000 feet, Scott Development – 7,300 feet, Beagle Development – 10,600 feet and Mendenhall Development – 8,300 feet. Service lines, meters, hydrants, valves and related appurtenances will be installed for all above extensions.

The wastewater line extensions shall consist of the following approximate sewer main lengths: Cardinal Drive Area – 8,000 feet, Scott Development – 9,100 feet and Beagle Development – 10,600 feet. Sewer laterals, manholes and related appurtenances will be installed for all above extensions.

18. No additional capital will be required by Pennsylvania-American for the purpose of financing the extensions. The sewer line extensions to the Cardinal Drive area is contingent upon off-site developer funded facilities being in place prior to construction, including a pump station, gravity main and a force main facilities sufficient

to transmit the flow from the Cardinal Drive area to Pennsylvania-American's existing East End trunk line.

19. To the best of the knowledge of Pennsylvania-American, no corporation, partnership or individual is now furnishing or has corporate or franchise rights to furnish service similar to that to be rendered by Pennsylvania-American in the Application Territory, and no competitive condition will be created.

20. There is attached hereto, as Exhibit E, a balance sheet of Pennsylvania-American as of October, 2003.

21. There is attached hereto, as Exhibit F, a statement of income and retained earnings of Pennsylvania-American for the 12 months ended October, 2003.

22. Pennsylvania-American will charge its then existing Rate Zone 1 rates for water service in the proposed additional water service territory as set forth in Pennsylvania-American's Tariff. Current Rate Zone 1 rates are shown on Exhibit G, and as amended and supplemented from time to time. Pennsylvania-American will charge its then existing Wastewater Tariff rates applicable to customers in municipalities and territories located in Chester County, as shown on Exhibit H, and as amended and supplemented from time to time.

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23. Furnishing of service in proposed additional service territory will have no adverse affect upon the service furnished or rates charged to other customers.

24. The estimated annual revenues and expenses of Pennsylvania-American in the additional territory are set forth in Exhibit I attached hereto.

25. It is in the public interest pursuant to Section 1103 of the Public Utility Code for Pennsylvania-American to provide water service and wastewater service

in the respective areas proposed because Pennsylvania-American is financially and technically capable of providing service and because there is a need to bring wastewater service to the existing 85 residents of Cardinal Drive and to the proposed Scott Development and Beagle Development. Additionally, potable water service is needed in the proposed Scott Development, Beagle Development, Mendenhall Development and for existing residences along Strasburg Road.

**D. Regulatory Approval Under Section 507**

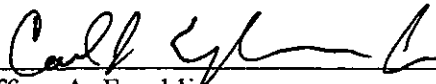
26. Pennsylvania-American requests approval of the Agreement from this Commission pursuant to Section 507 of the Public Utility Code, 66 Pa.C.S. § 507. The Agreement is a contract between a municipality and a public utility. For the reasons stated above, the Agreement between the Township and the Pennsylvania-American is in the public interest.

CONCLUSION

WHEREFORE, Pennsylvania-American prays this Honorable Commission to issue the necessary Certificates of Public Convenience under the Public Utility Code as amended, 66 Pa.C.S. § 1102(a), approving: (1) Pennsylvania-American's acquisition of the East Fallowfield Township water system; (2) acquisition of the East Fallowfield Township wastewater system; and (3) Pennsylvania-American's right to offer, render, furnish and supply water service and wastewater service in additional areas of East Fallowfield Township as per the Agreement; and prays that this Honorable Commission approves (4) the Agreement under the Public Utility Code, as amended, 66 Pa.C.S. § 507.

Respectfully submitted,

Dated: November 21, 2003

  
\_\_\_\_\_  
Jeffrey A. Franklin  
Carl J. Engleman, Jr.  
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Velma A. Redmond, Esq.  
Corporate Counsel

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Pennsylvania-American Water Company  
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P.O. Box 888  
Hershey, PA 17033-0888  
Phone: (717) 531-3210  
Fax: (717) 531-3252

Counsel for Pennsylvania-American Water Company

**EXHIBIT A**

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**Water and Wastewater Service and  
Asset Purchase Agreement  
Between the  
Township of East Fallowfield  
and  
Pennsylvania-American Water Company**

Dated as of *Sept. 30*, 2003

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**Water and Wastewater Service Agreement and  
Asset Purchase Agreement**

This Agreement is made and entered into this <sup>30<sup>th</sup></sup> day of ~~SEP~~ 2003, by and between, the Township of East Fallowfield, a second class township organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office located at 2264 Strasburg Road, East Fallowfield, Pennsylvania (the "Township"), and Pennsylvania-American Water Company, a Pennsylvania corporation and public utility, with its principal office located at 800 West Hershey Park Drive, Hershey, Pennsylvania ("PAWC").

WITNESSETH:

WHEREAS, the Township owns certain facilities for the purpose of (a) distributing water to the public ("Water System") within the Township; and, (b) collecting, and transporting wastewater and sewage for the public pursuant to certain Utility District and Lease Agreements between the Township and PAWC, as more specifically referenced herein ("Wastewater System") (collectively referred to as the "Systems");

WHEREAS, PAWC is a public utility engaged, *inter alia*, in the business of (a) collecting, treating, storing, supplying, distributing the selling water to the public in various areas of Pennsylvania; and, (b) collecting, treating, transporting and disposing of wastewater and sewage for the public in various areas of Pennsylvania through facilities it owns, maintains, and operates for such purposes;

WHEREAS, PAWC owns, operates and maintains, *inter alia*, public water supply systems and wastewater systems in various areas of Pennsylvania;

WHEREAS, PAWC provides public water and wastewater service in and around the Township as a public utility;

WHEREAS, PAWC currently operates, maintains, and utilizes the Systems to provide public water and wastewater services in East Fallowfield Township pursuant to leases with the Township;

WHEREAS, the Township and PAWC desire to terminate their existing leases pursuant to Utility District Agreements and have PAWC take ownership of the Systems as provided for in 4.1(h);

WHEREAS, subject to the terms and conditions set forth herein, the Township desires to sell, and PAWC desires to purchase, substantially all of the assets and other rights of the Township used in connection with the Systems;

WHEREAS, the Township desires to receive certain water and wastewater service from PAWC;

WHEREAS, the Board of Supervisors has determined that there is a need for a safe and adequate supply of public water and for the disposal of sewage in limited and identified parts of the Township as set forth more fully herein; and

WHEREAS, the parties hereto desire to set forth the terms and conditions that shall be applicable to the sale and delivery of water and collection and disposal of sewage by PAWC to customers in the Township on a permanent basis.

NOW THEREFORE, in consideration of the mutual covenants, warranties, representations and agreements set forth herein, and intending to be legally bound, the Township and PAWC (collectively referred to as the "Parties") agree as follows:

## I. THE TRANSACTIONS

### **1.1 Incorporation of Recitals**

The recitals set forth above are incorporated herein by reference and are a part of this Agreement.

### **1.2 Sale and Purchase of Assets**

At Closing (as defined in Section 1.5 of this Agreement), subject to the terms and conditions of this Agreement, the Township shall sell, assign, transfer, deliver and convey to PAWC and PAWC shall purchase the Assets (as defined in Section 1.3 of this Agreement) for the Purchase Price (as defined in Section 1.4 of this Agreement).

### **1.3 Description of Assets**

The term "Assets" means, all of the Township's right, title and interest in, under and to all of the assets, properties and rights related to the Systems or used in connection with the Systems as a going concern of every kind, nature and description existing on the Closing Date (as defined in Section 1.5 of this Agreement), wherever such assets, properties and rights are located and whether such assets, properties and rights are real, personal or mixed, tangible or intangible. The Systems and the Assets related to the Systems which are the subject of this Agreement, are listed in Schedule 1.3 attached hereto and incorporated herein. The Systems and the Assets do not include any community system not part of or connected to the Water System or Wastewater System.

Without limiting the generality of the foregoing, the Assets shall include the following:

- (a) all land and real property (together with all fixtures, buildings, structures and other improvements erected thereon), easements and rights-of-way (including, but not limited to those listed on Schedule 1.3), rights of use, licenses,

permits, hereditaments, tenements, privileges and other appurtenances belonging or related to the Systems (such as appurtenant rights in and to public streets);

(b) all water lines, pumping stations, pumps, water mains, service lines, distribution facilities, meters, curb boxes, curb stops, hydrants, valves, fittings, and other tangible personal property related to the Water System;

(c) all sewer lines, pumping stations, pumps, collection lines, conveyance lines, collection facilities, manholes, tanks, meters, valves, fittings and other tangible personal property related to the Wastewater System;

(d) all of the Township's rights under any written or oral contract, agreement, lease, plan, instrument, registration, license, sub-license (including any railroad crossing license or sub-license), permit, certificate, document, commitment, arrangement, undertaking, practice, authorization or approval of any nature relating to the Systems and entered into in the ordinary course of business consistent with past practice;

(e) all of the Township's rights under any permit, franchise, license, sub-license, approval, authorization, order, registration, certificate, variance, document and any other similar rights obtained from any authority relating to the Systems, if any and any pending applications therefor;

(f) all information, books, records, ledgers, files, documents, correspondence, data, plans, models, system maps, engineering records, mylars, planning studies, architectural plans, drawings and specifications, customer records and data, supplier lists, records of operations, quality control records and procedures, equipment maintenance records, manual and warranty information, laboratory books, intellectual property and goodwill (including any licenses and sub-licenses granted or obtained with respect thereto) and inspection processes relating to the Systems (Provided that the Township may retain copies of such information as it so desires, and PAWC agrees to reimburse to the Township at Closing the Township's reasonable costs for copying this information for PAWC); and

(g) all assets, property and rights relating to the Systems as more fully described in Schedule 1.3 attached hereto and incorporated herein.

#### **1.4 Purchase Price**

The total purchase price for the Assets to be paid by PAWC to the Township is the amount of one dollar (\$1.00) and other good and valuable consideration as set forth more specifically in Sections 3.3(d) and 3.3(f) of this Agreement.

#### **1.5 Closing**

The date of closing of this transaction ("Closing Date") shall occur on or before forty-five (45) days after satisfaction (or waiver) of the conditions to Closing set forth in Article 4 of this Agreement, or such other date mutually agreed to by the Parties in writing. On the Closing Date (at a time of day to be mutually agreed upon by the Parties), subject to the terms and conditions of this Agreement, the acts of closing pertaining to this transaction ("Closing") shall occur and title and possession of the Assets shall be sold, assigned, transferred, delivered and conveyed to PAWC. The Closing shall take place at the offices of PAWC at 800 West Hersheypark Drive, Hershey, Pennsylvania, or such other location as the Parties may mutually agree.

#### **1.6 Deliveries at Closing by the Township to PAWC**

Subject to the terms and conditions of this Agreement, at the Closing, the Township shall deliver (or cause to be delivered) to PAWC:

- (a) bills of sale and instruments of assignment to the Assets, duly executed by the Township;
- (b) consents of transfer, of all transferable or assignable contracts, agreements, licenses and permits to the extent specifically required hereunder;
- (c) the Township's Closing Certificates pursuant to Section 4.1(c) of this Agreement;
- (d) all agreements and other documents required by this Agreement;
- (e) the Township's Opinion of Counsel pursuant to Section 4.1(g) of this Agreement;
- (f) a receipt for the payment of the Purchase Price; and
- (g) all such other instruments of conveyance as shall be, in the reasonable opinion of PAWC and its counsel, necessary to transfer to PAWC the Assets in accordance with this Agreement and where necessary or desirable, in recordable form.

#### **1.7 Deliveries at Closing by PAWC to the Township**

Subject to the terms and conditions of this Agreement, at the Closing, PAWC shall deliver (or cause to be delivered) to the Township:

- (a) a PAWC check or cash in an amount equal to the Purchase Price to the Township;
- (b) PAWC's Opinion of Counsel pursuant to Section 4.2(g) of this Agreement;

(c) PAWC's Closing *Certificates* pursuant to Section 4.2(c) of this Agreement;

(d) all agreements and other documents required by this Agreement; and

(e) all such other documents that are, in the reasonable opinion of the Township and its counsel, necessary to consummate the transactions contemplated by this Agreement.

## II. REPRESENTATIONS AND WARRANTIES

### 2.1 Representations and Warranties of the Township

The Township represents and warrants to PAWC as follows:

(a) **Organization and Good Standing.** The Township is a second class township duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania.

(b) **Authorization and Enforceability.** The Township has the full power and lawful authority to execute this Agreement and to consummate and perform the transactions contemplated hereby and has duly and validly authorized the execution of this Agreement (including such other necessary agreements, instruments and documents in connection herewith) and all necessary proceedings.

This Agreement constitutes the legal, valid and binding obligation of the Township, enforceable against the Township in accordance with its terms, except as such enforceability may be limited by applicable laws relating to bankruptcy, insolvency, fraudulent conveyance, reorganization or affecting creditor's rights generally.

(c) **No Violations of Laws or Agreements.** The Township's performance of this Agreement, as of the Closing Date, shall not (i) require any further approvals or consents from any other party; (ii) violate any law, ordinance or regulation; or, (iii) conflict with or result in a breach of, or constitute a default under, any contract, lease, permit or other agreement or commitment to which the Township is a party.

(d) **No Pending Litigation or Proceedings.** To the best of the Township's knowledge, there is no action, claim, litigation, arbitration, proceeding, judgment, injunction, audit or legal, administrative or governmental investigation pending or threatened against the Township which could reasonably be expected to have a Material Adverse Effect (as defined in Section 8.10 of this Agreement) on the transaction contemplated by this Agreement.

(e) **Brokerage.** The Township has not made any agreement or taken any other action which might cause any person to become entitled to a broker's or finder's fee or commission as a result of the transactions contemplated hereunder which could result in liability to PAWC.

## 2.2 Representations and Warranties of PAWC

PAWC represents and warrants to the Township as follows:

(a) **Organization and Good Standing.** PAWC is a corporation duly organized and validly existing and in good standing under the laws of the Commonwealth of Pennsylvania.

(b) **Authorization and Enforceability.** PAWC has the full power and lawful authority to execute this Agreement and to consummate and perform the transactions contemplated hereby and has duly and validly authorized the execution of this Agreement (including such other necessary agreements, instruments and documents in connection herewith) and all necessary proceedings.

This Agreement constitutes the legal, valid and binding obligation of PAWC, enforceable against PAWC in accordance with its terms, except as such enforceability may be limited by applicable laws relating to bankruptcy, insolvency, fraudulent conveyance, reorganization or affecting creditor's rights generally.

(c) **No Violations of Laws or Agreements.** PAWC's performance of this Agreement, as of the Closing Date, shall not (i) require any further approvals or consents from any other party; (ii) violate any law, ordinance or regulation; and, (iii) conflict with or result in a breach of any contract, lease or permit to which PAWC is a party.

(d) **No Pending Litigation or Proceedings.** To the best of PAWC's knowledge, there is no claim, litigation, arbitration, proceeding, judgment, injunction, audit or governmental investigation pending or threatened against PAWC which could reasonably be expected to have a Material Adverse Effect on the transaction contemplated by this Agreement.

(e) **Brokerage.** Neither PAWC nor any of its affiliates has made any agreement or taken any other action which might cause any person to become entitled to a broker's or finder's fee or commission as a result of the transactions contemplated hereunder which could result in liability to the Township.

### III. COVENANTS

#### 3.1 Mutual Covenants of the Township and PAWC

The Parties mutually covenant and agree that, except as otherwise approved by the other party in advance and in writing:

(a) **Cooperation.** The Parties shall cooperate and shall cause their respective officers, employees, agents and representatives to cooperate to ensure the orderly transition of the Assets and Service from the Township to PAWC and to minimize any disruption to the customers of the Systems from the transactions contemplated by this Agreement.

The Parties shall furnish to the other party any necessary information or reasonable assistance as the other party may request in connection with the consent, approval or authorization of, or registration with or filing or submission to any third party (including any governmental or regulatory agency).

(b) **Further Assurances.** The Parties shall cooperate and deliver such instruments and take such action as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

After the Closing, the Parties shall take such other actions and execute such other documents as may be reasonably requested by the other party (i) in order to transfer more effectively to PAWC or to put PAWC more fully in possession of any of the Assets; or, (ii) in connection with the preparation of any tax return, audit or examination by any governmental or taxing authority.

(c) **Expenses.** The Parties shall each bear their own respective accounting, legal and other expenses incurred in connection with the transactions contemplated by this Agreement except as otherwise expressly stated in this Agreement.

#### 3.2 Covenants of the Township

The Township hereby covenants and agrees that, except as otherwise approved in advance in writing by PAWC:

(a) **Continuation of Business.** The Township shall consider and review extensions of the Systems until the Closing Date in the ordinary course of business, consistent with past practice.

(b) **Standstill Agreement.** Until the Closing Date, unless this Agreement is earlier terminated pursuant to Article 5 of this Agreement, the Township shall

not, directly or indirectly, solicit offers for the Assets or the Systems, or respond to inquiries from, share confidential information with, negotiate with or in any way facilitate inquiries or offers from, third parties who express or who have heretofore expressed an interest in accruing any or all of the Assets or the Systems.

(c) **Access.** The Township shall (i) give to PAWC and its representatives, from the date first written above until the Closing Date, full access during normal business hours, upon reasonable notice, to all the properties, books, data, contracts, agreements, documents and records connected to the Assets and/or the Systems; and, (ii) make available to PAWC and its representatives all other information with respect to the Assets and/or the business and affairs of the Systems as PAWC may reasonably request. Provided that PAWC agrees to reimburse to the Township at Closing the Township's reasonable costs for any copying of this information for PAWC.

(d) **FIRPTA Certificate.** The Township agrees to provide PAWC, at Closing, such certificate as is reasonably necessary to insure that a withholding is not required under the Foreign Investment in Real Property Tax Act ("FIRPTA") and Sections 1445 and 6039C of the Internal Revenue Code.

(e) **Contractual Consents.** The Township shall diligently pursue all approvals, authorizations and consents of transfer to all material transferable or assignable contracts, agreements, licenses and permits to the extent specifically required by the terms of such contracts, agreements, licenses or permits, if any to implement this Agreement.

(f) **Regulatory Consents.** The Township hereby agrees to support all PAWC filings and agrees to submit letters of support for the PAWC with the PaPUC or other regulatory body for these filings, e.g., the 537 Plan for the wastewater treatment plant upgrade filing with the Department of Environmental Protection, to implement this Agreement. The above referenced PaPUC filings will include expansion of PAWC's certificated service territory for water and wastewater service as indicated on Schedule 3.2(f).

To the extent applicable, the Township shall diligently pursue all approvals, authorizations, consents and permits required to be obtained by the Township for the Township to sell the Assets.

(g) **Permits and Easements.**

Provided the Township has the ability to do so, without incurring any special charges for same, the Township agrees to grant such permits or convey and/or lease to PAWC at no cost any and all easements in public streets and roads necessary for the construction of water and sewer mains and appurtenances pursuant to Section 3.3(d) hereof.

### 3.3 Covenants of PAWC

PAWC hereby covenants and agrees that, except as otherwise approved in advance in writing by the Township:

(a) **Regulatory Consents.** PAWC shall, at all times, use its best efforts and diligently pursue all approvals, authorizations, consents and permits required to be obtained to consummate the transaction contemplated by this Agreement, including, without limitation (i) the consent of the Pennsylvania Public Utility Commission; and, (ii) the approval of every regulatory agency of federal, state or local government that may be required.

PAWC shall (i) as promptly as practicable, make or cause to be made such filings and submissions under laws, rules and regulations applicable to it as may be required to consummate the terms of this Agreement; and, (ii) keep the Township apprised of the status of any filing or submission to the Pennsylvania Public Utility Commission or any other governmental or regulatory agency.

(b) **Taxes.** PAWC shall be responsible for all state and local sales, use, documentary stamp, and recording taxes arising from and with respect to the sale and purchase of the Assets.

(c) **Rates and Service.** PAWC is to provide public utility water and wastewater service in the Township in accordance with its duly filed and effective tariffs as amended and supplemented.

(d) **Sewer and Water Line Extensions.** PAWC shall construct a sewer line extension in the Cardinal Drive area and a water line extension in the Strasburg Road area, as indicated on the attached maps (attached hereto and incorporated herein as Schedules 3.3(d) A and B respectively), both at PAWC's expense, provided that the Township enacts and enforces a mandatory tap-in ordinance to the extent permitted by law. The water line extension will be substantially complete on or about eighteen (18) months after the Closing Date (as defined in Section 1.5 of this Agreement). The sewer line extension to the Cardinal Drive area will be substantially complete on or about eighteen (18) months after the transfer to PAWC of the off-site developer funded facilities. The sewer line extension to the Cardinal Drive area is contingent upon off-site developer funded facilities being in place prior to construction. The developer funded facilities include a pump station, gravity main and force main facilities sufficient to transmit the flow from the Cardinal Drive area to PAWC's existing wastewater system, including elimination of a bottleneck and upgrade of the East End trunk line. The sewer line extension in the Cardinal Drive area and water line extension in the Strasburg Road area will be constructed in accordance with the drawings and specifications prepared by the PAWC engineer and reviewed and approved by the

Township engineer, at the Township's expense, including any revisions thereto, which approval excepts all water and wastewater facility technical specifications and will not be unreasonably withheld or delayed, as being in compliance with applicable laws, regulations, and ordinances.

(e) **Future Water and Wastewater Line Extensions within PAWC's PaPUC Certified Area.** Future water and wastewater line extensions within PAWC's Pennsylvania Public Utility Commission ("PaPUC") certified area shall be provided in accordance with PAWC's duly filed and approved tariffs.

Any PAWC service area extension filings in the Township to the PaPUC outside of the area depicted in Schedule 3.2(f) shall either be consistent with the Township's 537 Plan and the Township's comprehensive plan or be subject to approval by the Township which approval shall not be unreasonably withheld or delayed by the Township.

(f) **Refunds.** PAWC will refund to the Township for a period of ten (10) years after the start-up of the booster station required for servicing the Robins Cove development and the upgrade of the East End trunk line, but in no event for a period of more than twenty (20) years after the Closing Date of this Agreement, \$1,000 for each new individually metered dwelling unit constructed and sold becoming a residential customer as defined in PAWC's duly filed and approved tariffs that takes both water and wastewater service from PAWC. The refund only applies to developer-funded water and wastewater extensions within the existing PaPUC service territory of PAWC as of the Closing Date of this Agreement. The refunds do not apply to PAWC funded extensions such as those discussed above for the Cardinal Drive area and Strasburg Road. The aggregate dollar amount that can be refunded to the Township under the Agreement is limited to one million dollars (\$1,000,000).

All such refund payments shall be due and payable to the Township quarterly after the respective water meter has been set and activated during the preceding quarter. Such refund payments will be made by PAWC to the Township within thirty (30) days after the end of each applicable calendar quarter.

#### **IV. CONDITIONS PRECEDENT**

##### **4.1 Conditions Precedent to PAWC's Obligations**

The obligation of PAWC to consummate the transactions contemplated by this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any one or more of which may be waived in writing, in whole or in part, by PAWC, in its sole discretion):

(a) **Representations and Warranties.** The Township's representations and warranties contained in this Agreement or in any Schedule, list, certificate or

document delivered pursuant to the provisions of this Agreement shall be true in all material respects at and as of the time of Closing, except for changes in the ordinary course of business after the date first written above that are in conformity with the covenants, warranties, representations and agreements contained in this Agreement.

(b) **Performance of Agreements.** The Township shall have performed and complied, in all material respects, with all covenants, agreements and conditions required by this Agreement to be performed, or complied with by it prior to or at the Closing.

(c) **Closing Certificates.** The Township shall have delivered to the PAWC: (i) a certificate of the Secretary (or Assistant Secretary) of the Township, to the best of such Secretary's knowledge, certifying and attaching true and complete copies of the Articles of Incorporation and Bylaws of the Township as the same are in force on the Closing Date and of the resolutions adopted by its Supervisors relating to this Agreement and the transactions contemplated hereby; and, certifying the incumbency of the officers of the Township executing this Agreement or any documents delivered hereunder; and, (ii) a certificate signed by the Township, confirming, to the best of its knowledge, satisfaction of the conditions set forth in Subsections (a) to (c), inclusive, of Section 4.1 of this Agreement.

(d) **Closing Deliveries.** The Township shall have delivered the documents and other items described in Section 1.6 of this Agreement.

(e) **No Litigation.** There shall not be any pending, or to the knowledge of the Township, threatened action, proceeding or investigation by or before any court, arbitrator, governmental body or agency which shall seek to restrain, prohibit or invalidate the transactions contemplated hereby or which, if adversely determined, would result in a breach of a representation, warranty or covenant of either party herein.

(f) **Regulatory Consents.** PAWC shall have obtained the written, final and unappealable approvals, authorizations and consents (including consents for permit transfers) that are required to consummate the transactions contemplated by this Agreement, including, without limitation (i) the approval of the Pennsylvania Public Utility Commission; and, (ii) the approval of every regulatory agency of federal, state or local government that may be required in the opinion of either PAWC or the Township.

(g) **Opinion of Counsel.** The Township shall have delivered to PAWC a favorable written opinion of the Township's counsel, dated as of the Closing Date and addressed to PAWC, in form and substance satisfactory to PAWC, to the effect set forth in Schedule 4.1(g).

(h) **Utility District and Lease Agreements.** With respect to utility district agreements, all such agreements and leases are terminated and cancelled and any further expansion by PAWC within the Township will not require any type of utility district agreement. Provided, that within approved service areas, PAWC will have to secure all normal and customary permits and approvals from the Township regarding future water and sewer expansions within the Township including the payment of all permit and review fees associated therewith except for the extensions in Section 3.3(d) hereof, i.e., for Cardinal Drive and the Strasburg Road area. These would include, but not be limited to, road opening permits, building permits, and grading permits, which may be required by the Township. Such Agreements and Leases include, but are not limited to, the following: (1) Water and Wastewater Service Agreement East Fallowfield Township Water and Sewer District #1 dated July 17 and 25, 1991 between the City of Coatesville Authority and the Township of East Fallowfield, (2) Water and Wastewater Service Agreement East Fallowfield Township Water and Sewer District #2 dated July 17 and 25, 1991 between the City of Coatesville Authority and the Township of East Fallowfield, (3) Conveyance and Lease Agreement dated July 17, 1991 between the City of Coatesville Authority and the Township of East Fallowfield, (4) Water and Wastewater Service Agreement East Fallowfield Township Water and Sewer District #2 as Amended dated December 9, 1992 between the City of Coatesville Authority and the Township of East Fallowfield, and (5) Water and Wastewater Service Agreement East Fallowfield Township Water and Sewer District #2A and #2B as Amended dated March 10, 1993 between the City of Coatesville Authority and the Township of East Fallowfield.

#### **4.2 Conditions Precedent to the Township's Obligations**

The obligation of the Township to consummate the transactions contemplated by this Agreement is subject to the satisfaction, on or prior to the Closing Date, of each of the following conditions (any one or more of which may be waived in writing, in whole or in part, by the Township, in its sole discretion):

(a) **Representations and Warranties.** PAWC's representations and warranties contained in this Agreement or in any Schedule, list, certificate or document delivered pursuant to the provisions of this Agreement shall be true in all material respects at and as of the time of Closing, except for changes in the ordinary course of business after the date first written above that are in conformity with the covenants, warranties, representations and agreements contained in this Agreement.

(b) **Performance of Agreements.** PAWC shall have performed and complied, in all material respects, with all covenants, agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the Closing.

(c) **Closing Certificates.** PAWC shall have delivered to the Township: (i) a certificate of the Secretary (or Assistant Secretary) of PAWC, to the best of such Secretary's knowledge, certifying and attaching true and complete copies of the resolutions of the Board of Directors of PAWC authorizing the execution and delivery of this Agreement and the transactions contemplated hereby and the performance of the obligations of PAWC hereunder; and, certifying the incumbency of the officers of PAWC executing this Agreement or any documents delivered hereunder; and, (ii) a certificate of the President (or Vice President) of PAWC confirming, to the best of such President's (or Vice President's) knowledge, satisfaction of the conditions set forth in Subsections (a) and (b) of Section 4.2 of this Agreement.

(d) **No Litigation.** There shall not be any pending, or to the knowledge of PAWC, threatened action, proceeding or investigation by or before any court, arbitrator, governmental body or agency which shall seek to restrain, prohibit or invalidate the transactions contemplated hereby or which, if adversely determined, would result in a breach of a representation, warranty or covenant of either party herein.

(e) **Regulatory Consents.** PAWC shall have obtained the written, final and unappealable approvals, authorizations and consents (including consents for permit transfers) that are required to consummate the transactions contemplated by this Agreement, including, without limitation (i) the approval of the Pennsylvania Public Utility Commission; and, (ii) the approval of every regulatory agency of federal, state or local government that may be required in the opinion of either PAWC or the Township.

(f) **Other Consents.** PAWC shall have obtained any other approvals, authorizations and consents that are required to enable PAWC to consummate the transactions contemplated by this Agreement and to operate the Systems.

(g) **Opinion of Counsel.** PAWC shall deliver to the Township a favorable written opinion of PAWC's counsel, dated as of the Closing Date and addressed to the Township, in form and substance satisfactory to the Township, to the effect set forth in Schedule 4.2(g).

## **V. TERMINATION**

### **5.1 Termination**

This Agreement may be terminated prior to the Closing Date only as follows and in each case only by written notice:

- (a) by the mutual written consent of the Township and PAWC;
- (b) by either the Township or PAWC, if the Closing has not occurred (other

than through the failure of any party seeking to terminate this Agreement to comply fully with its obligations under this Agreement) on or before the first (1st) anniversary of the date first written above, or such later date as the Parties may agree upon;

(c) by either the Township or PAWC, if a material breach of any covenant, warranty, representation, agreement or provision of this Agreement has been committed by the other party and such breach has not been (i) cured within thirty (30) days after the non-breaching party gives written notice of said breach to the breaching party; or, (ii) waived by the non-breaching party;

(d) by either the Township or PAWC, if the Pennsylvania Public Utility Commission does not approve of any of the following matters: (i) the acquisition by purchase of the Assets of the Systems; (ii) the right of PAWC to offer, render, furnish, or supply water and sewer service to the public in the area(s) served, respectively, by the Water System and the Wastewater System; (iii) the right of PAWC to charge applicable tariff rates.

(e) by PAWC, if any of the conditions in Section 4.1 of this Agreement (i) have not been satisfied as of the Closing Date; or, (ii) have become impossible (other than through the failure of PAWC to comply with its obligations under this Agreement); and PAWC has not waived such condition on or before the Closing Date; and

(f) by the Township, if any of the conditions in Section 4.2 of this Agreement (i) have not been satisfied as of the Closing Date; or, (ii) have become impossible (other than through the failure of the Township to comply with its obligations under this Agreement); and, the Township has not waived such condition on or before the Closing Date

## 5.2 Effect of Termination

Each party's right of termination under Section 5.1 of this Agreement is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies.

If this Agreement is terminated pursuant to Section 5.1 of this Agreement, all further obligations of the Parties under this Agreement will terminate, except that the obligations in Sections 3.1(c) (Expenses) and 8.14 (Jurisdiction) of this Agreement shall survive. Provided, however, that if this Agreement is terminated by a party because of the breach of this Agreement by the other party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

## VI. INDEMNIFICATION

### **6.1 Definition of Damages**

For purposes of this Agreement, "Damages" means the aggregate amount of all damages, claims, losses, obligations, liabilities (including any governmental penalty, fines or punitive damages), deficiencies, interest, costs and expenses arising out of or relating to a matter and any actions, judgments, costs and expenses (including reasonable attorney's fees and all other expenses incurred in investigating, preparing, or defending any litigation or proceeding, commenced or threatened) incident to such matter or to the enforcement of this Agreement.

### **6.2 Indemnification by the Township**

The Township agrees to indemnify, defend and hold harmless PAWC, and its affiliates, and their respective officers, directors and agents from and against any and all Damages arising out of or resulting from:

- (a) any misrepresentation, breach of warranty, or non-fulfillment of any covenant or agreement made by the Township in this Agreement or in any Schedule, statement, certificate or other document furnished or to be furnished to PAWC in connection with the transactions contemplated by this Agreement;
- (b) any and all liabilities of the Township of any nature, (whether due or to become due), (whether accrued, absolute, contingent or otherwise), existing prior to the Closing Date or arising out of any transaction entered into, any state of facts existing or any event occurring prior to the Closing Date; and
- (c) the successful enforcement of this Section of this Agreement.

The Township's obligations under this Section of this Agreement shall be discharged, and all amounts payable hereunder (including costs and fees in the defense of any litigation), shall be paid to PAWC as they are incurred by PAWC.

### **6.3 Indemnification by PAWC**

PAWC agrees to indemnify, defend and hold harmless the Township and its respective officers, directors and agents from and against any and all Damages arising out of or resulting from:

- (a) any misrepresentation, breach of warranty, or non-fulfillment of any covenant or agreement made by PAWC in this Agreement or in any Schedule, statement, certificate or other document furnished or to be furnished to the Township in connection with the transactions contemplated by this Agreement;

(b) the ownership, operation or use of the Assets or Systems on or after the Closing Date, excepting only liabilities resulting from unlawful acts by the Township or breaches by the Township of covenants, warranties, representations and agreements hereunder;

(c) the successful enforcement of this Section of this Agreement.

PAWC's obligations under this Section of this Agreement shall be discharged, and all amounts payable hereunder (including costs and fees in the defense of any litigation), shall be paid to the Township as they are incurred by the Township.

#### 6.4 General Indemnification Procedures

(a) During the applicable survival period specified in Article 7 of this Agreement, a party seeking indemnification pursuant to Article 6 of this Agreement (an "Indemnified Party") shall give prompt written notice to the party from whom such indemnification is sought (the "Indemnifying Party") of the assertion of any claim, the incurrence of any Damages, or the commencement of any action, suit or proceeding, of which it has knowledge in respect of which indemnity may be sought hereunder, and will give the Indemnifying Party such information with respect thereto as the Indemnifying Party may reasonably request, but failure to give such required notice shall relieve the Indemnifying Party of any liability hereunder only to the extent that the Indemnifying Party has suffered actual prejudice thereby.

The Indemnifying Party shall have the right exercisable by written notice to the Indemnified Party after receipt of notice from the Indemnified Party of the commencement of or assertion of any claim or action, suit or proceeding by a third party in respect of which indemnity may be sought hereunder (a "Third Party Claim"), to assume the defense of such Third Party Claim which involves (and continues to involve) solely monetary damages; provided, that (i) the Indemnifying Party expressly agrees in such notice that, as between the Indemnifying Party and the Indemnified Party, solely the Indemnifying Party shall be obligated to satisfy and discharge the Third Party Claim; (ii) such Third Party Claim does not include a request or demand for injunctive or other equitable relief; and, (iii) the Indemnifying Party makes reasonably adequate provision to assure the Indemnified Party of the ability of the Indemnifying Party to satisfy the full amount of any adverse monetary judgment that is reasonably likely to result.

(b) Neither the Indemnified Party nor the Indemnifying Party shall settle any Third Party Claim without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed.

(c) The Indemnifying Party or the Indemnified Party, as the case may be, shall have the right to participate (but not control), at its own expense, in the

defense of any Third Party Claim which the other party is defending as provided in this Agreement.

(d) Notwithstanding any other provision of Article 6 of this Agreement, no claim for indemnification may be asserted under Article 6 of this Agreement, and no indemnification shall be due and owing from any party unless and until the aggregate of all such claims which may be made against such party exceeds Ten Thousand Dollars (\$10,000).

## VII. SURVIVAL

### 7.1 Survival

All covenants, warranties, representations and agreements made by the Parties in this Agreement or in any Schedule, document, statement or certificate furnished in connection with the transaction contemplated by this Agreement shall survive the Closing.

### 7.2 Limitations on Survival

(a) The covenants, warranties, representations and agreements set forth in Section 3.1 and Section 3.2 of this Agreement shall survive the Closing for a period of five (5) years.

(b) Article 6 of this Agreement shall survive the Closing for the applicable period(s) of the indemnified covenants, warranties, representations and agreements as limited by this Article 7.

(c) The covenants, warranties, representations and agreements of PAWC in Section 3.3 shall survive the Closing for a period of twenty (20) years.

(d) The covenants, warranties, representations and agreements that are not explicitly limited by Subsections (a) to (b), inclusive, of Section 7.2 of this Agreement shall survive the Closing for a period of one (1) year.

## VIII. MISCELLANEOUS

### 8.1 Schedules

All Exhibits and Schedules ("Schedules") annexed or referred to in this Agreement are hereby incorporated in and made a part of this Agreement as if set forth in full herein.

Schedules are made to the best of the parties' knowledge as of the date first written above. Prior to Closing, the Parties shall promptly deliver an amended or supplemented Schedule when any change in fact, condition or information requires an

amendment or supplement to such Schedule.

## **8.2 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties concerning the sale and purchase of the Assets, and supersedes all prior oral or written agreements, understandings, representations and warranties, and courses of conduct and dealing between the Parties on the subject matter hereof.

## **8.3 Amendment**

This Agreement may be amended or modified only by a writing executed by all of the Parties.

## **8.4 Extension or Waiver of Performance**

Either the Township or PAWC may extend the time for or waive the performance of any of the obligations of the other, waive any inaccuracies in the warranties or representations by the other, or waive compliance by the other with any of the covenants, conditions or agreements contained in this Agreement, provided that any such extension or waiver shall be in writing and signed by the waiving party in the case of a waiver, or by both the Township and PAWC in the case of an extension.

## **8.5 Assignment or Delegation**

The Parties may assign, delegate or otherwise transfer any of their duties, rights or obligations under this Agreement without the prior written consent of the other party.

## **8.6 Successors and Assigns; Binding Effect**

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and assigns.

## **8.7 Governing Law**

This Agreement shall be governed by and construed under the laws of the Commonwealth of Pennsylvania.

## **8.8 Notices**

All notices provided for in this Agreement shall be in writing, addressed to the Township or PAWC, as the case may be, at the addresses set forth in this Paragraph and may be (a) delivered in person; (b) sent by United States registered or certified mail, return receipt requested; (c) sent by Federal Express or any other overnight courier or delivery service from which a receipt may be obtained; or, (d) sent by facsimile or

telefax transmission during regular business hours (9:00 a. m. to 5:00 p. m., Monday-Friday, excluding holidays):

To the Township:

Robert Sparr, Chairman  
Board of Supervisors  
East Fallowfield Township  
2264 Strasburg Road  
East Fallowfield, PA 19320  
(610) 384-7144  
Fax: (610) 384-7143

With a copy to:

Vincent M. Pompo, Solicitor  
East Fallowfield Township  
Windle and McErlane, P.C.  
24 East Market Street  
P.O. Box 565  
West Chester, PA 19381-0565  
(610) 430-8000  
Fax: (610) 692-6210

To PAWC:

Robert M. Ross, President  
Pennsylvania-American Water Company  
800 West Hershey Park Drive  
P.O. Box 888  
Hershey, PA 17033-0888  
(717) 531-3200  
Fax: (717) 531-3252

With a copy to:

Velma A. Redmond, Esquire  
Corporate Counsel  
Pennsylvania-American Water Company  
800 West Hershey Park Drive  
P.O. Box 888  
Hershey, PA 17033-0888  
(717) 531-3210  
Fax: (717) 531-3252

The Parties shall have the right to designate a new address for the receipt of

notices by written notice to the other party as provided in Section 8.8 of this Agreement.

### **8.9 Captions**

The headings and captions used with the subsections, sections and articles of this Agreement are for convenience or reference only and shall not be deemed to modify or limit the provisions of this Agreement.

### **8.10 Construction**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

Any reference to any federal, state, local or foreign statute shall be deemed to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise.

Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context may require. The word "Including" means included, without limitation.

"Material Adverse Effect" means a change or effect (or series of related changes or effects) which has or is reasonably likely to have a material adverse change in or effect upon the business, assets, condition (financial or otherwise), or results of operations of the Systems or Assets, taken as a whole.

### **8.11 Cumulative Remedies**

In the event of default by PAWC in the performance of its obligations under this Agreement, the Township shall have the right, in addition to any other remedies available at law or in equity, to seek specific performance of the obligations set forth in this Agreement, or both, and PAWC shall pay reasonable attorney's fees incurred in the enforcement of any rights of the Township following default by PAWC. The remedies afforded in this Agreement are cumulative to each other and to all other remedies provided by law. The remedies afforded in this Agreement are cumulative to each other and to all other remedies provided by law.

### **8.12 No Waiver**

No delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this

Agreement shall impair any such right, power or remedy; nor shall it be construed as a waiver of or acquiescence in any such breach or default, or any similar breach or default occurring later; nor shall any waiver of a single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.

**8.13 Time of the Essence**

Time is of the essence in this Agreement.

**8.14 Jurisdiction**

The Parties each irrevocably submit to the exclusive jurisdiction of (a) the Court of Common Pleas for Chester County in the Commonwealth of Pennsylvania and (b) the United States District Court for the Eastern District of Pennsylvania, for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated by this Agreement.

When the above-mentioned courts may properly exercise jurisdiction over an action, suit or proceeding relating to this Agreement, the Parties agree not to commence or maintain any such action, suit or proceeding in a court or forum other than the above-mentioned courts.

**8.15 Third Party Beneficiaries**

Nothing herein expressed or implied is intended or should be construed to confer upon or give to any person (other than the Parties and the Township) any rights or remedies under or by reason of this Agreement.

**8.16 Counterparts**

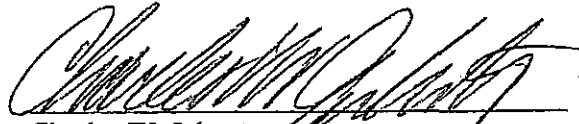
This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement.

[Signatures Appear on Next Page]

INTENDING TO BE BOUND HEREBY, the respective parties herein have executed this Agreement as of the date and year first written above.

Pennsylvania-American Water Company

BY:



Charles W. Johnston  
Vice President - Business Development

ATTEST:

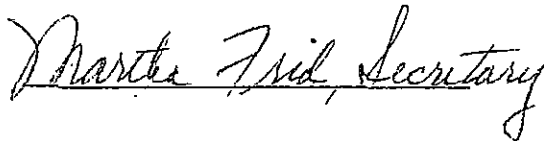


East Fallowfield Township

BY:

R.A. SPARK, CHAIR  
Title

ATTEST:



## List of Schedules

- 1.3 Assets, Property, and Rights
- 3.2(f) Current and Proposed PAWC water and wastewater certificated service territories
- 3.3(d) A. Sewer and Water Line Extensions
- 3.3(d) B. Future Water and Wastewater Line Extensions within PAWC's PaPUC Certified Area
  
- 4.1(g) Form of Opinion of Counsel for the Township's Counsel
- 4.2(g) Form of Opinion of Counsel for PAWC's Counsel

Schedule 1.3

Lands bounded by Route 82, Strasburg Road, Buck Run Road, South Coatesville Borough and Valley Township, with the exception of the franchise territory of the former Chester County Utilities, Ltd. as to sewer service only – water and sewer (District # 1)

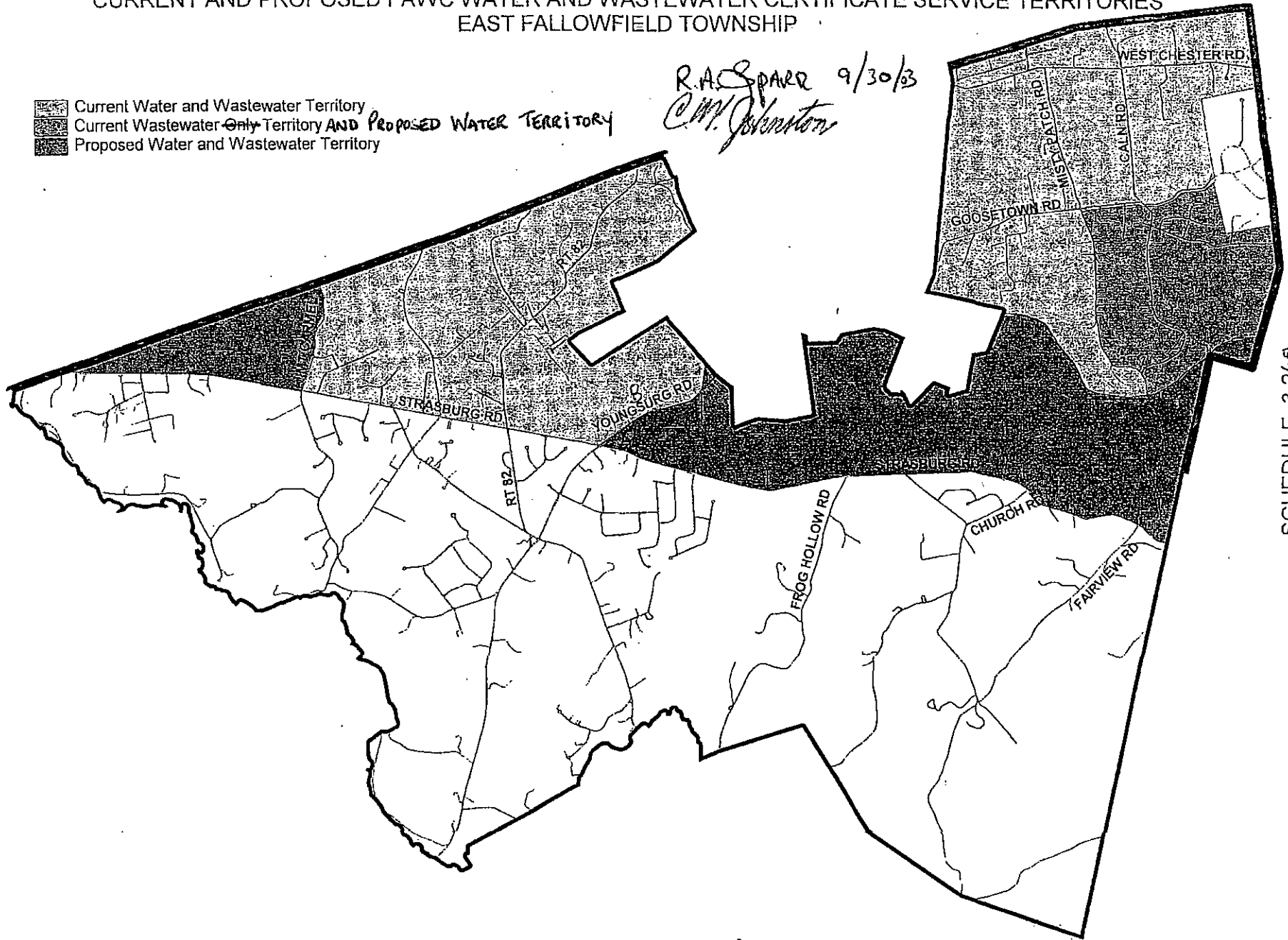
Strasburg Hills (a.k.a Strasburg Hunt) - water and sewer (District # 2 and # 2A)

Willow Rock and other existing residential properties on Rebecca and Elizabeth Drives, Hannum Drive and the western side of Park Avenue - water only (District # 2B)

PENNSYLVANIA-AMERICAN WATER COMPANY  
CURRENT AND PROPOSED PAWC WATER AND WASTEWATER CERTIFICATE SERVICE TERRITORIES  
EAST FALLOWFIELD TOWNSHIP

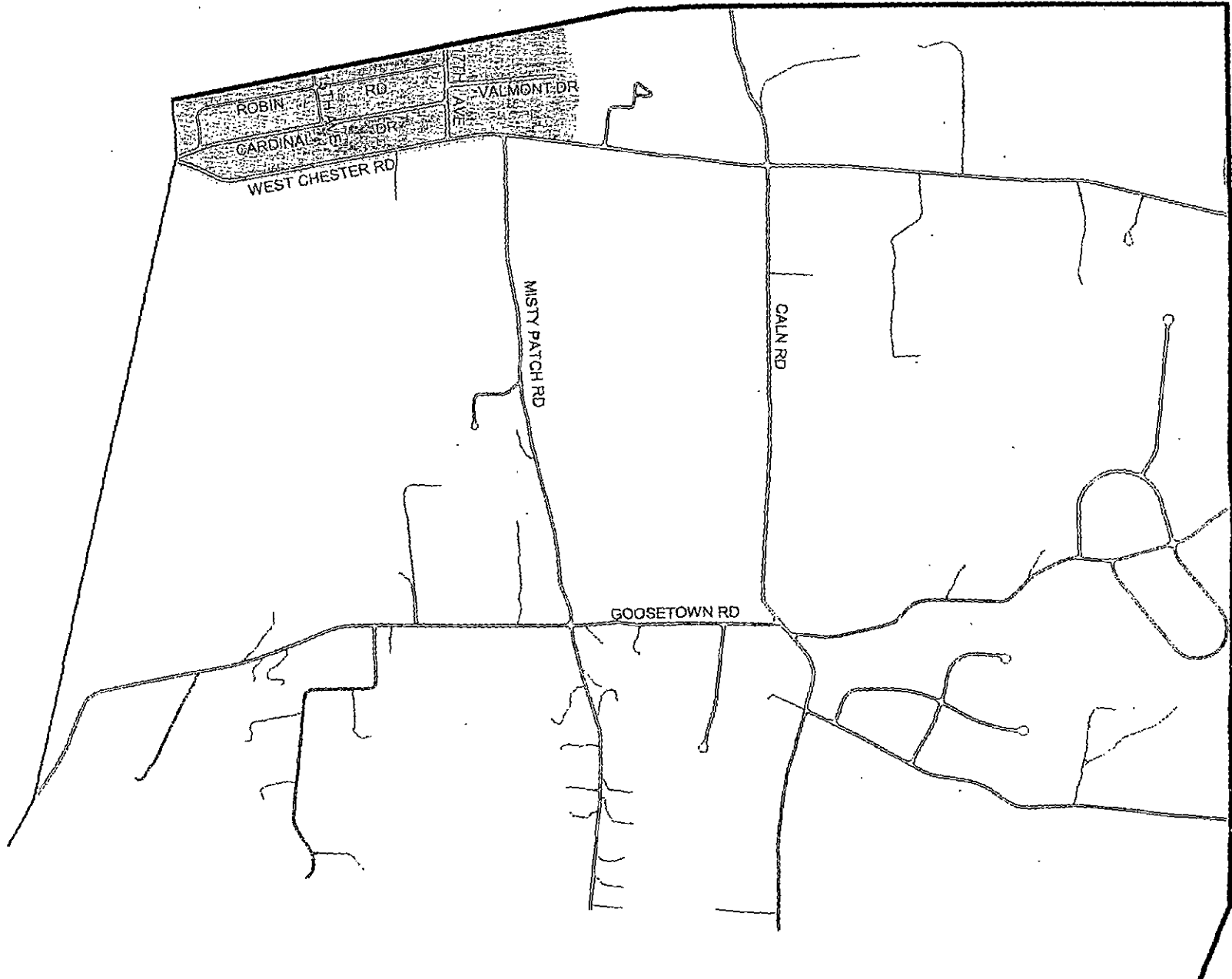
- Current Water and Wastewater Territory
- Current Wastewater Only Territory AND Proposed Water Territory
- Proposed Water and Wastewater Territory

R.A. SPARR 9/30/03  
C.M. Johnston




SCHEDULE 3.2(f)

PENNSYLVANIA-AMERICAN WATER COMPANY  
SEWER LINE EXTENSION  
EAST FALLOWFIELD TOWNSHIP

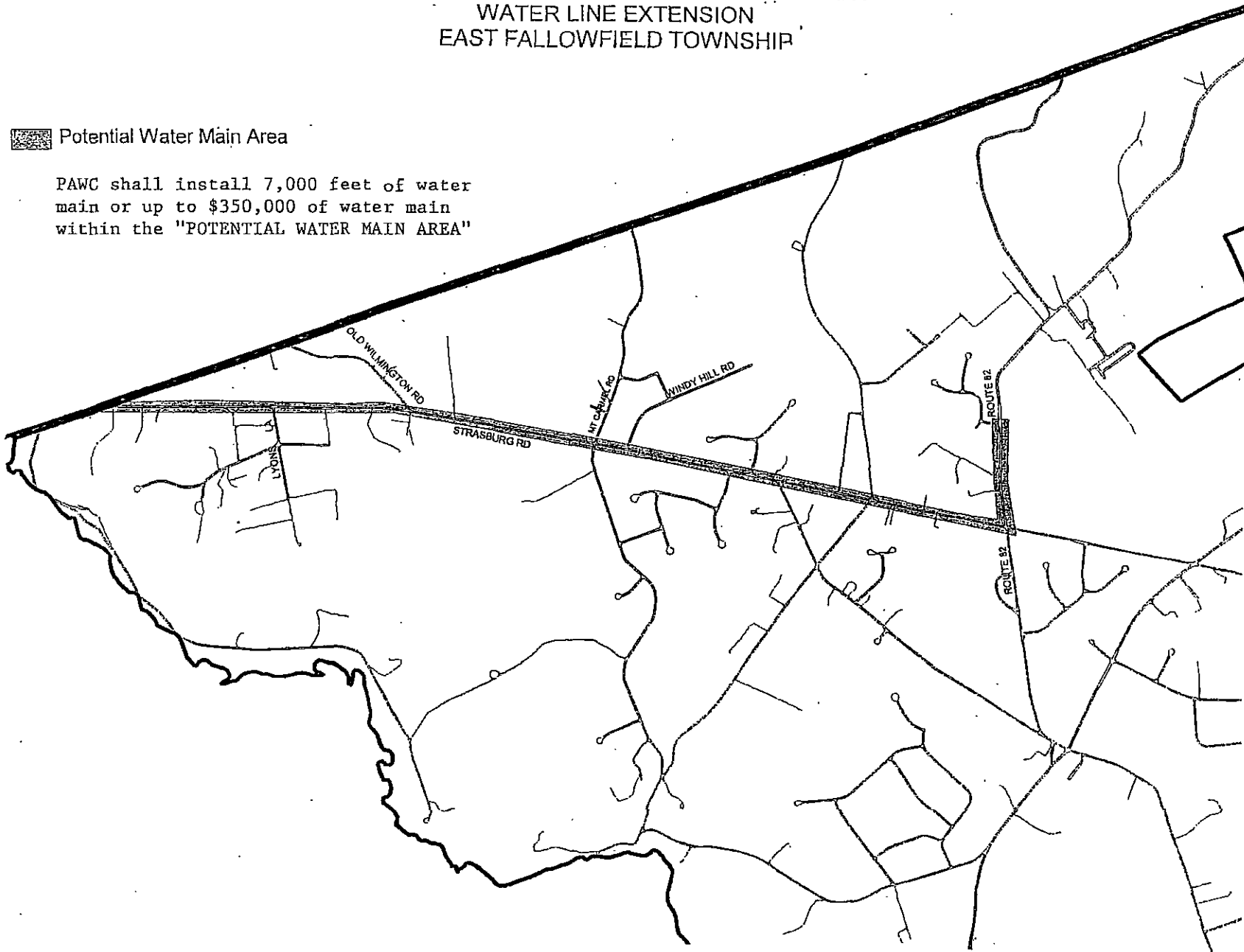


SCHEDULE 3.3(d)A

PENNSYLVANIA-AMERICAN WATER COMPANY  
WATER LINE EXTENSION  
EAST FALLOWFIELD TOWNSHIP

 Potential Water Main Area

PAWC shall install 7,000 feet of water main or up to \$350,000 of water main within the "POTENTIAL WATER MAIN AREA"



SCHEDULE 3.3(d)B

**Schedule 4.1(g)**  
**Form of Opinion for the Township's Counsel**

\_\_\_\_\_, 2003

Pennsylvania-American Water Company  
800 West Hersheypark Drive  
P.O. Box 888  
Hershey, Pennsylvania 17033-0888

Ladies and Gentlemen:

I have acted as counsel for the Township of East Fallowfield, a second class township organized and existing under the laws of the Commonwealth of Pennsylvania (the "Township"), in connection with the execution and delivery by the Township of the Water and Wastewater Service and Asset Purchase Agreement between the Township and Pennsylvania-American Water Company ("PAWC") (the "Agreement") dated \_\_\_\_\_, 2003. This opinion is delivered to you pursuant to Paragraph 4.1(g) of the Agreement. All capitalized terms used herein without definition shall have the respective meanings ascribed to them in the Agreement unless otherwise noted.

In connection with the opinions expressed below, I have made such examination of law and have examined the originals, or copies, certified or otherwise identified to my satisfaction, of the Agreement and all other agreements and instruments to be executed by the Township in connection with the Agreement, if any, and such other documents and records of the Township, certificates of public officials and of officers of the Township, and such other documents as I have deemed necessary or appropriate.

Based upon and subject to the foregoing, it is my opinion that as of the date hereof:

1. The Township is validly existing and in good standing under the laws of the Commonwealth of Pennsylvania as a second class township.
2. The Township has full power and lawful authority to execute and deliver, to perform its obligations under, and to consummate the transactions contemplated by the Agreement to which it is party, and to own, lease and operate the Assets and the Systems as presently being conducted.
3. The execution and delivery and performance by the Township of the Agreement to which it is a party, and the consummation of the transaction contemplated thereby, have been duly authorized by all necessary action of such party and do not and will not contravene any provision of the organizational documents of the Township.

4. Upon due execution and delivery by the parties thereto, the Agreement to which it is a party will be a legal obligation of the Township, enforceable against the Township in accordance with its terms, except as such enforceability may be limited by applicable laws relating to bankruptcy, insolvency, fraudulent conveyance, reorganization or affecting creditors' rights generally.

5. All proceedings required to be taken by or on the part of the Township to authorize the execution, delivery and performance of the Agreement and the consummation of the transactions thereby, have been duly and properly taken. The Agreement to which the Township is a party has been duly and validly executed and delivered by appropriate officers of the Township.

6. All consents, approvals, authorizations or orders of any court or governmental authority of the United States or of the Commonwealth of Pennsylvania required for the consummation by the Township of the transactions contemplated by the Agreement, except for those consents, approvals, authorizations or orders required to be obtained by PAWC, have been obtained by the Township.

7. Neither the execution and delivery of the Agreement by the Township nor the consummation of the transactions contemplated thereby will, to the best of my knowledge, conflict with, or result in a breach of, the terms, conditions or provisions or, constitute a default under, the terms of any agreement or instrument to which the Township is a party or by which the Assets may be bound or affected. The execution, delivery and performance of, and compliance with, the Agreement by the Township will not violate any provision of any law, rule, regulation, or to my knowledge, order, permit, certificate, writ, judgment, injunction, decree, determination, award or other decision of any court, arbitrator, or governmental authority by which the Township is bound or to which it is subject.

8. I have no knowledge that (i) there are any actions, suits, investigations or proceedings pending against or threatened against of affecting the Township, the Systems or any of the Assets before any court or arbitrator or authority which individually or in the aggregate, would have a Material Adverse Effect and (ii) there are currently any outstanding judgments, decrees, or orders of any court or authority against the Township, which relates to or arise out of the ownership, condition or operation of the Systems or the Assets which individually or in the aggregate would have a Material Adverse Effect.

The opinions herein are given only with respect to the laws of the Commonwealth of Pennsylvania and the federal laws of the United States of America, as applicable, in each case as enacted and construed on the date hereof.

The foregoing opinions are solely for the use of PAWC, have been expressed solely in connection with the transaction contemplated by the Agreement and are given for no other purpose and shall not be delivered to or relied upon by any other person or party except PAWC.

Sincerely,

Vincent M. Pompo, Solicitor  
East Fallowfield Township

W:\JAF\PAWC\Schedule 4.1(g).doc

**Schedule 4.2(g)**  
**Form of Opinion for PAWC's Counsel**

\_\_\_\_\_, 2003

Township of East Fallowfield  
2264 Strasburg Road  
East Fallowfield, Pennsylvania 19320

Ladies and Gentlemen:

I have acted as counsel for the Pennsylvania-American Water Company, a Pennsylvania corporation ("PAWC"), in connection with the execution and delivery by the PAWC of the Water and Wastewater Service and Asset Purchase Agreement between the Township of East Fallowfield and PAWC (the "Agreement") dated \_\_\_\_\_, 2003, between PAWC and the Township of East Fallowfield, a second class township organized and existing under the laws of the Commonwealth of Pennsylvania (the "Township"). This opinion is delivered to you pursuant to Paragraph 4.2 of the Agreement. All capitalized terms used herein without definition shall have the respective meanings ascribed to them in the Agreement unless otherwise noted.

In connection with the opinions expressed below, I have made such examination of law and have examined the originals, or copies, certified or otherwise identified to my satisfaction, of the Agreement and any other agreements and instruments to be executed by PAWC in connection with the Agreement, and such other documents and records of PAWC, certificates of public officials and of officers of PAWC, and such other documents as I have deemed necessary or appropriate.

Based upon and subject to the foregoing, it is my opinion that as of the date hereof:

1. PAWC is a corporation duly organized and validly existing and in good standing under the laws of the Commonwealth of Pennsylvania.
2. PAWC has full power and lawful authority to execute and deliver, to perform its obligations under, and to consummate the transactions contemplated by the Agreement to which it is party, and to own, lease and operate the Assets and the Systems as contemplated by the Agreement.
3. The execution and delivery and performance by PAWC of the Agreement to which it is a party, and the consummation of the transaction contemplated thereby, have been duly authorized by all necessary action of such party and do not and will not contravene any provision of the organizational documents of PAWC.
4. Upon due execution and delivery by the parties thereto, the Agreement to which it is a party will be a legal obligation of PAWC, enforceable against

PAWC in accordance with its terms, except as such enforceability may be limited by applicable laws relating to bankruptcy, insolvency, fraudulent conveyance, reorganization or affecting creditors' rights generally.

5. All proceedings required to be taken by or on the part of PAWC to authorize the execution, delivery and performance of the Agreement and the consummation of the transactions thereby, have been duly and properly taken. The Agreement to which PAWC is a party has been duly and validly executed and delivered by appropriate officers of PAWC.

6. All consents, approvals, authorizations or orders of any court or governmental authority of the United States or of the Commonwealth of Pennsylvania required for the consummation by PAWC of the transactions contemplated by the Agreement have been obtained by PAWC, except for those consents, approvals, authorizations or orders required to be obtained by the Township, if any.

7. Neither the execution and delivery of the Agreement by PAWC nor the consummation of the transactions contemplated thereby will, to the best of my knowledge, conflict with, or result in a breach of, the terms, conditions or provisions or, constitute a default under, the terms of any agreement or instrument to which PAWC is a party or by which the Assets may be bound or affected. The execution, delivery and performance of, and compliance with, the Agreement by PAWC will not violate any provision of any law, rule, regulation, or to my knowledge, order, permit, certificate, writ, judgment, injunction, decree, determination, award or other decision of any court, arbitrator, or governmental authority by which PAWC is bound or to which it is subject.

8. I have no knowledge that (i) there are any actions, suits, investigations or proceedings pending against or threatened against or affecting PAWC, the Systems or any of the Assets before any court or arbitrator or authority which individually or in the aggregate, would have a Material Adverse Effect and (ii) there are currently any outstanding judgments, decrees, or orders of any court or authority against PAWC, which relates to or arise out of the ownership, condition or operation of the Systems or the Assets which individually or in the aggregate would have a Material Adverse Effect.

The opinions herein are given only with respect to the laws of the Commonwealth of Pennsylvania and the federal laws of the United States of America, as applicable, in each case as enacted and construed on the date hereof.

The foregoing opinions are solely for the use of the Township, have been expressed solely in connection with the transaction contemplated by the Agreement and are given for no other purpose and shall not be delivered to or relied upon by any other person or party except the Township.

Sincerely,

Velma A. Redmond

W:\AFPAWC\Schedule 4.2(g).doc

**EXHIBIT B**

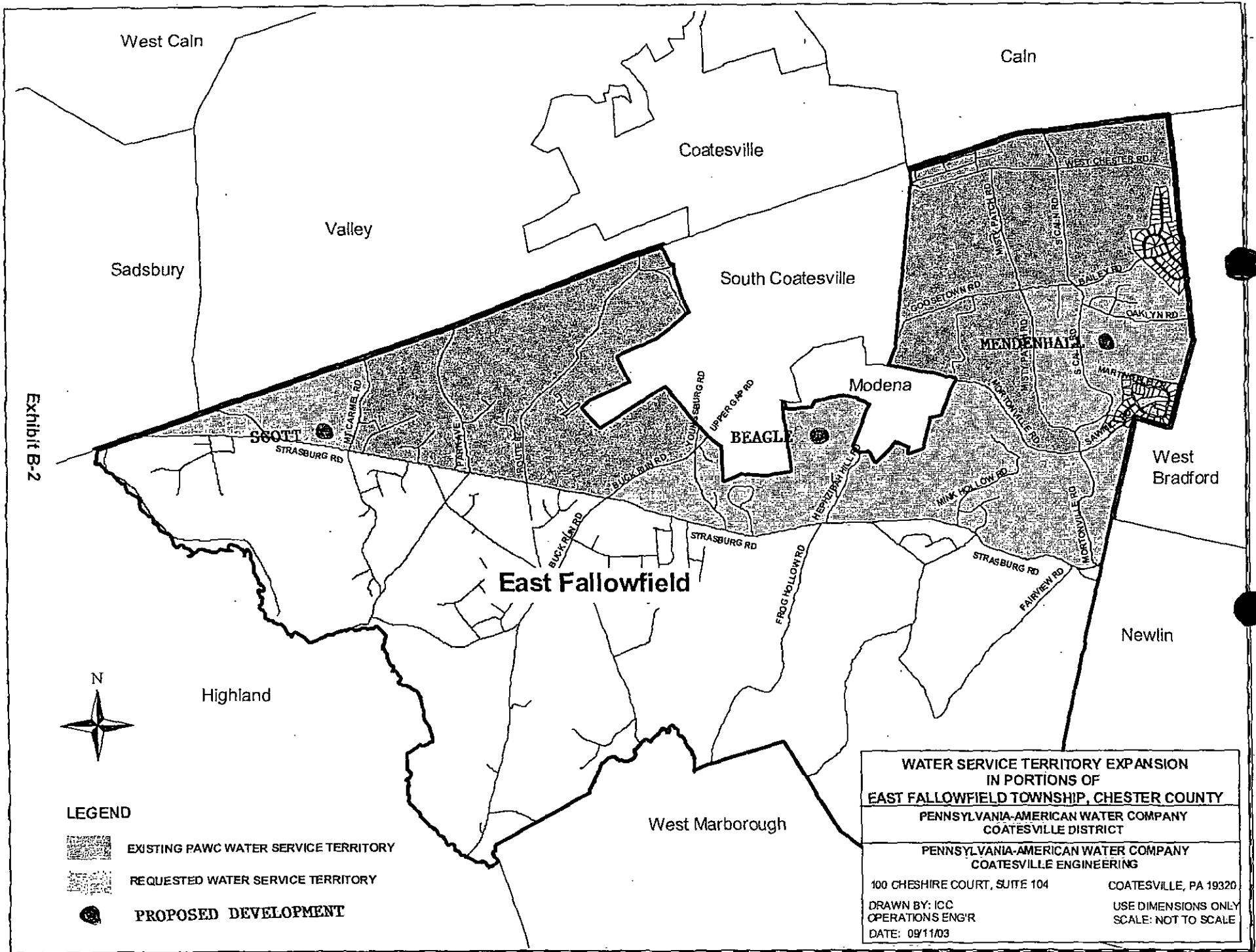


Exhibit B-2

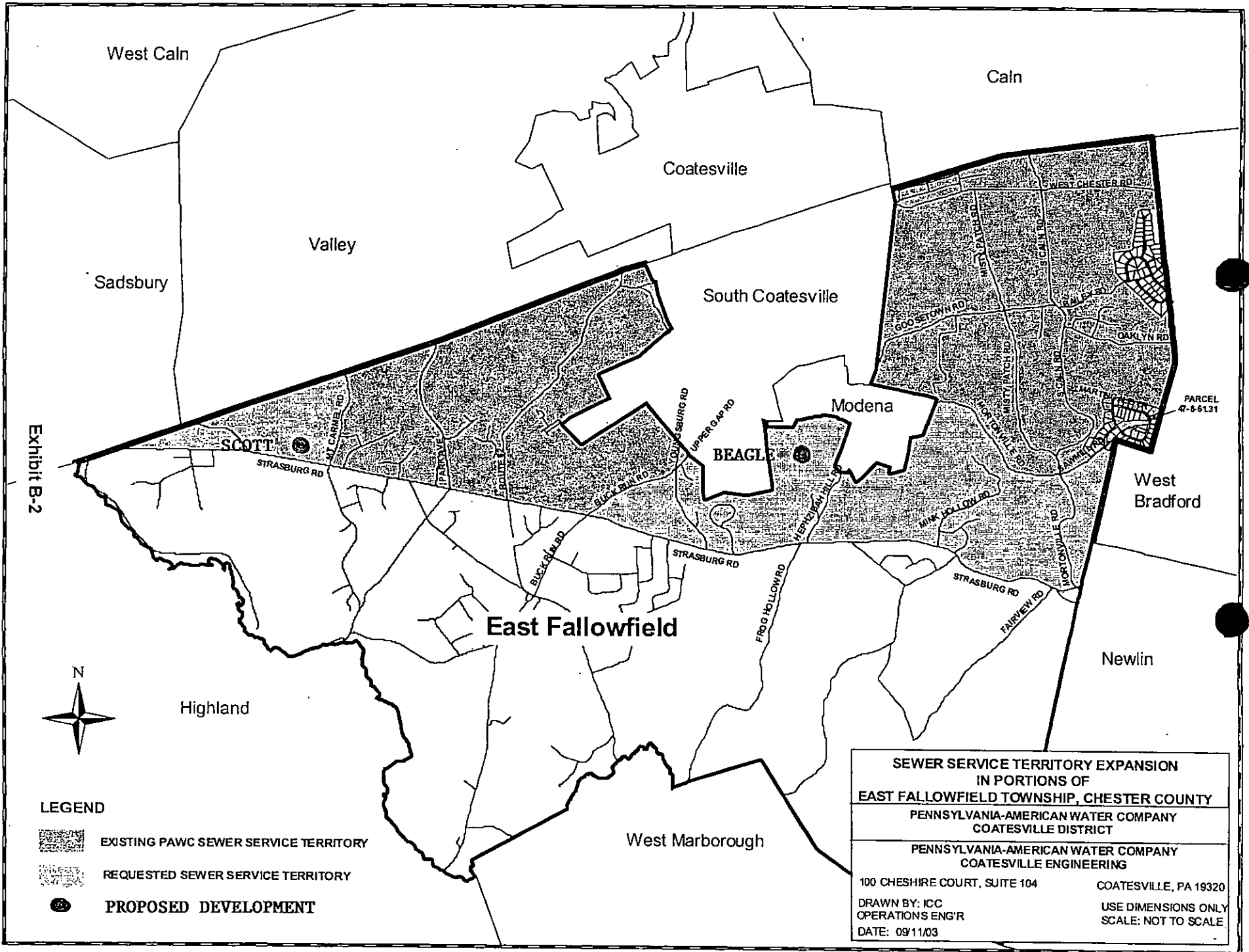


Exhibit B-2

PARCEL 47-6-6131

**EXHIBIT C**


PENNSYLVANIA-AMERICAN WATER COMPANY

I, V.A. REDMOND, Vice President and Secretary of Pennsylvania-American Water Company, a Pennsylvania corporation, (the "Company") DO HEREBY CERTIFY that below is a true and correct copy of a resolution duly adopted by the Board of Directors of the Company at a meeting thereof duly convened and held on October 31, 2003, at which meeting a quorum was present and acting throughout, and that such resolution has not been amended or rescinded and is still in full force and effect:

RESOLVED, that the actions of the officers of the Company in executing and delivering to officers of the Township of East Fallowfield a Water and Wastewater Service and Asset Purchase Agreement to purchase be, and hereby are, ratified and confirmed; and

RESOLVED, that the proper officers of the Company be, and hereby are, authorized and directed to execute and deliver any and all documents, make all filings and do any other thing which they may deem necessary, proper or desirable to effectuate the purposes of the foregoing resolutions.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of this Company this 18 day of November, 2003.

  
Vice President and Secretary

[SEAL]

**EXHIBIT D**

**EAST FALLOWFIELD TOWNSHIP  
2264 STRASBURG ROAD  
EAST FALLOWFIELD, PA 19320-4437  
PHONE (610) 384-7144, FAX (610) 384-7143**

**BOARD OF SUPERVISORS**

Robert A. Sparr, Chairman  
Denny Howell, Vice Chairman  
Earl E. Emel, Member

**SECRETARY**

Martha Frid  
**TREASURER**  
Mark K. Espie

September 30, 2003

Secretary James J. McNulty  
Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg PA 17105-3265

**RE: Additional Areas of Sewer and Water Service  
East Fallowfield Township**

Dear Mr. McNulty:

The Township of East Fallowfield, Chester County, supports the Pennsylvania American Water Company (PAWC) filing to provide sewer and water service limited to those additional areas of the Township set forth in the filing. The Township has received numerous complaints over the years concerning water well yields and septic systems. The availability of sewer and water service in the areas requested will enhance the health, safety and welfare for the residents of the Township.

In addition, a residential development known as the Mendenhall tract located near the intersection of South Caln Road and Oaklyn Road is under review by the Township. This subdivision, which is located within the proposed service territory of PAWC, will require public water service.

Very truly yours,

BOARD OF SUPERVISORS OF  
EAST FALLOWFIELD TOWNSHIP

*R. A. SPARR*

Robert Sparr, Chairperson

cc: Brian Hassinger, PAWC

**EXHIBIT E**

83500  
GL024BSY  
024BSG

American Water Works Company  
Pennsylvania American Water-Co 24  
Total Company (USGAAP)  
Comparative Balance Sheet  
As of October 24, 2003

10/28/03  
11:08:46

Pennsylvania-American Water Co

Description	Current Year
<b>ASSETS</b>	
1 Utility Plant	2,018,956,543
2 Construction work in progress	55,448,028
3 Accumulated depreciation	398,988,106
4 Utility plant acquisition adjustment	17,175,873
5 Other utility plant adjustments	
6 Sub-total Utility Plant	1,692,592,338
7 Non-Utility property	613,130
8 Other investments	40,490,519
<b>Current Assets</b>	
10 Cash and cash equivalents	4,576,231
11 Temporary investments	
12 Customer accounts receivable	40,212,893
13 Allowance for uncollectible accounts	1,801,775
14 Unbilled revenues	19,389,787
15 FIT refund due from assoc. companies	2,319,920
16 Miscellaneous receivables	2,117,618
17 Materials and supplies	3,483,388
19 Other	8,185,364
20 Sub-total	76,483,426
22 Deferred debits	
23 Debt and preferred stock	14,064,792
24 Expense of rate proceeding	831,328
25 Prelim survey & invest charges	8,197,959
26 Reg Asset-income tax recovery	104,982,483
27 Other	47,150,224
29 Sub-total	175,226,786
30 Total Assets	1,985,406,199
<b>CAPITAL AND LIABILITIES</b>	
33 Common Stock	21,506,887
34 Paid in capital	427,982,393
35 Retained Earnings	212,525,289
36 Unearned Compensation	
37 Reacquired C/S & Accum Comp Inc	
38 Total common equity	662,014,569
39 Preferred stock	15,186,900
40 Long term debt	782,413,058
41 Total capitalization	1,459,614,527
42 Current liabilities	
43 Bank debt	59,078,439
44 Current portion of LTD	7,792,129
45 Accounts Payable	5,369,167
46 Taxes accrued	16,657,272
47 Interest accrued	15,868,009
48 Customer deposits	
49 Dividends declared	
51 Other	17,364,028
52 Sub-total	122,129,044
54 Deferred credits	
55 Customer adv. for construction	64,989,484
56 Deferred income taxes	236,312,976
57 Deferred investment tax credits	8,214,608
58 Reg.liab-inc.tax.refund thru rates	7,846,285
59 Other	23,685,436
60 Sub-total	341,048,789
62 Contributions in aid of construction	62,613,839
Total capital and liabilities	1,985,406,199

**EXHIBIT F**

American Water Works Company  
American Water Co.  
Statement of Income with Analysis  
Utility Subsidiary Level - Sum  
For the Period Ending October 24, 2003

83500  
GL024USR  
024TCGAAP

Pennsylvania-American Water Co

Description	October Actual
1 OPERATING REVENUES	
2 Water	26,449,342
3 Sewer	358,812
4 Other	525,589
6 Total Revenues	27,333,743
7 OPERATIONS & MAINTENANCE EXPENSE	
8 Labor	3,308,846
9 Purchased Water	193,834
10 Fuel & Power	829,437
11 Chemicals	358,949
12 Waste Disposal	187,847
13 Management Fees	1,517,534
14 Group Insurance	952,064
15 Pensions	252,781
16 Regulatory Expense	48,103
17 Insurance Other Than Group	796,129
18 Customer Accounting	870,413
19 Rents	150,678
20 General Office Expense	263,698
21 Miscellaneous	1,694,923
25 Other Maintenance	775,185
Total Maintenance & Operations Expense	12,200,421
27 Depreciation	4,336,168
28 Amortization	88,054
29 General Taxes	1,100,389
30 State Income Taxes	485,314
31 Federal Income Taxes	1,910,672
33 Total Operating Expenses	20,121,018
34 Utility Operating Income	7,212,725
35 OTHER INCOME & DEDUCTIONS	
39 Interest Income	5,290
40 AFUDC Equity	
41	
42 M & J Miscellaneous Income	15,964
45 Total Other Income	10,674
46 Miscellaneous Amortization	98,339
48 Misc. Other Deductions	6,200
49 General Taxes	6,652
52 Total Other Deductions	111,191
53 Total Other Income	121,865
54 Income Before Interest Charges	7,090,860
56 Interest on Long-Term Debt	3,755,791
57 Amortization and Debt Expense	66,714
58 Interest-Short Term Bank Debt	61,060
59 Other Interest Expense	
60 AFUDC-Debt	19,574
61 Total Interest Charges	3,863,991
62 Net Income	3,226,869
64 Preferred Dividend Declared	104,039
65 Net Income to Common Stock	3,122,830

**EXHIBIT G**

SCHEDULE OF RATES APPLICABLE TO RATE ZONE 1  
FOR ALL RATE CLASSES EXCEPT INDUSTRIAL

METER RATES

All water supplied by the Company for any and all purposes, except Industrial, Qualified Private Fire Hydrants and Public Fire Hydrants, shall be metered as hereinafter set forth. All meters shall be read monthly or bimonthly and the water used shall be paid for in accordance with the following schedule of rates.

Service Charges

For All Rate Classes Except Industrial

All metered customers shall be subject to a monthly or bimonthly service charge, based on the size of meter required to render adequate service. (I)

<u>Size of Meter</u>	<u>Service Charge Per Month Except Other Water Utilities</u>	<u>Service Charge Per Month Other Water Utilities</u>
5/8 inch	\$ 10.50	\$ 12.70
3/4 inch	15.80	19.00
1 inch	26.30	32.00
1-1/2inch	43.10	64.00
2 inch	68.90	102.00
3 inch	129.00	191.00
4 inch	162.00	318.00
6 inch	242.00	635.00
8 inch	468.00	1,016.00
10 inch	678.00	1,461.00
12 inch	1,061.00	2,286.00

Consumption Charges For all Rate Classes Except Industrial

The following rates shall apply per 100 gallons.

(I)

	<u>FIRST 16,000/MONTH</u>	<u>NEXT 584,000/MONTH</u>	<u>ALL IN EXCESS OF 600,000/MONTH</u>
Residential	.5277	.5277	.5277
Commercial	.5277	.3945	.3945
Municipal	.5277	.4210	.4210
Other Water Utilities Group A	.3920	.3920	.3920
Other Water Utilities Group B	1.0000	1.000	1.0000

SCHEDULE OF RATES APPLICABLE TO RATE ZONE 1  
FOR INDUSTRIAL RATE CLASS

METER RATES

All water supplied by the Company for Industrial purposes shall be metered as hereinafter set forth. All meters shall be read monthly or bimonthly and the water used shall be paid for in accordance with the following schedule of rates.

Service Charges  
For Industrial Rate Class

All metered customers shall be subject to a monthly or bimonthly service charge, based on the size of meter required to render adequate service. (I)

<u>Size of Meter</u>		<u>Per Month</u>
5/8	inch	\$ 15.70
3/4	inch	23.60
1	inch	39.30
1-1/2	inch	78.50
2	inch	125.60
3	inch	236.00
4	inch	393.00
6	inch	785.00
8	inch	1,256.00
10	inch	1,806.00
12	inch	2,826.00

Consumption Charges For Industrial Rate Class (I)

The following rates shall apply per 100 gallons per month.

<u>Industrial</u>		<u>Industrial Curtailment*</u>	
First 16,000	.5277	First 16,000	.5277
Next 584,000	.3640	Next 584,000	.3640
All in Excess		Next 14,400,000	.3213
of 600,000	.3213	All In Excess	
		Of 15,000,000	.2400

- Subject to the availability criteria and terms and conditions of the industrial curtailment rate (pages 9A1 and 9A2, hereof), the foregoing rates shall apply per 100 gallons per month for service provided under the Industrial Curtailment Rate.

**EXHIBIT H**

SCHEDULE OF RATES

GRAVITY AND PRESSURE SYSTEMS

Application

This schedule is available to all customers.

Charges:

<u>Type:</u>	<u>Per Month</u>
Residential Usage	\$51.00 (I)
Commercial Usage	\$92.50 (I)
Property Owners Association Usage	\$77.75 (I)
Availability	\$13.75 (I)

Definition:

The term usage shall be deemed to mean any building connected to the sewage collection system and containing any one or more of the following fixtures: wash stand, flush toilet, bathtub, shower, or kitchen.

The term availability shall be deemed to mean a lot upon which no structure has been erected, or upon which a currently unoccupied structure has been erected.

Terms of Payment:

Charges for customers will be billed and payable monthly, in arrears..

**EXHIBIT I**

**Estimated Annual Revenue and Expense  
in Application Territory**

Estimated Annual Revenue - Water Service

363 residential customers	363 x \$486.50	\$ 176,599.50
35 public fire hydrants	35 x \$121.46	\$ 4,251.10
Total		\$ 180,850.60

Estimated Annual Expenses - Water Service

363 residential customers	363 x \$200.00	\$ 72,600.00
35 public fire hydrants	35 x \$2.00	\$ 70.00
Total		\$ 72,670.00
Net		\$ 108,180.60

Estimated Annual Revenue - Wastewater Service

289 residential customers	289 x \$51.00	\$ 14,739.00
---------------------------	---------------	--------------

Estimated Annual Expenses - Wastewater Service

289 residential customers	289 x \$12.50	\$ 3,612.50
Net		\$ 11,126.50

\* In addition to the customers to be served in the new water and wastewater territories, the main extension projects will also serve additional customers in PAWC's existing service area:

**WATER**

Strasburg Road -approximately 25 customers  
Hydrants- 9

**WASTEWATER**

Cardinal Drive Area -85 customers



LAW OFFICES  
RYAN, RUSSELL, OGDEN & SELTZER LLP

SUITE 330  
1105 BERKSHIRE BOULEVARD  
WYOMISSING, PENNSYLVANIA 19610-1222

TELEPHONE: (610) 372-4761  
FACSIMILE: (610) 372-4177  
WWW.RYANRUSSELL.COM

HARRISBURG OFFICE  
SUITE 101  
800 NORTH THIRD STREET  
HARRISBURG, PENNSYLVANIA  
17102-2025  
TELEPHONE: (717) 236-7714  
FACSIMILE: (717) 236-7816

December 2, 2003

VIA FACSIMILE

Doreen Trout  
Secretary's Bureau  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, Pennsylvania 17105-3265  
Fax No. (717) 783-9526

A. 230073 F0008

Re: In Re Application of Pennsylvania-American Water Company for Approval of (1) the Transfer, by Sale of Public Water System Within the Township of East Fallowfield, Chester County, Pennsylvania; (2) Transfer of the Wastewater System of the Township of East Fallowfield, Chester County, Pennsylvania to Pennsylvania-American Water Company; (3) the Right of /Pennsylvania-American Water Company to Begin to Offer and Furnish Water and Wastewater Service to the Public in Additional Areas of East Fallowfield, Chester County, Pennsylvania; and (4) the Water and Wastewater Service and Asset Purchase Agreement between the Township of East Fallowfield, Chester County, Pennsylvania and Pennsylvania-American Water Company  
Application No.

Dear Ms. Trout:

As per our telephone conversation today, please add the solicitor for East Fallowfield Township to the Commission's service list in the above-referenced matter. His contact information is as follows:

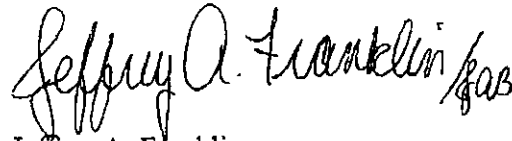
Vincent M. Pompo, Esquire  
Lamb, Windle & McErlane P.C.  
24 East Market Street  
P.O. Box 565  
West Chester, PA 19381-0565  
Telephone No. (610) 692-3322  
Fax No. (610) 696-6668  
E-mail: VPompo@chescolaw.com

DOCUMENT  
FOLDER

Please contact me with any questions.

Very truly yours,

RYAN, RUSSELL, OGDEN & SELTZER LLP

A handwritten signature in cursive script that reads "Jeffrey A. Franklin" followed by a small flourish.

Jeffrey A. Franklin

JAF:jab

c: Vincent M. Pompo, Esquire

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P. O. BOX 3265, HARRISBURG PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE  
Secretary  
717-772-7777

December 3, 2003

A-212285F0115; U-00035002  
A-230073F0008; U-00035003

Jeffrey A. Franklin, Esquire  
Carl J. Engleman, Jr., Esquire  
Ryan, Russell, Ogden and Seltzer, LLP  
1105 Berkshire Blvd, Suite 330  
Wyomissing, PA 19610-1222

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Dear Mr. Engleman:

Receipt is acknowledged of the Application of Pennsylvania-American Water Company for approval of the transfer by sale of the water and wastewater system assets of East Fallowfield Township, to Pa American Water, the right of Pa American Water to begin to provide water/wastewater service to the public in additional areas of East Fallowfield Township, Chester County, PA, and for the water and wastewater service and asset purchase agreement between Pa American Water and East Fallowfield Township, which has been captioned and docketed to the above numbers.

It will be necessary for you to serve copies of the Application upon the following parties, then file proof of such service with this Commission, pursuant to 52 Pa. Code, §1.57 and 1.58:

Each city, borough, town, township, county and related planning office which is included, in whole or in part, in the proposed service area;

A water or wastewater utility, municipal corporation or authority which provides water or wastewater collection, treatment and disposal service to the public and whose service area abuts the service area proposed in the application;

The Office of Consumer Advocate, the Office of Small Business Advocate, and the Department of Environmental Protection's appropriate regional office.

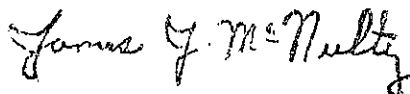
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DEC 03 2003

You are directed upon receipt of this letter to publish the enclosed notice once a week for two consecutive weeks in a newspaper having a general circulation in the area involved and file proof of publication with the Commission on or before December 29, 2003.

This matter will receive the attention of the Commission and you will be advised of any further necessary procedure.

Sincerely,

A handwritten signature in cursive script that reads "James J. McNulty".

James J. McNulty  
Secretary

JJM:ddt

Enclosure

cc: Velma A. Redmond, Esquire  
Vincent M. Pompo, Esquire

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
NOTICE TO BE PUBLISHED**

Application of Pennsylvania American Water Company for approval of: 1) the transfer, by sale, of Public Water System within the Township of East Fallowfield, Chester County, PA; 2) the transfer of the Wastewater System of the Township of East Fallowfield, Chester County, PA, to Pennsylvania American Water Company; and 3) the right of Pennsylvania-American Water Company to begin to offer and furnish water and wastewater service to the public in additional areas of East Fallowfield, Chester County, PA. Docket Numbers: A-212285 F0115; A-230073F0008.

Formal protests and petitions to intervene must be filed in accordance with Title 52 of the Pennsylvania Code. All filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the Applicant, on or before December 29, 2003. The documents filed in support of the Application are available for inspection and copying at the Office of the Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and at the Applicant's business address.

Applicant:

Pennsylvania-American Water Company  
East Fallowfield Township

Through and By Counsel:

Jeffrey A. Franklin, Esquire  
Carl J. Engleman, Jr., Esquire  
Ryan, Russell, Ogden and Seltzer, LLP  
1105 Berkshire Boulevard, Suite 330  
Wyomissing, PA 19610-1222

AND

Velma A. Redmond, Esquire  
800 West Hershey Park Drive  
P. O. Box 888  
Hershey, PA 17033-0888

**DOCKETED**

DEC 03 2003

**DOCUMENT  
FOLDER**

RECEIVED  
LEGISLATIVE REFERENCE  
BUREAU  
03 DEC -3 PM 2:01  
PA. CODE & BULLETIN

BY THE COMMISSION

*James J. McNulty*  
James J. McNulty  
Secretary

DATE: December 3, 2003

SUBJECT: A-212285 F0115; U-00035002;  
A-230073 F0008; U-00035003

TO: Bureau of Fixed Utility Services

FROM: James J. McNulty, Secretary *jjm*

DOCUMENT  
FOLDER

**Application of Pennsylvania American Water Company**

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We attach hereto a copy of the Application of Pennsylvania American Water Company for approval of the transfer by sale of public water and wastewater system within the Township of East Fallowfield, Chester County, PA to Pa American Water Company, the right of Pa American to supply water and wastewater service to the public in additional areas of East Fallowfield, and for the water and wastewater service and asset purchase agreement between the Township of East Fallowfield and Pa American Water Company, which has been captioned and docketed to the above numbers.

Applicant has been instructed to serve copies of the application upon each city, borough, town, township, county and related planning office which is included, in whole or in part, in the proposed service area; a water or wastewater utility, municipal corporation or authority which provides water or wastewater collection, treatment and disposal service to the public and whose service area abuts the service area proposed in the application; and on the Office of Consumer Advocate, the Office of Small Business Advocate, and the Department of Environmental Protection's appropriate regional office.

Applicant has been instructed to publish in a newspaper.

If no protests are received by December 29, 2003, will your Bureau please prepare a report for the attention of the Commission or instruct the Secretary's Bureau to re-assign this matter to the Office of Administrative Law Judge for hearing.

Attachment

cc: Law Bureau

ddt

DOCKETED

DEC 03 2003