

AMENDED APPENDIX A-22-B

EAST BUTLER TOWNSHIP ACT 537 PLAN

RESOLUTION FOR PLAN REVISION

RESOLUTION OF THE COUNCIL OF EAST BUTLER BOROUGH, BUTLER COUNTY, PENNSYLVANIA (hereinafter "the municipality").

WHEREAS, Section 5 of the Act of January 24, 1966, P.L. 1535, No. 537, known as the "Pennsylvania Sewage Facilities Act," as amended, and the Rules and Regulations of the Department of Environmental Protection (Department) adopted thereunder, Chapter 71 of Title 25 of the **Pennsylvania Code**, requires the municipality to adopt an Official Sewage Facilities Plan providing for sewage services adequate to prevent contamination of waters and/or environmental health hazards with sewage wastes, and to revise said plan whenever it is necessary to meet the sewage disposal needs of the municipality, and

WHEREAS, Olsen Engineering has prepared a Revised Sewage Plan which provides for sewage facilities in a portion of East Butler Borough, and

WHEREAS, East Butler Borough finds that the Facility Plan described above conforms to applicable zoning, subdivision, other municipal ordinances and plans and to a comprehensive program of pollution control and water quality management.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of East Butler hereby adopt and submit to the Department of Environmental Protection for its approval as a revision to the "Official Plan" of the municipality, the above referenced Facility Plan. The municipality hereby assures the Department of the complete and timely implementation of the said plan as required by law. (Section 5, Pennsylvania Sewage Facilities Act as amended).

I, Lois Fennell, Secretary, East Butler Borough Council hereby certify that the foregoing is a true copy of the Township's Resolution No. 2007-3B, adopted August 6, 2007.

AUTHORIZED SIGNATURE

BOROUGH SEAL

Lois J. Fennell

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AUG 13 2007
BASA



OLSEN & ASSOCIATES, LLC

126 South Main Street, Butler, PA 16001
(724) 282-4786 • (724) 282-7619 FAX

August 7, 2007

Compliance and Monitoring Manager
Water Management
Department of Environmental Protection
230 Chestnut Street
Meadville, PA 16335-3481

REF: EAST BUTLER BOROUGH, BUTLER COUNTY, PA
Act 537 Official Plan Revision: SPECIAL SEWAGE STUDY

) Compliance and Monitoring Manager:

In a letter from the Pennsylvania Department of Environmental Protection dated May 11, 2007, East Butler Borough was requested to provide additional information for the Department to complete its review of the Borough's document titled "Act 537 Official Plan Revision: SPECIAL SEWAGE STUDY for East Butler Borough". The documents enclosed, submitted on behalf of East Butler Borough by Olsen & Associates, LLC, are in response to the Department's request.

Specifically, in response to item #1 of the Department's request, the Borough's Solicitor has refined the "Resolution for Plan Revision" to comply with the Department's typical Adoption Resolution. The Borough made a motion on August 6th, 2007 to approve the (amended) Adoption Resolution, and subsequently signed and sealed the document. The

-  ENGINEERS
-  COMMUNITY PLANNERS
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original signed and sealed document is enclosed, as is an additional copy for the Department's records.

In response to item #2 of the Department's letter, requesting an estimate of "available EDU" due to the downsizing of industry in the Borough, portions of the SPECIAL STUDY have been revised or amended where necessary, and a new appendix has been added with the calculations in formulating historical and current EDU totals.

In response to item #3 of the Department's letter, portions of the SPECIAL STUDY have been revised or amended where necessary to assign EDU to existing structures in the Borough that are not presently connected into BASA's sewerage system which, if determined to be in "needs areas", could be connected at some future time.

As suggested by the Department in a meeting on May 30, 2007, to save on costs, only those portions of the study which have been amended have been included with this submission. Please amend the Department's two copies of East Butler Borough's SPECIAL STUDY as follows:

1. Replace the front cover. A revision date has been added.
2. Add the Resolution of Adoption to the study, addressing item #1 in the Department's May 11, 2007 letter. This should be the first document inside the SPECIAL STUDY.
3. Replace the inside title page. A revision date has been added.
4. Replace the Table of Contents. (Three new appendices have been added; Appendix L through M.)
5. Replace page 1 of the SPECIAL STUDY. Additional clarifying information regarding the EDU Estimates and the potential growth estimates has been added.
6. Replace the map titled "Zoning Districts" on page 2 of the report. An Industrially-zoned parcel was incorrectly labeled as Residential.

7. Remove pages 21 through 26 from the March 2007 SPECIAL STUDY submission. Replace with new pages 21 through 31. The following changes have been made in those pages:
- a. The order in which some of the text and graphics has been presented has changed. Specifically, the population and demographic data has been moved forward for clarity.
 - b. On page 23, the following text has been added to the 1st sentence for clarity: "--SPC's projections seem somewhat high".
 - c. On page 23, the following text has been added in the last sentence for clarity: "as being possibly too high".
 - d. On page 23, the following sentence has been deleted: "This slight discrepancy... serving East Butler Borough".
 - e. On page 24, in the 1st paragraph, the 3rd and 4th sentences have been added for clarity: "This area is currently zoned Industrial; EDU calculations which follow will assume a future change in zoning to Residential. *[Note: No such zoning change is presently pending or known to be planned at this time.]*"
 - f. On page 24 and elsewhere in this report, the spelling of a resident in East Butler Borough has been corrected to "Kovalchick".
 - g. The second paragraph on page 24 beginning "Estimated EDU counts..." has been added to address item #2 in the Department's May 11, 2007 letter.
 - h. The chart on page 24 "Projected EDU's if Vacant Land is Fully Developed" has been added to address item #2 in the Department's May 11, 2007 letter.
 - i. The map on page 25 "Future Development Areas" has been added to address item #2 in the Department's May 11, 2007 letter.
 - j. The first paragraph on page 26 beginning "In determining a real-world estimate..." has been added to address item #2 in the Department's May 11, 2007 letter.

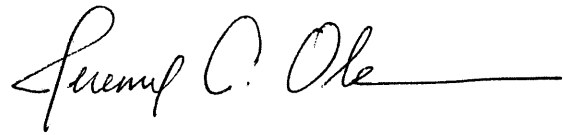
- k. On page 26, the text “BASA has noted that” has been added for clarity to the first sentence of the second paragraph. Later in the same paragraph, the last sentence has been modified to include the word “present” in the sentence: “Since there are no existing customers that could be served in these areas, there is no **present** need for public sewers.”
 - l. The text beginning with the third paragraph on page 26 (beginning “As the PaDEP has noted...”) and ending with the last sentence on page 27 (ending “...currently unsewered potential customers”) has been added to address item #3 in the Department’s May 11, 2007 letter.
 - m. The chart at the bottom of page 27, “Currently Unsewered Potential Customers”, has been added to address item #3 in the Department’s May 11, 2007 letter.
 - n. The map on page 28, “2006 Orthophotographs”, has been added to address item #3 in the Department’s May 11, 2007 letter.
 - o. The third, fourth and fifth paragraphs on page 25 of the March 2007 submission of the SPECIAL STUDY beginning with “There are continued efforts...” and ending with “...restore this lost industrial base” have been removed for the current August 2007 submission.
 - p. The last paragraph of page 29 (continuing onto page 30) beginning with “In summary...” has been added for clarity.
 - q. The section titled “EDU Calculation and Potential Growth Estimate Qualification” on pages 30 – 31 has been added to the report for clarity.
8. Add the documents relating to the amended 6/26/2007 Task Activity Report to the **SPECIAL STUDY Appendix D: Approved Task Activity Report**. These include the Department’s approval letter dated July 3, 2007 and East Butler Borough’s signed Task Activity Report dated 6/26/2007.
9. Add **Appendix L: DEP Comments to FINAL SPECIAL SEWAGE STUDY** to the SPECIAL STUDY.
10. Add **Appendix M: EDU Analysis for Developable Land** to the SPECIAL STUDY.

**11. Add Appendix N: Comparison of Historical and Current Industrial Sewage
Flow to the SPECIAL STUDY.**

Please do not hesitate to contact this office should you require anything further.

Sincerely,

Olsen & Associates, LLC

A handwritten signature in black ink, appearing to read "Jeremy C. Olsen", followed by a horizontal line extending to the right.

Jeremy C. Olsen

Project Manager

Enclosures

cc: East Butler Borough
Butler Area Sewer Authority
Gwilym Price
Butler County Planning Commission
Tomisa Schneider

200666A



Pennsylvania Department of Environmental Protection

230 Chestnut Street
 Meadville, PA 16335-3481
 August 17, 2007

Northwest Regional Office

814-332-6942

Fax: 814-332-6121

Ms. Lois J. Fennell
 Secretary
 East Butler Borough
 P.O. Box 87
 East Butler, PA 16029

Re: **Act 537 Official Plan Revision:**
 Special Sewage Study
 East Butler Borough, Butler County

Dear Ms. Fennell:

The Department of Environmental Protection hereby **approves** the document entitled "Act 537 Official Plan Revision: Special Sewage Study." The Special Study is dated March 2007 with revisions submitted in August 2007, and was prepared by Olsen & Associates, LLC, on behalf of East Butler Borough. The Special Study was prepared to assist the Butler Area Sewer Authority (BASA) estimate the future sewage needs of all the tributary municipalities. BASA has been tasked with preparation of a plan to eliminate wet weather overflows as well as assuring adequate capacity for future growth in surrounding communities.

The cost to prepare this special study was estimated at \$8,647.50 in the Task and Activity Report. Section 6 of the Pennsylvania Sewage Facilities Act provides for reimbursement to municipalities for the cost of preparing an Official Sewage Plan Update Revision, including Special Studies. This grant is limited to 50 percent of the eligible planning costs. With the approval of this Special Study, East Butler Borough may apply for the grant. Payment is subject to adequate state budget appropriations for the Act 537 Program. An application for this planning assistance is enclosed for your use.

If you should have any questions on this matter, please contact Cynthia Selby in this office at 814-332-6942.

Sincerely,

Ricardo F. Gilson
 Regional Manager
 Water Management

Enclosure

cc: Jeremy Olsen
 John Schon, P.E.
 David Johnston
 Tomisa Schneider
 Michael Zimmerman/Cynthia Selby
 File

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 AUG 24 2007
 BASA

RFG:CAS:jc:ll



Amended Appendix A--22-b
BUTLER AREA SEWER AUTHORITY

100 LITMAN ROAD • BUTLER, PA 16001-3256
(724) 282-1978 • FAX(724) 282-7656

JOHN M. HEIM
CHAIRMAN

WILLIAM M. HULTON, JR.
VICE CHAIRMAN

GERALD S. PATTERSON, JR.
SECRETARY

JOHN E. EVANS
TREASURER

GEORGE E. SHOCKEY
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MANAGER

PHILIP A. BRUNN, III
ASSISTANT MANAGER

JAMES W. TOMAZICH, P.E.
AUTHORITY ENGINEER

CHESTER ENGINEERS
CONSULTING ENGINEERS

DILLON MC CANDLESS KING
COULTER & GRAHAM L.L.P.
SOLICITOR

COPY

September 7, 2007

Mr. R. Richard Day, Mayor
East Butler Borough
P.O. Box 87
East Butler, PA 16029

Dear Mr. Day:

**RE: SUBMITTAL OF DEP-APPROVED
OFFICIAL PLAN REVISION SPECIAL STUDY**

On August 17, 2007, the Department of Environmental Protection (DEP) issued a letter to East Butler Borough approving the "Act 537 Official Plan Revision: Special Sewage Study", dated March 2007 with revisions dated August 2007, which was prepared by Olsen & Associates, LLC. The Authority received a draft copy of the Special Study dated November 2006. However, the Authority has not received the "Act 537 Official Plan Revision: Special Sewage Study", dated March 2007 with revisions dated August 2007.

Under Paragraph 3(a)(iv) on Page 9 of 32 of the DEP Consent Order and Agreement (CO&A) dated October 13, 2006, East Butler Borough was required to submit a complete copy of the approved Official Plan Revision Special Study to the Authority upon receipt of written notification that the DEP has approved the Official Plan Revision Special Study. To date, the Authority has not received a complete copy of the DEP-approved Official Plan Revision Special Study for East Butler Borough.

Please submit a complete copy of the DEP-approved "Act 537 Official Plan Revision: Special Sewage Study", dated March 2007 with revisions dated August 2007 as soon as possible. Failure to comply with the requirements of the CO&A in a timely manner may jeopardize the compliance status of the Tributary Municipalities and the Authority's ability to meet its deadlines under the CO&A and DEP approval of any additional sewer permit connections under the CO&A.

If you should have any questions, please call me at (724) 282-1978.

Very truly yours,

BUTLER AREA SEWER AUTHORITY

M. John Schon
M. John Schon, P. E.
Manager

cc: Compliance & Monitoring Manager, PA DEP Meadville
Lois J. Fennel, Borough Secretary
Jeremy Olsen, Olsen & Associates, LLC

Amended Appendix A--22-b

OLSEN & ASSOCIATES, LLC
ENGINEERS • COMMUNITY PLANNERS • SURVEYORS • LANDSCAPE ARCHITECTS • GRANTS WRITERS / ADMINISTRATORS
126 SOUTH MAIN STREET
BUTLER, PENNSYLVANIA 16001

(724) 282-4786

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SEP 18 2007

BASA

TRANSMITTAL MEMORANDUM

TO: Mr. M. John Schon, P.E.
Butler Area Sewer Authority
100 Litman Road
Butler, PA 16001-3256

DATE: 18-Sep-07
RE: SUBMITTAL OF DEP-APPROVED
OFFICIAL PLAN REVISION
SPECIAL STUDY

ENCLOSED, PLEASE FIND THE FOLLOWING:

- | | |
|---|--|
| <input type="checkbox"/> PRINTS | <input checked="" type="checkbox"/> REPORT |
| <input type="checkbox"/> CORRESPONDENCE | <input type="checkbox"/> DISKETTE |
| <input type="checkbox"/> DRAWINGS | <input type="checkbox"/> OTHER |

COPIES	DATE	DRAWING #	DESCRIPTION
1	August 2007	200666A	East Butler Borough 2007 Act 537 Official Plan revision: Special Sewage Study. March 2007; revised August 2007

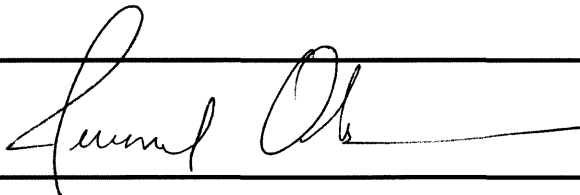
THESE ARE:

- | | |
|--|---|
| <input type="checkbox"/> FOR REVIEW AND COMMENT | <input type="checkbox"/> FOR APPROVAL |
| <input checked="" type="checkbox"/> AS REQUESTED | <input type="checkbox"/> FOR YOUR FILES |

REMARKS:

Enclosed is the DEP-Approved East Butler Borough Special Sewage Study, as requested by BASA on 7-Sep-2007.

SIGNED:



CC: East Butler Borough

Dan Slomers

From: Dan Slomers [dslomers@basapa.org]
Sent: Friday, December 07, 2007 12:06 PM
To: John Schon; Jim Tomazich
Cc: 'James R. Bowser'; 'Michael McKee'; 'John M. Maslanik'
Subject: BASA - Act 537 Studies

John and Jim,

As requested, I have clarified the status of all Act 537 Plans with Tomisa at DEP.

Recall that there was confusion as to whether or not the plans that our in our office are indeed the latest plans approved by the DEP.

There, Tomisa of DEP called me and we essentially went over each plan, pretty much page by page to verify if we had the latest revisions or not.

Here is what we determined.....

Butler City – The book that we have in the office has all of the latest revisions (June 18, 2007 on the cover sheet, received September 14, 2007)

Pages 1-7 were revised 6/18/07 which we do have in our booklet

Appendix E was updated which we do have in our booklet.

Butler Township – The book that we in the office has all of the latest revisions (February, 2007 on the cover sheet, received September 12, 2007)

The June 7 revisions that the DEP asked for were minor in nature and have been received by DEP and is in our current booklet.

Appendix D was revised to modify Cedarwood's sewage flows which we now have in our booklet.

Page 13 was updated which we now have in our booklet.

We were missing the updated Butler Township Resolution 07-12. Tomisa faxed me the Resolution and I have included it in our booklet.

Center Township – The book that we in the office has all of the latest revisions (Sept. 2007 on the cover sheet, received November 7, 2007).

Connoquenessing Township – The book that we in the office has all of the latest revisions (October 16, 2007 on the cover sheet, received November 13, 2007).

East Butler Borough – The book that we in the office has all of the latest revisions (August 2007 on the cover sheet, received September 18, 2007).

Many, many pages were updated.

Tomisa and I went over each page and verified that the report that we have in our office indeed is the latest revision.

Summit Township – The book that we in the office has all of the latest revisions (June 11, 2007 on the cover sheet, received September 14, 2007).

There were several changes.

We verified that pages 1 through 7 were revised June 11, 2007, which we do have in our booklet.

We verified that Appendix D was updated, which we do have in our booklet.

Appendix 1 (BASA ACT 537 SPECIAL STUDY map) has a different "save date" plotted in the upper left corner of the map. DEP has a save date of 7-2 and we have a save date of 9/12. I contacted Brian Flaugh of Gateway Engineers to discuss the matter. He will get back to me but he believes that the plans were merely plotted on different dates and that there is no difference between DEP's map and our map, even though the save date is different.

Appendix 1 (BASA EXISTING SANITARY SEWERS, map). DEP has an additional map that we do not have in our plan. Gateway plotted a separate map plotting only our existing sanitary sewers on it to aid in clarity. I contact Brian Flaugh of Gateway Engineers to discuss the matter. He is mailing me an extra copy to be inserted

into the Appendix 1 jacket which houses the BASA ACT 537 SPECIAL STUDY map that we already have.

Oalkand Township - We could not compare these plans as Chester Engineers currently has it in their office as we speak. However, Tomisa pointed out that Cindy reviewed the Oakland plan dated November, 2007 and apparently approved it with no changes being required.

Mike M, John M. and Jim B., I will give a copy of the Butler Township resolution 07-12 to Jim Bowser at the 12/11 Board meeting. Hopefully, I will also have Gateway's map by then also for Summit Township to give to Jim B. for his to copy and return to us.

John S. and Jim. T. I will place all DEP approved studies in the Central File for any one to find if they need to.

Please contact me if you have any questions.

Thank you.

Dan Slomers

No virus found in this outgoing message.

<http://www.avg-antivirus.net/>

Checked by AVG.

Version: 7.5.503 / Virus Database: 269.16.17/1177 - Release Date: 12/7/2007 1:11 PM



ph: 724-282-4786

Olsen & Associates, LLC
126 South Main Street, Butler, PA 16001
fax: 724-282-7619 www.OlsenAndAssociates.us

Act 537 Official Plan Revision: **SPECIAL SEWAGE STUDY**

FOR

EAST BUTLER BOROUGH
Butler County, Pennsylvania

March, 2007
Revised: August 2007

RECEIVED
SEP 18 2007
BASA

O&A PROJECT # 200666A

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Appendix L: DEP Comments to FINAL SPECIAL SEWAGE STUDY

Appendix M: EDU Analysis for Developable Land

Appendix N: Comparison of Historical and Current Industrial Sewage Flow

PART 1: Background Information

On October 13, 2006, a Final Consent Order and Agreement was signed by the Butler Area Sewer Authority (BASA), the PA Department of Environmental Protection (PaDEP) and the municipal entities connected to BASA's Sewage Collection System, including East Butler Borough [see Appendix C for Final Consent Order and Agreement]. This Act 537 SPECIAL STUDY has been prepared by East Butler Borough to conform to the PaDEP's request to provide planning data to aid BASA in the possible design and/or possible rehabilitation of its sewerage system in East Butler Borough.

The potential growth areas and the EDU calculations discussed throughout this SPECIAL SEWAGE STUDY (along with potential growth areas and EDU calculations shown on digital maps included in the study), are *estimates only*, prepared to guide BASA in their planning efforts. More or less growth than what is being projected may occur; the figures and calculations presented herein are East Butler Borough's best estimates based on all data and knowledge presently available. Please see the additional section titled "EDU Calculation and Potential Growth Estimate Qualification" on pages 30 and 31 of this report for more information on this matter.

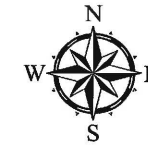
PART 2: Administrative Completeness Checklist

Section 1: Plan Summary

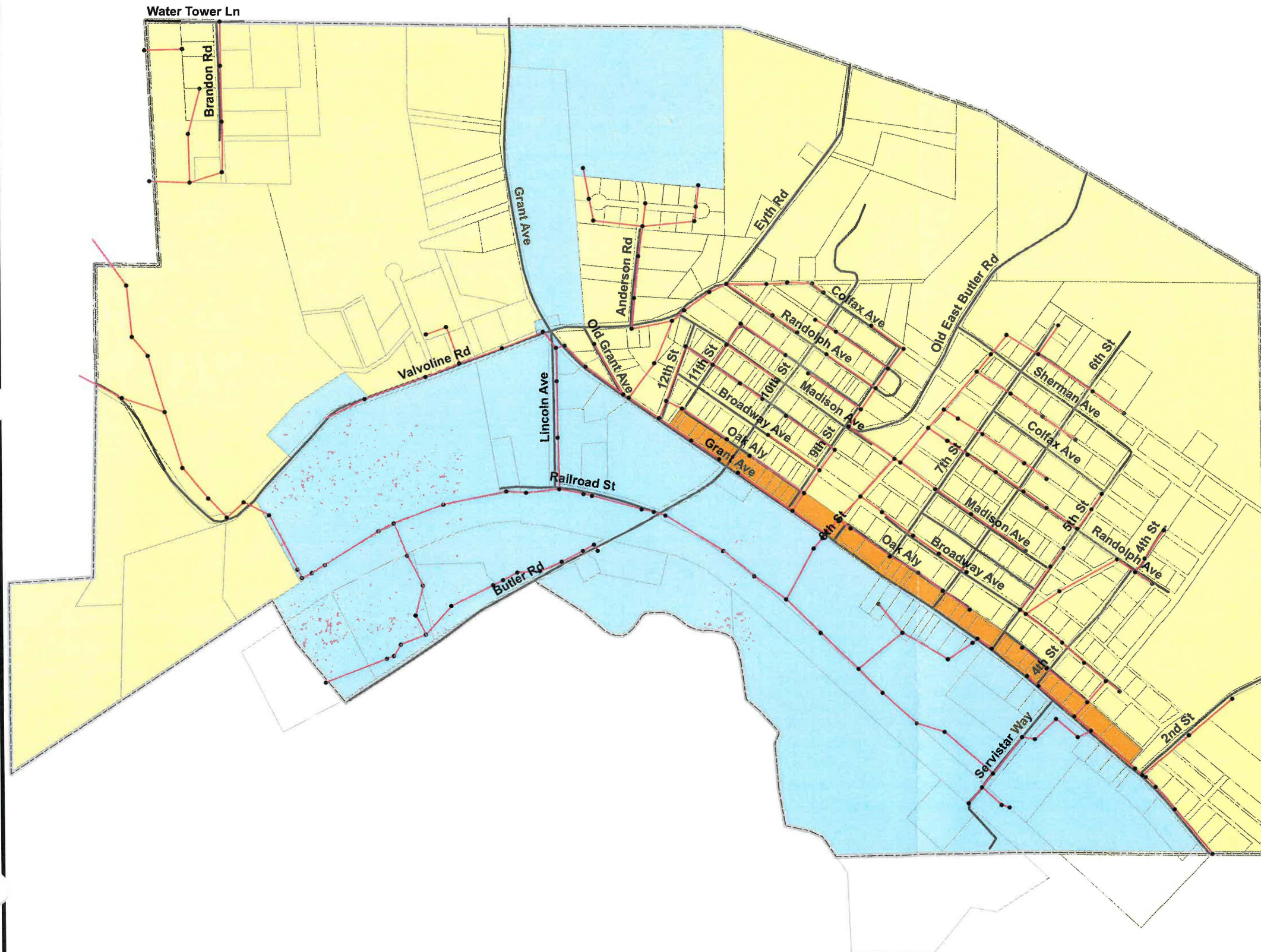
A: Identification of Proposed Service Areas and Major Problems Evaluated in the Plan

The following map, [*"Zoning Districts", from East Butler Borough's Current Zoning Map*] depicts East Butler Borough's boundaries along with its zoning districts.

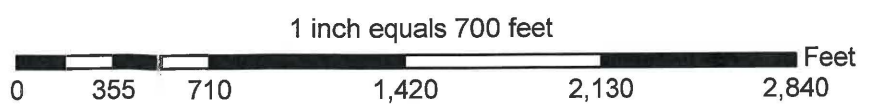
Currently, no major sewage capacity problems exist within the boundaries of East Butler Borough. No documented overflows have occurred within the borough borders, as verified by BASA. However, sewage permits have been limited by BASA over the past approximately five years as a result of overflows in Butler City and Butler Township from sewer lines which carry (in part) East Butler Borough sewage.



Zoning Districts East Butler Borough, Butler County



- Legend**
- Manholes
 - Gravity Main
 - ▭ Borough Boundary
 - ▭ Tax Parcels
 - Road Centerlines
- Zoning District**
- ▭ Residential R
 - ▭ Commercial C
 - ▭ Industrial I



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 126 S. MAIN STREET BUTLER PENNSYLVANIA 16001 (724) 282-4786 FAX (724) 282-7619 www.OlsenAndAssociates.us

B: Identification of Alternatives Chosen to Solve Problems and Serve the Areas of Need Identified in the Plan

The alternatives considered accommodating growth in East Butler Borough and the other tributary municipalities will only be known during the Final Act 537 Plan process. Alternatives will be selected by BASA during this process.

C: Estimated Cost of Implementing the Proposed Alternative

An estimated cost will be provided by BASA during its Final Act 537 Plan process. Once alternatives are decided upon, design and construction costs can be formulated by BASA.

D: Identification of Municipal Commitments to Implement the Plan

The final Consent Order and Agreement [see Appendix C] outlines any and all commitments required by East Butler Borough and the other tributary municipalities.

E: Schedule of Implementation

- November 27, 2006: Draft of Act 537 Special Study submission to Butler County Planning Commission, and BASA.
- January 26, 2007: Borough Council shall consider comments of Butler County Planning Commission and BASA and revise the Act 537 Special Study as necessary.
- March 12, 2007: Final Act 537 Special Study shall be adopted by the Borough by Resolution and the Resolution and Study shall be submitted to DEP by this date.
- 30 Days after BASA receives add DEP-approved Official Plan Revision Special Studies: BASA Task Activity Report (TAR) Preparation.
- 180 Days after BASA TAR approval: BASA Official Plan Update Revision submitted to PaDEP.
- 180 Days after receiving DEP comments on Official Plan: BASA to submit final Update Revision to PaDEP.

BASA's final Update Revision will include timeframes for design and construction of proposed upgrades and improvements.

Section 2: Municipal Adoption

East Butler Borough will adopt the East Butler Borough Final Act 537 Official Plan Revision by March 12, 2007, in accordance with the outline presented in Part 2, Section 1.E.

Section 3: Planning Commission Comments

All comments received by the Butler County Planning Commission and BASA have been included in appendices G and H, respectively. East Butler Borough does not have its own Planning Commission; therefore, all references in the PaDEP Final Consent Order and Agreement to the "local municipality planning commission" are considered not-applicable to East Butler Borough. However, the East Butler Borough Council was given the opportunity to review and comment on the SPECIAL SEWAGE STUDY, and their comments appear in Appendix F.

Section 4: Publication

East Butler Borough has conducted a 30 day comment period, from January 30, 2007 to February 28, 2007, during which time the public was given the opportunity to view and make (written) comments on the Act 537 Official Plan Revision. An additional appendix (Appendix I) has been added to the East Butler Borough Final Act 537 Official Plan Revision containing the publication advertised for public comments.

Section 5: Comments and Responses

An additional appendix (Appendix J) has been added to the East Butler Borough Final Act 537 Official Plan Revision, containing any and all public comments. Any and all municipal responses to each comment in relation to the proposed plan can be found in Appendix K. There were no public comments to the Draft SPECIAL STUDY; as a result, both appendices are void.

PART 3: Official Plan

Section 1: Description and Analysis of Physical and Demographic Characteristics of the Planning Area

A: Planning Area Boundaries and Political Subdivision Boundaries

East Butler Borough is a 1.04 square mile community situated approximately one mile east of the City of Butler and within northern Summit Township. All of East Butler Borough is tributary to BASA's sewerage system which essentially drains into Summit Township. The Borough's sewage subsequently flows into BASA sewers in Butler Township, then to BASA sewers in the City of Butler, and then back into BASA sewers in Butler Township, where BASA's sewage treatment plant is located. There are three small watershed areas in Oakland Township (existing development area along Grant Street Extension, Route 68, and Eyth Road) and Summit Township that are tributary to East Butler Borough. Future sewage needs for Summit and Oakland Township may impact the BASA sewer system in East Butler Borough.

The map on page 2 [*"Zoning Districts", from East Butler Borough's existing zoning map*] shows planning area boundaries and political subdivision boundaries, along with zoning information for East Butler Borough. The following zoning districts exist in East Butler Borough:

R: Residential
C: Commercial
I: Industrial

East Butler Borough is a community which is considered to be "built-out" in terms of projected growth, although there are areas in both the northwestern and northeastern quadrants which remain undeveloped. For the most part, these lands exhibit steep slopes and portions are situated within three (3) networked stream corridors identified as floodplains.

B: Physical Characteristics of the Planning Area

The map on page 7 [*"Topography", from USGS library*] shows the terrain in East Butler, and the map on page 8 [*"Watersheds", created for this report*] shows that East Butler lies completely within the Bonnie Brook watershed.

The map on page 9 [*Development Constraints*], created for this report depicts physical characteristics of East Butler Borough, including tax parcels, road centerlines, networked streams, floodplains, wetland types, and percent slope. These characteristics denote physical constraints to development.

Generally, land developments cannot infringe on floodplains or wetlands. Also, the steeper the land, the less it is conducive to economically feasible development. It is generally accepted that lands with slopes below 15% are attractive to development; lands with slopes between 15% to 24% are marginally desirable. Lands with slopes above 25% are considered un-developable but these steep areas can provide land uses such as "open space" or "passive recreation areas" that make adjacent, flatter lands more attractive.

Therefore, physical characteristics that support most economically feasible development (in areas currently undeveloped) are found in the northwestern and northeastern areas of the Borough.



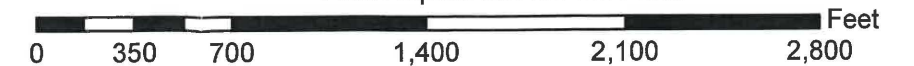
Topography

East Butler Borough, Butler County

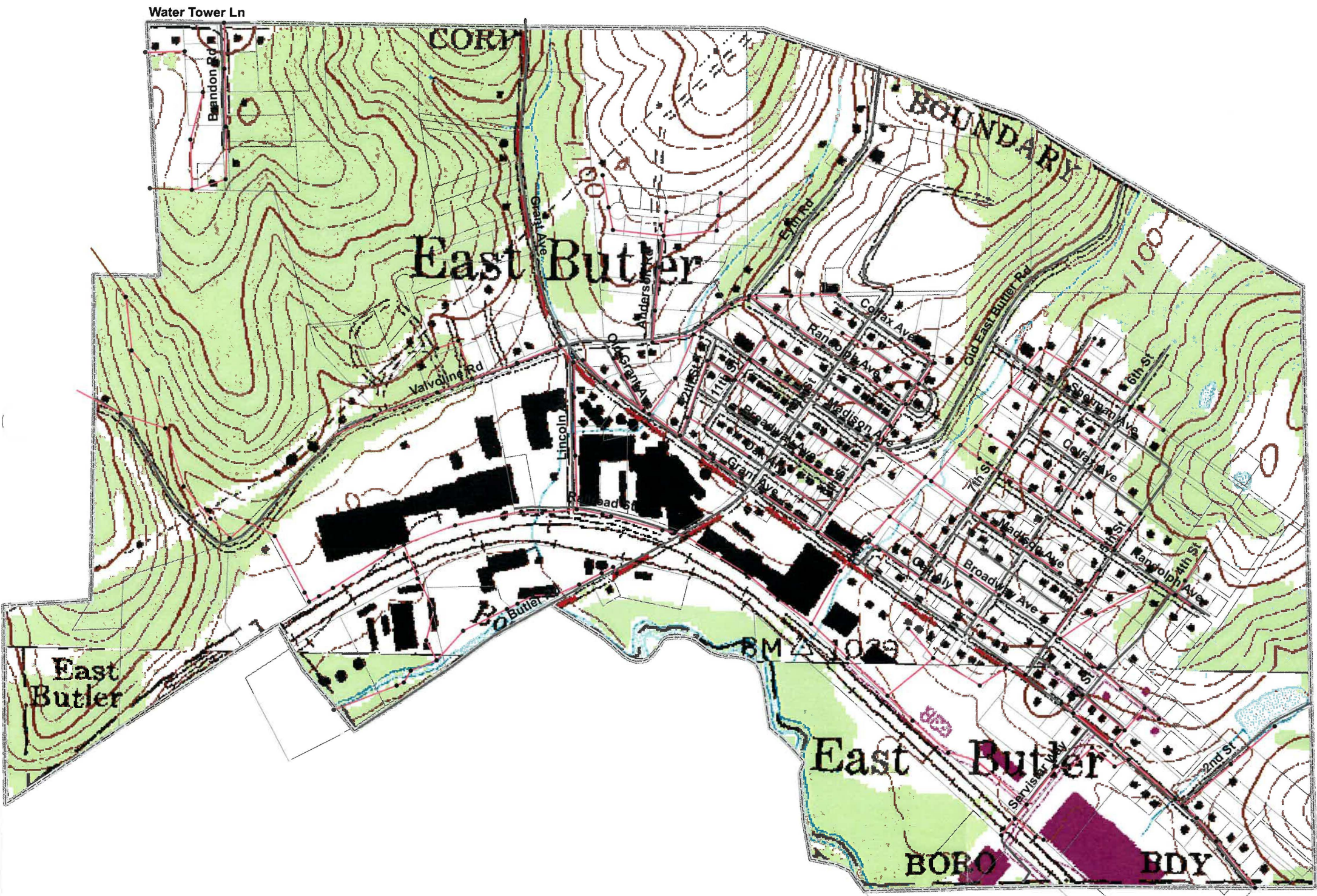
Legend

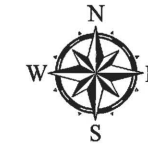
- Manholes
- Gravity Main
- Road Centerlines
- ▭ Borough Boundary
- ▭ Tax Parcels

1 inch equals 687.954651 feet



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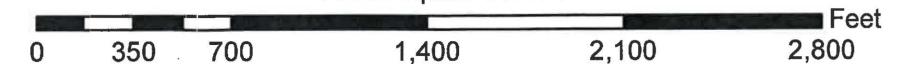
Watersheds

East Butler Borough, Butler County

Legend

- Manholes
- Gravity Main
- Road Centerlines
- ▭ Borough Boundary
- ▭ Tax Parcels
- ▭ Bonnie Brook

1 inch equals 687.954651 feet



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ARCH # 200666A.AADT

O&A PROJECT # 200666A

Water Tower Ln

Brandon Rd

Bonnie Brook
665.371 acres

Grant Ave

Eyth Rd

Anderson Rd

Coffax Ave

Old East Butler Rd

Valvoline Rd

Old Grant Ave

12th St

11th St

10th St

Broadway Ave

Oak Aly

Grant Ave

8th St

7th St

Madison Ave

Coffax Ave

Sherman Ave

6th St

Railroad St

Butler Rd

8th St

Oak Aly

Broadway Ave

Madison Ave

5th St

Randolph Ave

4th St

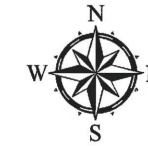
4th St

3rd St

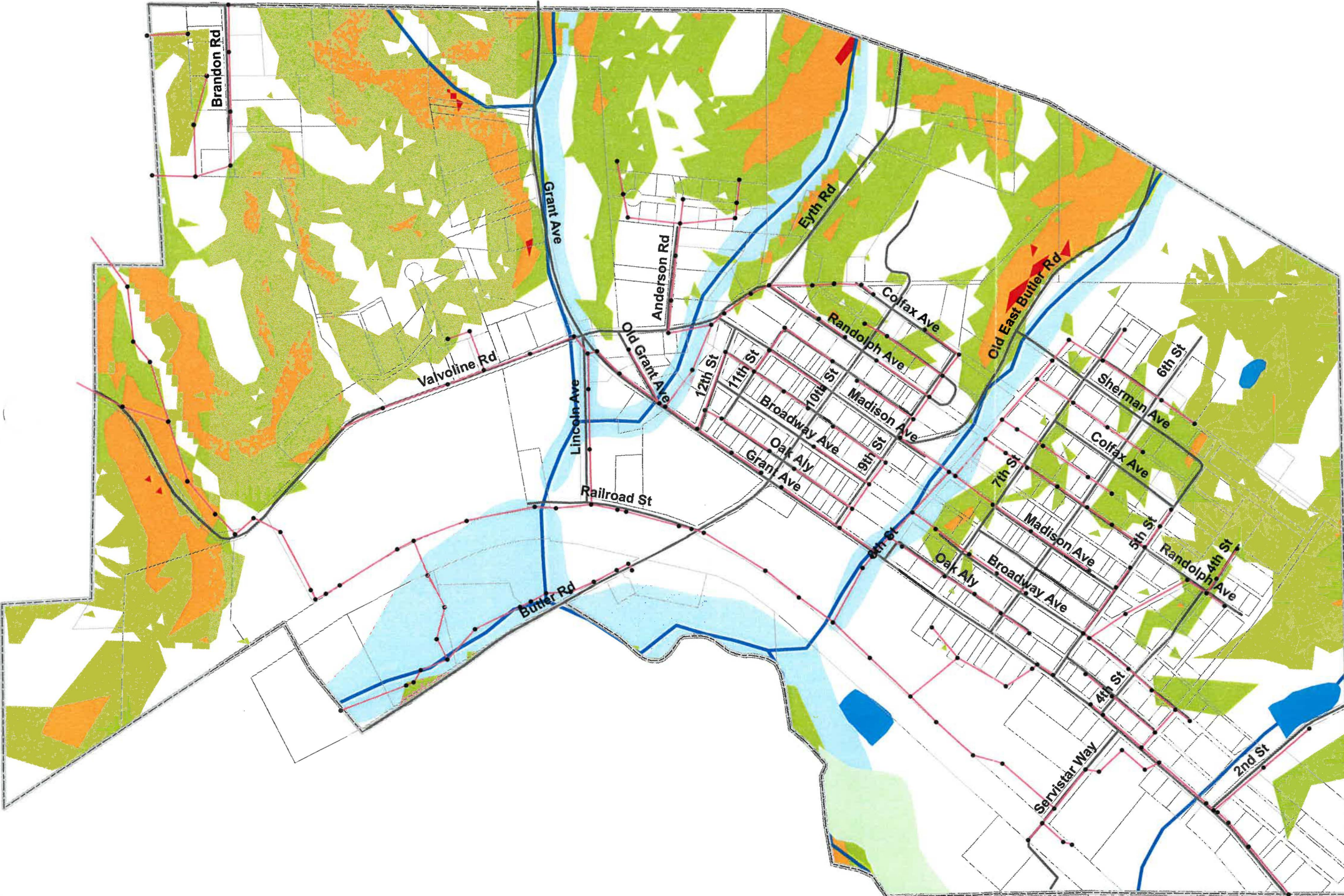
Servistar Way

2nd St

Development Constraints East Butler Borough, Butler County



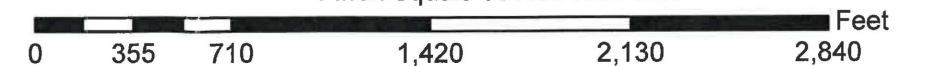
Water Tower Ln



Legend

- Manholes
- Gravity Main
- Road Centerlines
- Floodplain
- ▭ Borough Boundary
- ▭ Tax Parcels
- Wetland Type**
- Freshwater Forested Wetland
- Freshwater Pond
- Networked Streams
- Percent Slope**
- Below 15%
- 15% to 24%
- 25% to 39%
- Above 40%

1 inch equals 687.954651 feet



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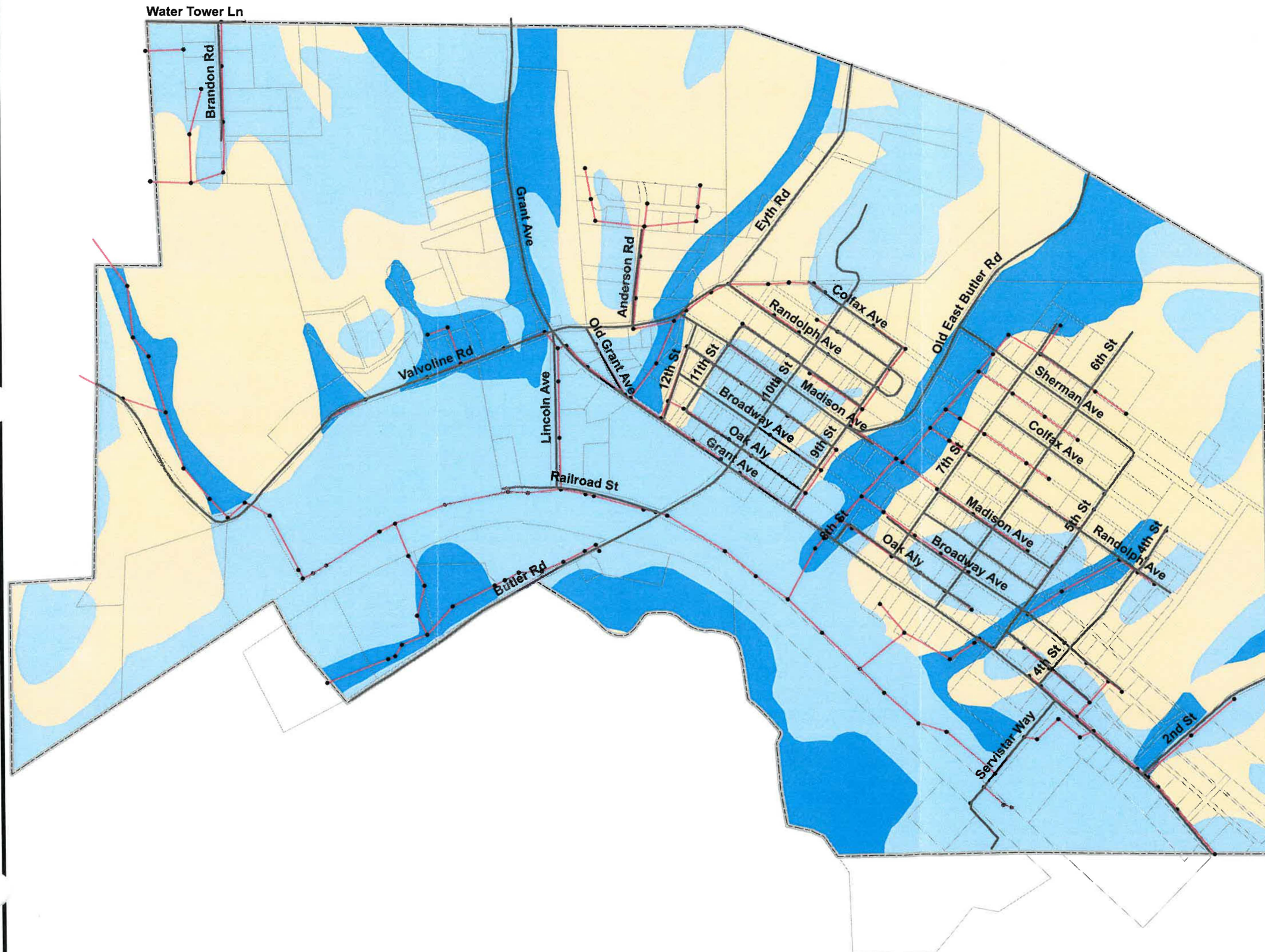
C: Soils and Geological Features

The map on page 11 [*Hydric Soils*, created for this report] depicts USDA soil types (Hydric, partially hydric, and non hydric), along with gravity sewer lines, force mains, manholes, and pump stations.



Hydric Soils

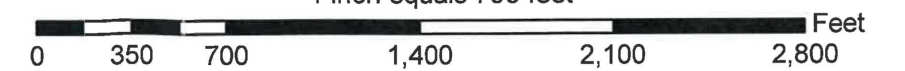
East Butler Borough, Butler County



Legend

- Road Centerlines
- Manholes
- ▭ Borough Boundary
- Gravity Main
- ▭ Tax Parcels
- USDA Soil Types**
- Hydric Soils
- Partially Hydric Soils
- Non-Hydric Soils

1 inch equals 700 feet



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ARCH # 200666A HYDRIC SOILS

O&A PROJECT # 200666A

D: Current and Historical Population Information

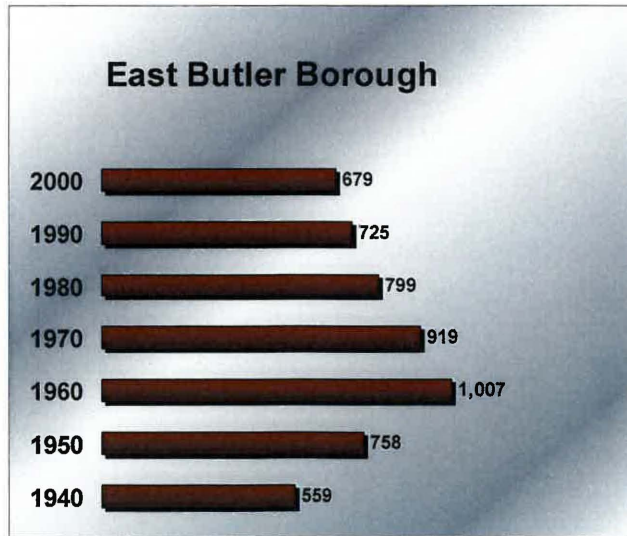
Unless otherwise noted, the population data presented throughout this report is directly from either the Southwestern Pennsylvania Commission (SPC) or from the U.S. Census Bureau. East Butler Borough’s population peaked during the 1960’s at about 1,007 people and the current population is estimated to be about 758 persons. From its peak population in 1960 to the official 2000 Census count of 679, East Butler’s population decreased by 328 persons or about 33%.

Between 1990 and the year 2004, 7 single family residential buildings were permitted. During the same period, no multi-family buildings were constructed. Of the total of 302 housing units reported in the Borough for the year 2000 Census, only 25 units occurred in multi-unit configurations, or .8 of one percent. Nearly 98% of all housing units are occupied, most of them (84%) by the owner. The average owner-occupied household size was 2.42 persons in the year 2000, while the average renter-occupied household size was calculated at 1.71 persons.

Population 1930-2000

	1930	1940	1950	1960	1970	1980	1990	2000
East Butler Borough	521	559	758	1,007	919	799	725	679
Butler County	80,480	87,590	97,320	114,639	127,941	147,912	152,013	174,083

Source: Southwestern Pennsylvania Commission

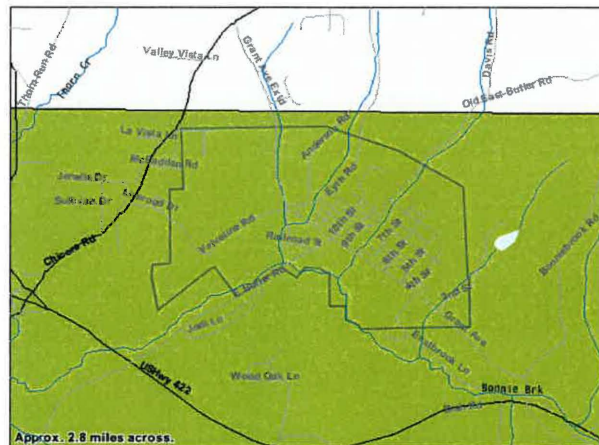


URBAN/RURAL AREA- 2000				
EAST BUTLER BOROUGH				
	Population		Housing Units	
	#	%	#	%
Urban	625	90%	280	92.7%
Rural	54	10%	22	7.3%
Total	679		302	

MEDIAN AGE		
1990		2000
36.7		39.7

Source: Penn State Data Center, Municipal Demographic Profile

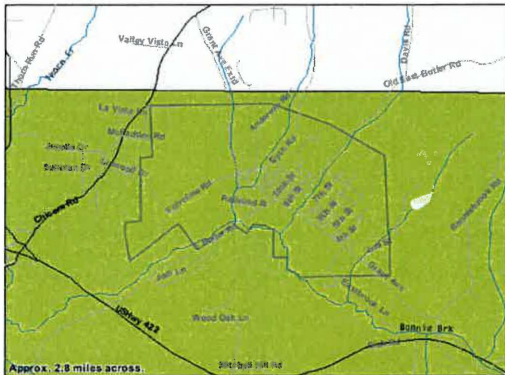
Population
Density
2000



- Data Classes**
Persons/Sq Mile
232 - 233
- Features**
Major Road
Street
Stream/Waterbody
Stream/Waterbody

Housing and Households

Housing Density 2000



Data Classes

Total Units
 2057 - 2057

Features

- Major Road
- Street
- Stream/Waterbody
- Stream/Waterbody

East Butler Borough – 2000

Housing Occupancy

Total Housing Units	302	100%
Occupied Housing Units	295	97.7%
Vacant Housing Units	7	2.3%
Seasonal, recreational or occasional use	0	0%

Housing Tenure

Total Occupied Housing Units	295	100%
Owner-Occupied Housing Units	247	83.7%
Renter-Occupied Housing Units	48	16.3%

Vacancy Rate

Homeowner vacancy	0.8%
Rental vacancy	7.7%

Average Household Size

Owner-occupied household size	2.42
Renter-occupied household size	1.71

Occupants Per Room

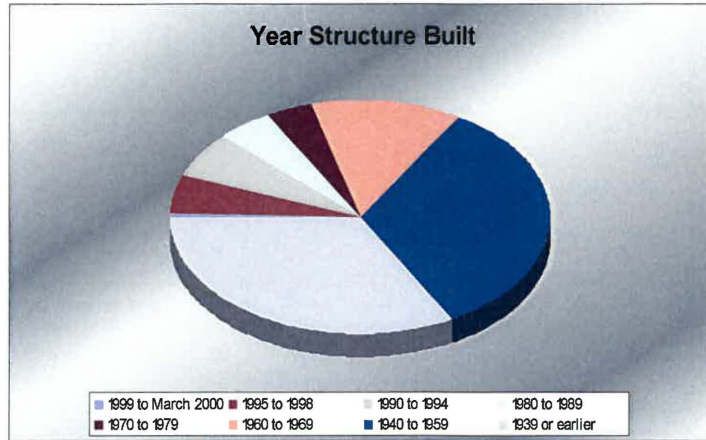
Occupied Housing Units	295	100.0
1.00 or less	290	98.3%
1.01 to 1.50	3	1.0%
1.51 or more	2	0.7%

House Heating Fuel

Utility gas	260	88.1%
Bottled, tank or LP gas	4	1.4%
Electricity	15	5.1%
Fuel oil, kerosene, etc.	14	4.7%
Coal or coke	0	0%
Wood	2	0.7%
Solar energy	0	0%
Other fuel	0	0%

Geographic area	Population	Housing units	Area in square miles			Density per square mile of land area	
			Total area	Water area	Land area	Population	Housing units
Butler County	174,083	69,868	794.79	6.26	788.53	220.8	88.6
East Butler Borough	679	302	1.04	0.00	1.04	650.4	289.3

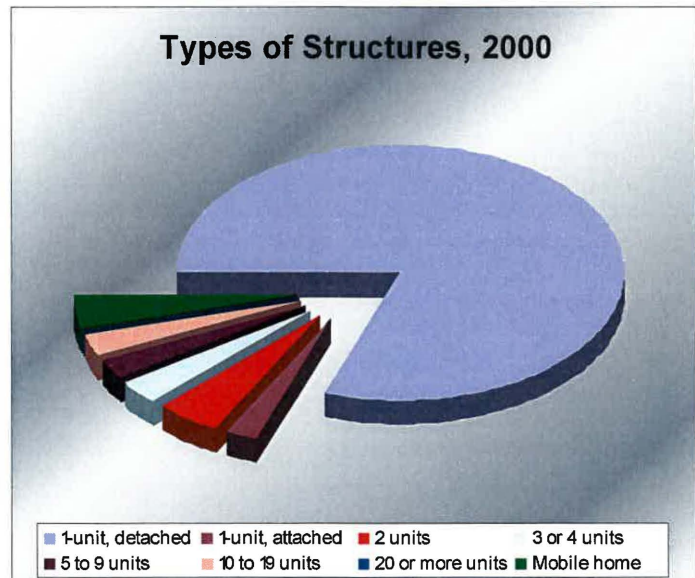
	#	%
1999 to March 2000	2	0.7
1995 to 1998	16	5.3
1990 to 1994	19	6.3
1980 to 1989	14	4.6
1970 to 1979	12	4.0
1960 to 1969	39	12.9
1940 to 1959	101	33.3
1939 or earlier	100	33.0



Types of Structures East Butler Borough, 2000

	1990	2000
1-unit, detached	235	244
1-unit, attached	2	7
2 units		14
3 or 4 units	9	9
5 to 9 units	1	8
10 to 19 units		8
20 or more units	9	0
Mobile home	30	13

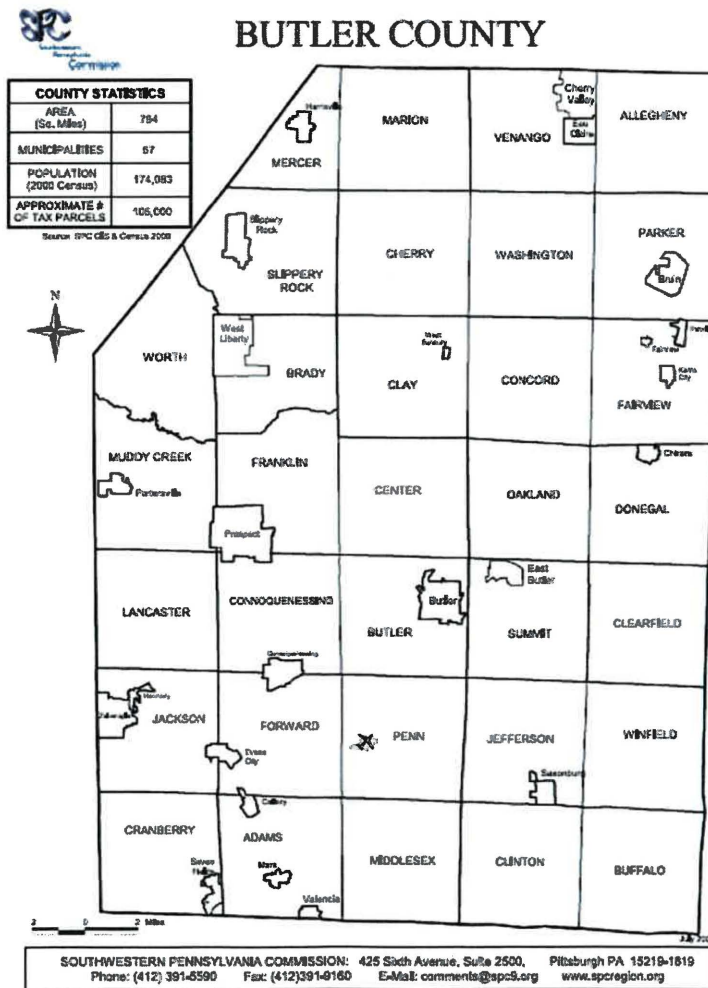
Source: U.S. Census Bureau, Table DP1, 1990 and 2000.



Geographic Comparison Table East Butler Borough and Surrounding Municipalities 2000 Census

Geographic area	Population	Housing units	Area in square miles			Density per square mile of land area	
			Total area	Water area	Land area	Population	Housing units
Butler County	174,083	69,868	794.79	6.26	788.53	220.8	88.6
East Butler Borough	679	302	1.04	0.00	1.04	650.4	289.3
Clearfield Township	2,705	958	23.36	0.00	23.36	115.8	41.0
Oakland Township	3,074	1,168	23.23	0.30	22.93	134.1	50.9
Butler Township	17,185	7,500	21.62	0.12	21.50	799.2	348.8
Jefferson Township	5,690	1,970	23.41	0.02	23.39	243.3	84.2
Summit Township	4,728	1,755	22.34	0.04	22.29	212.1	78.7

Source: GCT-1, U.S. Census Bureau



New, Privately Owned Construction Authorized by Building Permits

East Butler Borough, 1990-2004

Year	Single-Family		Multi-Family			Total		Months Reported	Summary 1990-2004
	Units	Value	Bldgs	Units	Value	Bldgs	Units		
1990	1	\$73,085	0	0	\$0	1	1	\$76,085	
1991	2	\$80,000	0	0	\$0	2	2	\$80,000	
1992	1	\$65,000	0	0	\$0	1	1	\$65,000	
1993	1	\$52,000	0	0	\$0	1	1	\$52,000	
1994	0	\$0	0	0	\$0	0	0	\$0	
1995	0	\$0	0	0	\$0	0	0	\$0	
1996	0	\$0	0	0	\$0	0	0	\$0	
1997	0	\$0	0	0	\$0	0	0	\$0	
1998	0	\$0	0	0	\$0	0	0	\$0	
1999	0	\$0	0	0	\$0	0	0	\$0	
2000	1	\$78,700	0	0	\$0	1	1	\$78,700	
2001	0	\$0	0	0	\$0	0	0	\$0	
2002	0	\$0	0	0	\$0	0	0	\$0	
2003	0	\$0	0	0	\$0	0	0	\$0	11
2004	1	\$100,000	0	0	\$0	1	1	\$100,000	12

Units:
Single family:
7
Multi-family:
0
Total:
7

% Single family:
100.0%

Value of Total Units:
\$451,785

Source: Southwestern Pennsylvania Commission, November 30, 2005; Column "Months Reported", first time available in 2003, contains the number of months for which the data was collected.

Current Annual Average Daily Trips on State Roads

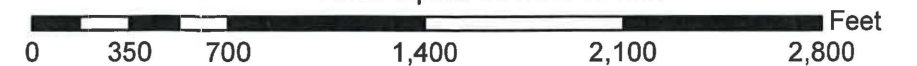
East Butler Borough, Butler County



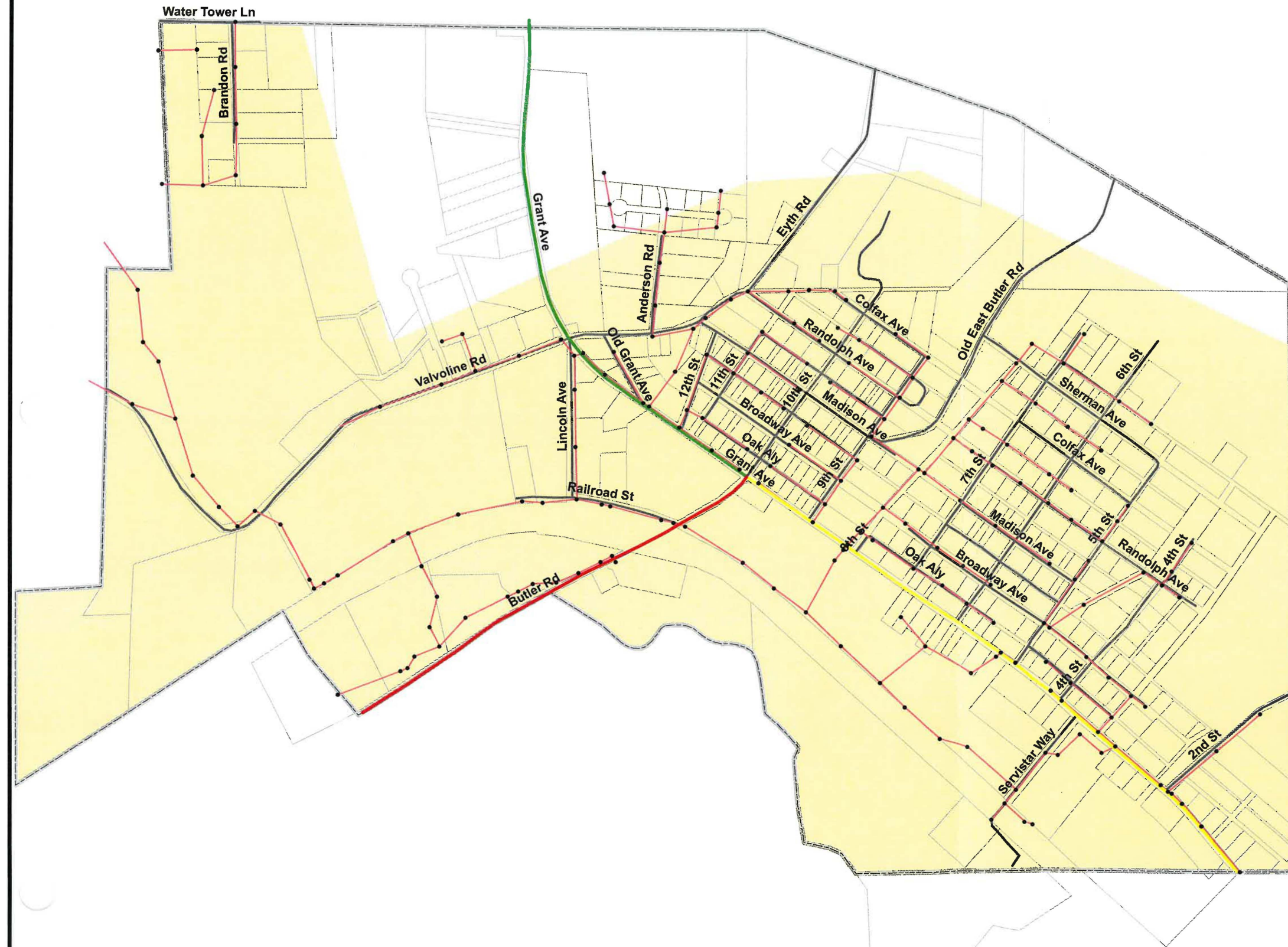
Legend

- Manholes
 - Gravity Main
 - Road Centerlines
 - Borough Boundary
 - Tax Parcels
 - Monroe Sub System
- Current AADT**
- 1298
 - 1299 - 2100
 - 2101 - 2943

1 inch equals 684.62749 feet



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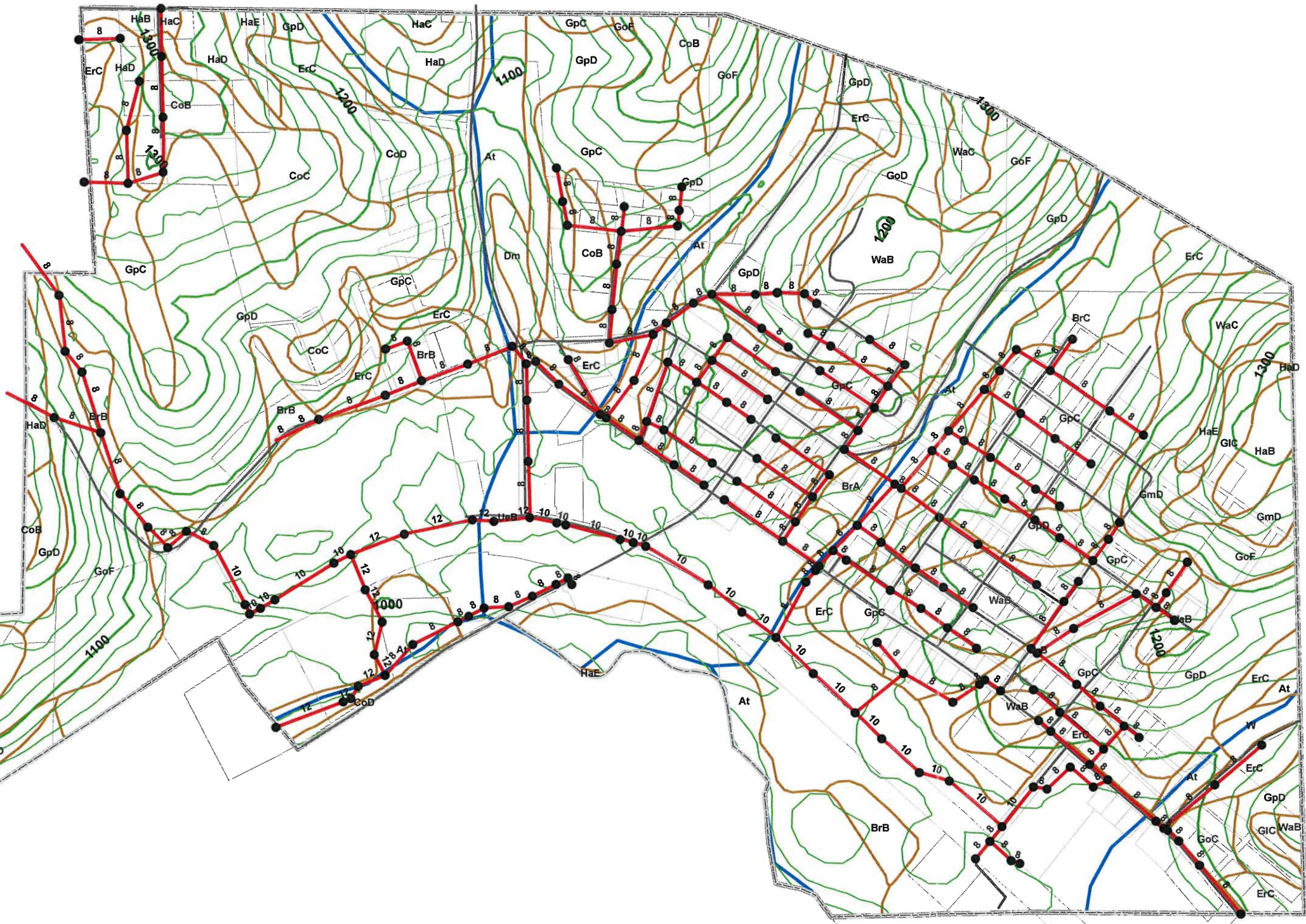
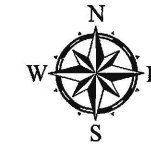
Section 2: Evaluation of Existing Municipal and Nonmunicipal, Individual and Community Sewage Facilities in the Planning Area

A: Treatment Plants, Main Intercepting Lines, Pump Stations and Force Mains

The map on page 20 shows BASA's Sanitary Sewer System within the bounds of East Butler Borough. The map depicts gravity mains (along with pipe sizes), manholes, road centerlines, tax parcels, streams, USDA soil types, floodplains, wetlands, ponds, and 100 ft. contours and 20 ft. contours.

There are no treatment plants or pump stations within the boundaries of East Butler Borough.

Sanitary Sewer System East Butler Borough, Butler County



Legend

- Manholes
- Gravity Main
- Road Centerlines
- ▭ Borough Boundary
- Major Contours
- Minor Contours
- ▭ USDA Soil Types
- ▭ Tax Parcels
- Networked Streams

1 inch equals 687.954651 feet



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B: Description of Problems with the Existing Facilities

No known problems exist with any area of the sewer system contained within the boundaries of East Butler Borough. The system is currently able to handle normal and peak flow occurring in the area. It is BASA's responsibility to analyze capacities of the existing interceptors, pump stations, and force mains. This data is not included with East Butler Borough's Act 537 Official Plan Revision.

Section 3: Development

Population projections from the Southwestern Pennsylvania Commission (SPC) put the Borough's 2010 population at 774 persons, and the long range projection (2020 to 2030) at 778 persons, indicating no significant change one way or the other.

Population Projection

2010 to 2030

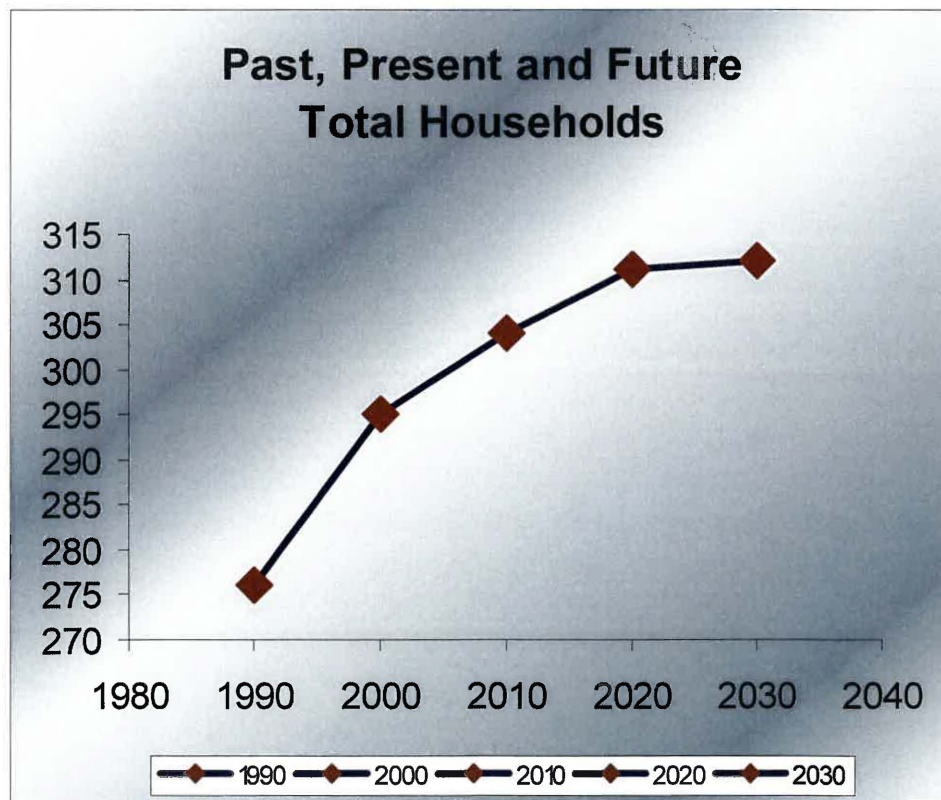
	2010	2020	2030
East Butler Borough	774	778	778
Butler County	96,535	100,907	101,358

Source: Southwestern Pennsylvania Commission

Total Households 1990-2000 2010-2030 Projected

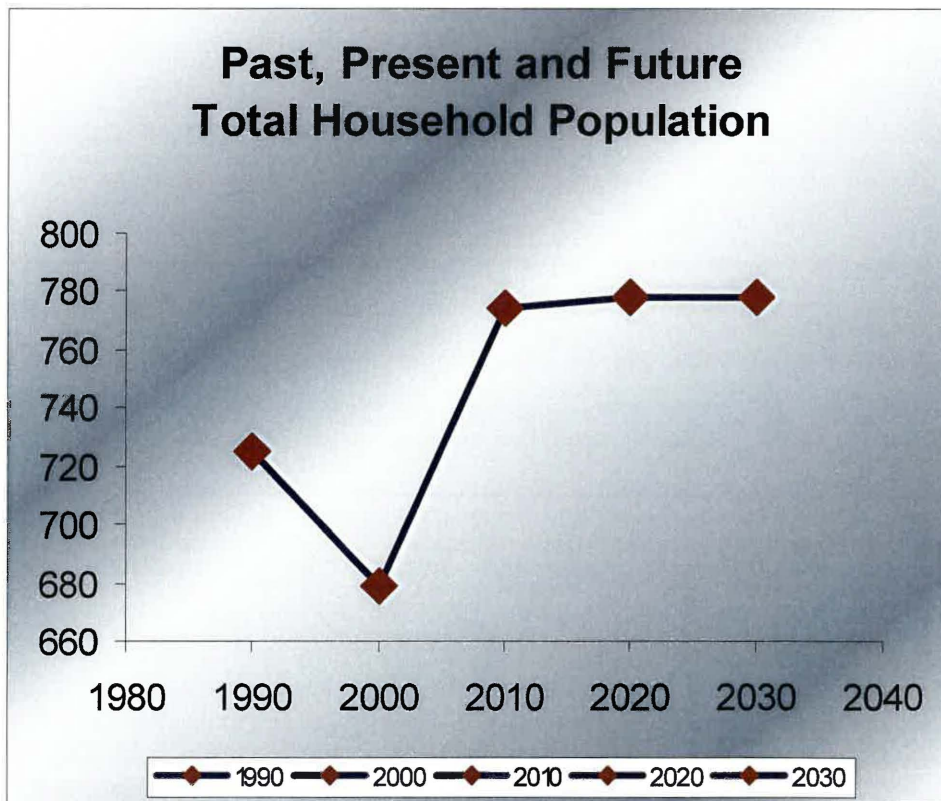
1990	2000	2010	2020	2030
276	295	304	311	312

Source: Penn State Data Center, 1190; U.S. Census Bureau, DP-1, 2000; Southwestern Pennsylvania Commission, projections.



Household Population 1990-2000 2010-2030 Projected

1990	2000	2010	2020	2030
725	679	774	778	778
Source: Penn State Data Center, 1190; U.S. Census Bureau, DP-1, 2000; Southwestern Pennsylvania Commission, projections.				



It should be noted that the SPC’s initial population increase (from 679 in the year 2000 to 774 in the year 2010) is inconsistent with new housing permit data and the historical trends experienced in East Butler Borough—SPC’s projections seem somewhat high. Borough Council members also question the SPC’s projections as being possibly too high.

While the Borough has not prepared a comprehensive plan with a future land use component, there are several logical areas where limited single family dwelling construction could occur. Utilities are present at the northern end of Anderson Road and new lots could be created. This area is currently zoned Industrial; EDU calculations which follow will assume a future change in zoning to Residential. *[Note: No such zoning change is presently pending or known to be planned at this time.]* In addition, a southerly extension of Brandon Road could accommodate new dwelling units. Borough Council has acknowledged that two privately owned, residentially-zoned properties past the end of Brandon Road could possibly be developed in the future. The Kovalchick property (the approximately 40+ acre tract south of the end of Brandon Rd.) exhibits desirable conditions with respect to slope of land. The Mellish property (which borders the Kovalchick property on the eastern side), in terms of development constraints, exhibits a marginally desirable area suitable for future development. Both properties are currently unsewered by BASA’s collection system.

Estimated EDU counts have been formulated for these parcels discussed above so that BASA could plan for overall system capacity increases due to development in these areas. The estimates are derived by analyzing the percent of developable land contained within the boundary of each parcel (based on development constraints: percent slope of the land and existing watersheds) and multiplying this developable acreage by a “development factor” (expected EDU’s per acre). The complete calculations may be found in Appendix M: EDU Analysis for Developable Land. The table below lists each property with its estimated, fully developed, EDU counts. A map of these areas appears on page 25 [*“Future Development Areas”*, created for this report].

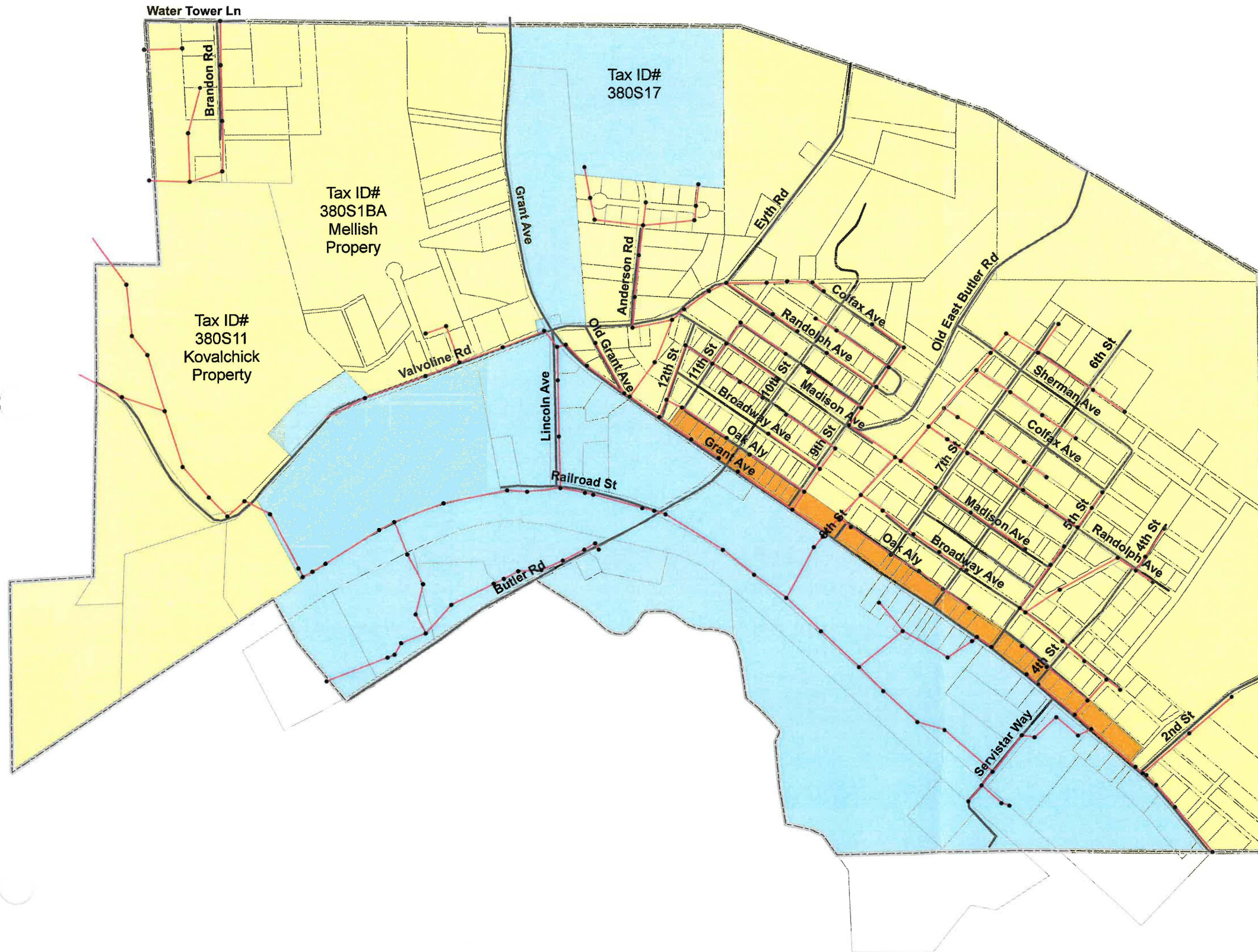
Projected EDU’s if Vacant Land is Fully Developed

Property Location	Tax Parcel ID #	Projected Growth (in EDU’s*)
North of Anderson Road	308S17	25.6
Kovalchick	380S11	44.8
Mellish	380S1BA	31.8
TOTAL EDU	<i>(N/A)</i>	102.2 EDU

**An EDU is equated to 400 gpd, as defined in the PaDEP’s Final Consent Order and Agreement.*



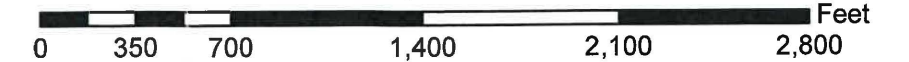
Future Development Areas East Butler Borough, Butler County



Legend

- Manholes
- Gravity Main
- Road Centerlines
- Borough Boundary
- Tax Parcels
- Zoning District**
- Residential R
- Commercial C
- Industrial I

1 inch equals 700 feet



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In determining a real-world estimate of how much additional flow may be added to BASA's sewerage system however, it is most important to consider population growth estimates for the area. Examining the SPC Cycle 7 forecasts for East Butler Borough, only roughly 11 new households are expected to be occupied by the year 2030. Therefore, based on the Cycle 7 forecast, it is estimated that 11 EDU, not the 102.2 EDU which represents the *maximum* growth potential of the parcels, will be added into the system due to residential development in the next 20 years. Beyond 20 years, it is feasible that these properties may be fully developed if a population increase demands additional development, but this is out of the scope of this study.

BASA has noted that since there are presently no existing homes in these areas, any required sewer extensions for such new development would normally be financed and constructed by the property developer, who in turn recovers his costs from the sale of the new sewer lots. Once BASA approves and accepts the developer's sewers, BASA would then assume ownership and long-term liability for maintaining these new public sewers. Since there are no existing customers that could be served in these areas, there is no present need for public sewers. Therefore, BASA will not evaluate the costs to extend public sewers to these areas.

As the PaDEP has noted in its comment letter dated May 11, 2007 to East Butler Borough regarding this SPECIAL SEWAGE STUDY, there are currently areas of un-sewered residential development within the Borough limits. Waiting for developers to build sewer extensions as new development appears in the Borough (constructed to primarily serve their own new developments but also extending sewage service to existing areas) may not be adequate or practical. If existing customers are determined (by PaDEP) to be in "needs areas", additional capacity should be relegated to these structures while BASA is planning its system rehabilitation.

The map on Page 28 [*"2006 Orthophotographs", created for this report*] shows a digital orthophoto overlaid with BASA's sewerage system within the boundaries of the Borough. In the northwest area of the Borough, along Grant Avenue, approximately 6 EDU may be added to the system if these structures were to tie in to BASA's system. Continuing northbound along Grant Avenue, but in Summit Township, additional unsewered structures exist. If these structures are to be connected into BASA's system in the future,

sewage would likely flow south into East Butler Borough, contributing an additional approximately 10 EDU to the flows in the Borough.

In the northern portion of the Borough, along Eyth Road, approximately 6 EDU could be added to the system at some future time. Continuing northbound along Eyth Road, but in Summit Township, additional unsewered structures exist. If these structures are to be connected into BASA's system in the future, sewage would likely flow south into East Butler Borough, contributing up to an additional approximately 25 EDU.

In the northeastern section of the Borough, at the end of 6th Street, one structure (1 EDU) appears to be unconnected to BASA's system. Looking northward along Old East Butler Road, but in Summit Township, additional unsewered structures exist. Should these structures tie in to BASA's system, an additional approximately 6 EDU could be expected.

In summary, an approximately 13 EDU from existing structures in East Butler Borough could be added to the sewage flows in BASA's sewerage system should the PaDEP determine those structures to be in "needs areas". Including structures in close proximity to, but outside, the boundaries of the Borough (in Summit Township), a total of 54 EDU may be added to BASA's sewerage system flowing through East Butler Borough, based solely on existing, currently unsewered potential customers.

Currently Unsewered Potential Customers

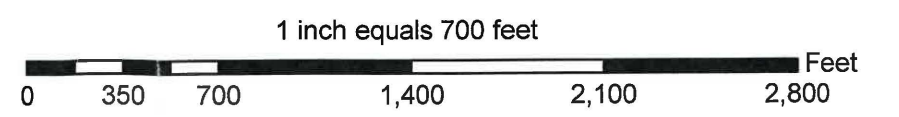
Location	Additional EDU Inside East Butler Borough Boundaries	Additional EDU in close proximity to East Butler Borough Boundaries	TOTAL
NW (along Grant Ave.)	6	10	16
N (along Eyth Rd.)	6	25	31
NE (6 th St. and along Old East Butler Rd.)	1	6	7
TOTAL	13	41	54



2006 Orthophotographs East Butler Borough, Butler County



- Legend**
- Borough Boundary
 - Tax Parcels
 - Manholes
 - Gravity Main
 - Road Centerlines



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ARCH # 200666A AERIAL O&A PROJECT # 200666A

Most sewage production in East Butler Borough in the past came from industry. East Butler Borough has been the home of many important industries including American Hardware (Servistar), Magnetics, Spang, Marmon Keystone, Standard Bent Glass, and Castle Rubber Company.

American Hardware, the largest of these, closed its doors slowly over the past 10 years. Magnetics and Spang have significantly downsized, laying off a large portion of their employees. Magnetics is manufacturing an increasing amount of its product in China and as quality of its overseas production increases, a further downsizing in its East Butler plant is expected. Castle Rubber Company is now out of business.

The historical sewage flow from each business has been analyzed from various periods during 2000, 2001 and 2002, and compared with the current average sewage flow. It has been computed that on average, sewage flow from East Butler Borough due to industry is currently approximately 8,800 gallons a day less than flows measured six years ago. Using 400 gallons per day as an EDU (as defined in the PaDEP's Consent Order and Agreement), this equates to a total overall decrease in approximately 22 EDU from industry in the last 6 or 7 years. Complete calculations may be found in Appendix N: *Comparison of Historical and Current Industrial Sewage Flow*. Since new industry is generally more high-tech oriented and less labor intensive than in previous decades, it is assumed therefore that there will be no significant net increase in sewage production from industry in the next 20 years in East Butler Borough.

It should be noted that any previously approved Sewage Facilities Planning Module sewage flow, Sewer Connection Permit sewage flow for which a fee has been properly paid, or historic sewage usage consistent with such a Permit remains attached or allocated to that original property and is an asset of that property. This incentive should be marketed as the Borough, County and the CDC attempt to attract possible new tenants to these areas.

In summary, the total possible additional new flow emanating from East Butler Borough in the next 20 years is dependant on (mainly) three factors: Currently un-sewered residents in East Butler Borough who may tap into the system, new residents occupying possible future developments, and industrial sewage flow.

Assuming in all cases the *maximum* EDU possible (that is, all current residents of East Butler tie into the system [13 EDU], all three developable parcels are built-out to their theoretical maximums [102 EDU], and all industry returns to the level of sewage production it saw in 2001 [22 additional EDU]), the summation of these three contributing factors is a maximum estimated additional flow of 137 EDU within the next 20 years. However, based on the SPC Cycle 7 forecast that estimates only approximately 11 new homes will be built in East Butler Borough in the next 20 years (contributing 11 EDU), a more real-world estimate would yield a projected additional EDU count in the next 20 years at around 46 additional EDU. Interestingly, if sewage production due to industry remains at its current rate of approximately 22 EDU less than the historically higher amounts produced in the period from 2000 to 2003, and the approximately 24 EDU forecasted from new homes and from existing houses not connected to BASA's system are added, the net effect is an almost zero change in sewage output from East Butler Borough since the early 2000's.

EDU Calculation and Potential Growth Estimate Qualification

The potential growth areas and the EDU calculations discussed throughout this SPECIAL SEWAGE STUDY (along with potential growth areas and EDU calculations shown on digital maps included in the study), are *estimates only*, prepared to guide BASA in their planning efforts. More or less growth than what is being projected may occur; the figures and calculations presented herein are East Butler Borough's best estimates based on all data and knowledge presently available. Additionally, throughout this SPECIAL STUDY, specific areas, watersheds or parcels are marked as "developable" or "likely to develop" and potential EDU calculations have been assigned to these areas, watersheds or parcels. This is again for estimating purposes only; growth may occur in areas not marked as being developable. If an area or parcel is not marked as "likely to develop" or EDU counts are not given for that particular area or parcel, that area or parcel may still be eligible to connect into BASA's sewerage system, if logical, appropriate, or necessary, and is correctly funded. Conversely, areas forecasted in the study as being "likely to develop" may not actually be developed within the projected timeframe, for whatever reason.

The EDU estimates listed throughout the report are meant to provide an estimated count for *the entire Borough* and, where possible, the EDU calculations have been broken down into each sewershed (or watershed), simply to aid BASA in planning. Care was taken to ensure that the growth estimates agreed with already-established benchmarks for population growth; namely U.S. Census data

and Pennsylvania Southwest Commission (SPC) data were used throughout the study.

East Butler Borough is formalizing at this time that it is in the BASA service district. All lands that can flow by gravity to existing BASA facilities, whether in East Butler Borough or adjoining Townships, should be provided with an extension of gravity sewers. The Borough agrees with BASA that sewer extensions would either be funded by developers or the Borough (if this is determined to be in the best interest of the Borough). As provided by the Authorities Act of Pennsylvania, the Borough would support sharing the cost with a developer for developer-constructed sewer extensions if Borough residents may have access to the extension.

Appendix A: Draft Consent Order and Agreement

DRAFT—MAY 8, 2006
FOR DISCUSSION WITH BASA AND THE TRIBUTARY MUNICIPALITIES ONLY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of:

Butler Area Sewer Authority,	:	
City of Butler, Butler Township,	:	
Center Township, Summit	:	The Clean Streams Law
Township, Borough of East	:	Pennsylvania Sewage Facilities Act
Butler, Oakland Township, and	:	
Connoquenessing Township	:	
Butler County, Pennsylvania	:	

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this _____ day of _____ 2006, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), Butler Area Sewer Authority (“BASA”), City of Butler, Butler Township, Center Township, Summit Township, the Borough of East Butler, Oakland Township, and Connoquenessing Township. This Consent Order and Agreement replaces the obligations, but not the Findings, of the Consent Order and Agreement between the Department and BASA, dated February 20, 2001.

FINDINGS

The Department has found and determined the following:

- A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§691.1-691.1001 (“Clean Streams Law”); the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. 1535, *as amended*, 35 P.S. §§750.1-750.20a (“Sewage Facilities Act”); Section 1917-A of the

Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. §510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“Regulations”).

Parties

B. BASA is a municipal authority, organized and existing under the Municipality Authorities Act of 1945, Act of May 2, 1945, P.L. 382, *as amended*, 3 P.S. §§301-322 (“Municipality Authorities Act”), with a mailing address of 100 Litman Road, Butler, Pennsylvania 16001-3256. BASA was created by the Butler City Council and the Butler Township Commissioners in November 1963.

C. The City of Butler is a municipal entity with a mailing address of 140 West North Street, Butler, Pennsylvania 16001.

D. Butler Township is a municipal entity with a mailing address of 290 South Duffy Road, Butler, Pennsylvania 16001.

E. Center Township is a municipal entity with a mailing address of 419 Sunset Drive, Butler, Pennsylvania 16001.

F. Summit Township is a municipal entity with a mailing address of 502 Bonniebrook Road, Butler, Pennsylvania 16002.

G. The Borough of East Butler is a municipal entity with a mailing address of P.O. Box 195, East Butler, Pennsylvania 16029.

H. Oakland Township is a municipal entity with a mailing address of 565 Chicora Road, Butler, Pennsylvania 16001.

I. Connoquenessing Township is a municipal entity with a mailing address of 102 Township Drive, Renfrew, Pennsylvania 16053.

J. BASA, the City of Butler, Butler Township, Center Township, Summit Township, the Borough of East Butler, Oakland Township, and Connoquenessing Township are each a “person” as defined in Section 1 of the Clean Streams Law, 35 P.S. §691.1, and Section 2 of the Sewage Facilities Act, 35 P.S. §750.2. For the purpose of this Consent Order and Agreement, the City of Butler, Butler Township, Center Township, Summit Township, the Borough of East Butler, Oakland Township, and Connoquenessing Township shall be referred to collectively as “the Tributary Municipalities.”

Background

K. BASA owns and operates sewerage facilities under the provisions of Sewerage Permit No. 9817-S-T1 issued by the Sanitary Water Board, and Quality Management Permit No. 1074404 issued by the Department.

L. BASA’s sewerage facilities are part of a publicly-owned treatment works (“POTW”) that consists of a sewage treatment plant, a sewer system, and sewage pumping stations. The POTW includes the sewage collection and conveyance systems located within the boundaries of the Tributary Municipalities.

M. Section 5 of the Sewage Facilities Act, 35 P.S. §750.5, requires a municipality to maintain an Official Plan for the provision of adequate sewage systems. Official Plans address both the existing and future sewage disposal needs of a municipality. The Official Plans of the Tributary Municipalities provide that the POTW shall supply sewer service for all/or portions of the Tributary Municipalities.

N. The POTW is a separate sanitary sewer system that collects, conveys, and treats “sewage,” as defined in Section 1 of the Clean Streams Law, 35 P.S. §691.1. The sewage treatment

plant has an average daily design capacity of 10 million gallons per day, and a maximum peak flow capacity of 25 million gallons per day.

O. BASA's sewage treatment plant discharges treated sewage effluent by authorization of NPDES Permit No. PA0026697 into Connoquenessing Creek, a "water of the Commonwealth," as that term is defined in Section 1 of the Clean Streams Law, 35 P.S. §691.1.

P. The POTW has discharged sewage from five structures located before the headworks of the sewage treatment plant ("Overflow Structures"). Specifically, these Overflow Structures are located at the Deshon pump station, Monroe pump station, the General Tire area, the Ball Park area, and the 006 Overflow. Discharges from any Overflow Structure are not authorized by any permit issued by the Department.

Q. The POTW has been and continues to be hydraulically overloaded, whereby the flow exceeds its hydraulic carrying capacity in portions of the system and causes overflows, as defined by Section 94.1 of the Regulations, 25 Pa. Code §94.1.

February 20, 2001, Consent Order and Agreement

R. On February 20, 2001, the Department and BASA entered into a Consent Order and Agreement ("2001 Agreement") to resolve violations of the Clean Streams Law and the Sewage Facilities Act. The 2001 Agreement included, among other things, a requirement for BASA to fully implement the March 20, 2001, Corrective Action Plan (revised April 23, 2001), to eliminate the discharges, caused by the hydraulic overload conditions, from all of the Overflow Structures. The 2001 Agreement is maintained as a public record by the Department at its Northwest Regional office in Meadville, Pennsylvania, and it is incorporated herein by reference.

S. The 2001 Agreement required, among other things, that BASA complete by December 31, 2005, all of the tasks under the March 20, 2001, Corrective Action Plan, as amended.

T. On December 31, 2005, BASA informed the Department by letter that it had not completed all of the tasks, and BASA requested an extension until April 30, 2009, to complete all of the tasks under the March 20, 2001, Corrective Action Plan, as amended, as required under the 2001 Agreement.

U. BASA also informed the Department that it had received a \$7.2 million PENNVEST loan for reconstruction of the public sewers within the Deshon sewershed to address extraneous flow from storm water and groundwater, including private laterals ("Deshon Sewer Rehabilitation Project").

V. On January 24, 2006, BASA requested by letter that the Department approve 195 equivalent dwelling units ("EDUs") in new sewer connections to the POTW as provided by the 2001 Agreement.

W In a letter dated February 3, 2006, the Department informed BASA that, because it had not completed all of the tasks under the March 20, 2001, Corrective Action Plan, as amended, BASA was in violation of the 2001 Agreement, and owed stipulated penalties under the 2001 Agreement. The Department also denied BASA's request for 195 new sewer connections.

X. On April 27, 2006, BASA paid all outstanding stipulated civil penalties owed under the 2001 Agreement.

NPDES Permit

Y. Pursuant to 25 Pa. Code §§92.9(a) and (b), all NPDES permits have a fixed term not to exceed five years. Moreover, the terms and conditions of a NPDES permit can only be administratively extended if the permittee submits a timely application within 180 days prior to the expiration date of the NPDES permit and the Department, through no fault of the permittee, is unable to issue or deny a new permit before the expiration date of the previous permit.

Z. BASA's NPDES Permit has an expiration date of July 2, 2006. Therefore, in accordance with 25 Pa. Code §92.9(b), an application to renew the NPDES permit was due by January 1, 2006. BASA submitted its application to renew the NPDES permit on February 6, 2006, e.g. 36 days late.

AA. BASA has requested that the Department accept the February 6, 2006, application as a timely submittal so that the terms and conditions of the existing NPDES permit can be administratively extended until a renewal NPDES permit is issued by the Department. For settlement purposes only, the Department has agreed to this request. The Department published a notice of the draft renewal NPDES permit in the *Pennsylvania Bulletin* on _____, 2006, and BASA reviewed and commented on the draft. Upon signing this Consent Order and Agreement, the Department will issue the final renewal NPDES permit for the POTW, which BASA has agreed not to appeal. The final renewal NPDES permit for the POTW is attached as Exhibit A and incorporated by reference.

Violations

AB. BASA's failure to comply with the 2001 Agreement constitutes continuing violations of Sections 5 and 610 of the Clean Streams Law, 35 P.S. §§691.5 and 691.610.

AC. BASA's failure to submit an application to renew its NPDES permit within 180 days before the existing NPDES permit expires date constitutes a violation of 25 Pa. Code §92.1.

AD. BASA's past and continuing unpermitted discharges from the Overflow Structures constitute separate violations of Sections 201, 202, 401, and 402 of the Clean Streams Law, 35 P.S. §§691.201, 691.202, 691.401, and 691.402.

AE. Because the POTW remains hydraulically overloaded, the Official Sewage Plans of the Tributary Municipalities do not adequately meet the existing sewage disposal needs of their

respective communities, in violation of Section 5 of the Sewage Facilities Act, 35 P.S. §750.5, and Sections 401 and 601 of the Clean Streams Law, 35 P.S. §§691.401 and 691.601.

AF. The violations set forth in Paragraphs AB-AE, above, constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. §691.611; a statutory nuisance under Sections 401 and 601 of the Clean Streams Law, 35 P.S. §§691.401 and 691.601, and Section 14 of the Sewage Facilities Act, 35 P.S. §750.14; and subject BASA and the Tributary Municipalities to civil penalty liability under Sections 5 and 605 of the Clean Streams Law, 35 P.S. §§691.5 and 691.605, and Section 13a of the Sewage Facilities Act, 35 P.S. §750.13a.

ORDER

After full and complete negotiation of all matters set forth in this Consent Order and Agreement, and upon mutual exchange of the covenants contained herein, BASA and the Tributary Municipalities, desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by BASA and the Tributary Municipalities as follows:

1. **Authority.** This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Section 610 of the Clean Streams Law, 35 P.S. §691.610; Section 10 of the Sewage Facilities Act, 35 P.S. §750.10; and Section 1917-A of the Administrative Code.

2. **Findings.**

a. BASA and the Tributary Municipalities agree that the Findings in Paragraphs A through AF are true and correct and, in any matter or proceeding involving BASA and the Tributary Municipalities, BASA and the Tributary Municipalities shall not challenge the accuracy or validity of these Findings.

b. The Parties do not authorize any other persons to use the Findings in this Consent Order and Agreement in any matter or proceeding.

3. *Planning and Plan Implementation Obligations of BASA and the Tributary*

Municipalities.

a. Each Tributary Municipality shall prepare and submit to the Department for approval, an administratively complete Official Plan revision Special Study that focuses on each municipality's current and future sewage needs to be served by the POTW according to the following schedule:

- i. Within **60 calendar days** of the date of this Consent Order and Agreement, each Tributary Municipality shall submit a draft Official Plan revision Special Study to the respective municipal planning agency, the Butler County Planning Commission, and BASA to solicit comments on each Tributary Municipality's projections of future sewage needs;
- ii. Within **90 calendar days** of the date of this Consent Order and Agreement, each Tributary Municipality shall consider the comments of the respective municipal planning agency, the Butler County Planning Commission, and BASA and revise its draft Official Plan revision Special Study, as necessary; and
- iii. Within **120 calendar days** of the date of this Consent Order and Agreement, each Tributary Municipality shall submit to the Department an Official Plan revision Special Study, that shall include a resolution from the Tributary Municipality evidencing adoption of the Special Study as a revision to the respective municipality's Official Plan.

b. Within **150 calendar days** of the date of this Consent Order and Agreement, BASA shall prepare and submit to the Department for approval a proposed Task/Activity Report. The Task/Activity Report shall list the planning elements from 25 Pa. Code §71.21, that are needed to prepare an Official Plan Update Revision that provides adequate conveyance and treatment for the future sewage needs of each Tributary Municipality, as defined in Paragraph 3.a., above, and provides for all Overflow Structures that do not have both a NPDES permit and a Water Quality Management permit to permanently cease all discharges and be permanently closed or eliminated.

The Task/Activity Report shall include an itemized cost proposal to prepare the Official Plan Update Revision.

c. Within **180 calendar days** of the Department's approval of the Task/Activity Report, BASA shall submit to the Department, on behalf of each Tributary Municipality, a draft Official Plan Update Revision that updates each of the Tributary Municipality's Official Plans. The draft Update Revision shall evaluate the alternatives and recommend an alternative which shall adequately address the existing sewage needs and the future sewage needs of each Tributary Municipality as specified in each Tributary Municipality's Special Study. The draft Update Revision shall be prepared in accordance with 25 Pa. Code §§71.21 and 71.31, and shall contain an implementation schedule that provides for all projects to be completed by July 31, 2012, and provides for all Overflow Structures that do not have both a NPDES permit and a Water Quality Management permit to have ceased all discharges and be permanently closed or eliminated by July 31, 2012.

d. Within **180 calendar days** of receiving written comments from the Department concerning the draft Official Plan Update Revision, BASA shall submit to the Department the final Update Revision ("Final Update Revision"). The Final Update Revision shall be administratively complete and include a resolution from each Tributary Municipality evidencing adoption of the Final Update Revision as an update to each Tributary Municipality's Official Plan.

e. If the Department determines that the Final Update Revision is not administratively complete, BASA shall, within **90 calendar days** of receiving the Department's written comments, submit to the Department a revised Final Update Revision that addresses the Department's written comments.

f. If the Department disapproves the revised Final Update Revision submitted by BASA pursuant to Paragraph 3.e., above, BASA and the Tributary Municipalities shall be in violation of this Consent Order and Agreement, and shall be subject to civil penalty liability under Sections 5 and 605 of the Clean Streams Law, 35 P.S. §§691.5 and 691.605, and Section 13a of the Sewage Facilities Act, 35 P.S. §750.13a.

g. If the Department determines that revisions to the Final Update Revision under Paragraphs 3.e. and 3.f., above, represent significant changes to the selected alternative and/or the implementation schedule set forth in the original Final Update Revision submitted pursuant to Paragraph 3.d., above, the Department, at its sole discretion, may require the Tributary Municipalities to readopt and submit to the Department updated resolutions evidencing their adoption of the revised Final Update Revision. BASA and the Tributary Municipalities agree to waive their right to appeal any such determination.

h. If a Tributary Municipality fails to comply with its obligations under Paragraphs 3.a., 3.d., and/or 3.g., above, that specific municipality shall be in violation of this Consent Order and Agreement, and shall be subject to civil penalty liability under Sections 5 and 605 of the Clean Streams Law, 35 P.S. §§691.5 and 691.605, and Section 13a of the Sewage Facilities Act, 35 P.S. §750.13a.

i. Upon the Department's written approval of the Final Update Revision or the revised Final Update Revision, BASA shall implement the approved Final Update Revision in accordance with the schedule(s) therein, and the approved implementation schedule(s) shall be incorporated herein by reference, and shall be an obligation under this Consent Order and Agreement and enforceable hereunder.

4. *BASA's Corrective Actions.* BASA shall take all actions necessary and shall timely obtain all funding necessary to comply with the Clean Streams Law, the Sewage Facilities Act, all relevant Regulations, the renewal NPDES Permit, Water Quality Management Permits, the Department-approved Final Update Revision, and any other obligations under this Consent Order and Agreement. In doing so, BASA shall also perform the following tasks in accordance with the following schedule:

a. Deshon Sewer Rehabilitation Project. BASA shall complete the Deshon Sewer Rehabilitation Project, according to the following schedule:

- i. Within 30 calendar days of the date of this Consent Order and Agreement, begin sewer rehabilitation work;
- ii. Within 24 months of the date of this Consent Order and Agreement, complete the public sector phase of Deshon Sewer Rehabilitation Project;
- iii. Within 30 months of the date of this Consent Order and Agreement, complete the private sector phase of the Deshon Sewer Rehabilitation Project, and begin post-construction flow monitoring for a period of six months; and
- iv. Within 38 months of the date of this Consent Order and Agreement, submit a summary of the results of the post construction flow monitoring within the Deshon sewershed in a report to the Department.

b. Quarterly Progress Reporting. BASA shall submit to the Department, with a copy to all Tributary Municipalities, written progress reports of its efforts to comply with the requirements of this Consent Order and Agreement. The written progress reports shall be submitted by the 30th day after each calendar quarter and continue every calendar quarter thereafter until this Consent Order and Agreement is terminated. The Quarterly Progress Reports shall specifically include, at a minimum, a description of BASA's progress with the Deshon Sewer Rehabilitation

Project, progress with the preparation of any planning and plan implementation obligations, and a report of sewage connections issued.

5. *Submittals.* For any proposal, plan, or other document that is required to be submitted to the Department pursuant to this Consent Order and Agreement, except those documents submitted pursuant to Paragraphs 3.b.-e., above, the Department will review the document and will approve, modify, or disapprove the document in writing. If the Department disapproves the document, BASA shall submit a revised document to the Department within the time specified by the Department. Upon receipt of the revised document, the Department will approve, or modify and approve, the revised document in writing. The approved document or approved and modified document shall become a part of this Consent Order and Agreement for all purposes and shall be enforceable as such.

6. *Administrative Completeness.* For the purposes of this Consent Order and Agreement, the term “administratively complete” shall mean that all permit applications and planning documents (including public and planning agency comments and responses) submitted by BASA and the Tributary Municipalities shall contain all applicable fees, modules, signatures, certifications/reports by applicable licensed professionals, with all necessary laboratory analyses, plans, maps, drawings, specifications, and/or supporting calculations, and any other necessary information/documents of sufficient quality to merit a full technical review by the Department or other applicable agency.

7. *Civil Penalty Settlement.* Upon signing this Consent Order and Agreement, BASA shall pay a civil penalty of \$500. This payment is in settlement of the Department’s claim for civil penalties for the violations set forth in Paragraph AC, above, covering the dates set forth herein. The

payment shall be made by corporate check or the like made payable to Commonwealth of PA Clean Water Fund, and sent to the individual at the address set forth in Paragraph 15 (Correspondence with the Department), below.

8. *Stipulated Civil Penalties.*

a. If BASA fails to comply with the terms or conditions of this Consent Order and Agreement, BASA shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount determined under the following schedule and meet the following conditions:

- i. BASA shall pay the following penalties for the following violations:
 - (1) \$1,000 per month for any overflow within the POTW reported during the monthly monitoring period;
 - (2) \$100 per parameter for each effluent violation of weekly average loading or concentration reported on the monthly Discharge Monitoring Reports;
 - (3) \$150 per parameter for each effluent violation of monthly average loading or concentration reported on the monthly Discharge Monitoring Reports; and
 - (4) \$25,000 plus an additional \$200 per day for each day after July 31, 2012 that all projects under the Department-approved Final Update Revision are not to be completed.

b. Stipulated civil penalty payments shall be payable monthly on or before the 30th day of each succeeding month, and shall be forwarded as described in Paragraph 7 (Civil Penalty Settlement), above.

c. Any payment under this Paragraph shall neither waive BASA's duty to meet its obligations under this Consent Order and Agreement, nor preclude the Department from commencing an action to compel BASA to comply with the terms and conditions of this Consent

Order and Agreement. The payment resolves only BASA's liability for civil penalties arising from specific violations of this Consent Order and Agreement for which the payment is made.

9. *Prohibition on Connections.*

a. For the purposes of this Consent Order and Agreement, the following definitions shall apply:

- i. The term "connection," as defined in 25 Pa. Code §94.1, is a connection of a structure that contributes sewage to an organically and/or hydraulically overloaded sewerage system, or one equivalent dwelling unit;
- ii. The term "EDU" is a connection to a sewerage system with the amount of sewage flow equal to 400 gallons per day;
- iii. The term "Economic Development" is defined as local development projects that are specifically created to serve the public good and are supported by at least 50% public funding, and/or local development projects that create new jobs in manufacturing or tourism; and
- iv. The term "all of their obligations under this Consent Order and Agreement" shall mean and include all of the obligations under Paragraphs 3-5 and 8 of this Consent Order and Agreement, including all of the obligations under any document approved by the Department under this Consent Order and Agreement.

Grant of Initial Connections

b. Upon signing this Consent Order and Agreement, BASA shall receive an allocation of 160 EDUs for the period of March 31, 2006, to March 31, 2007. BASA shall act as the approving and issuing agency for new connections to the POTW for requests from the Tributary Municipalities.

Connection Prohibition

c. Beginning April 1, 2007, BASA and the Tributary Municipalities agree to a Prohibition on issuing new connections within the area of the City of Butler, Butler Township,

Center Township, Summit Township, the Borough of East Butler, Oakland Township, and Connoquenessing Township served by the POTW.

Exceptions to the Prohibition

d. BASA may request exceptions to the Prohibition from the Department for the following circumstances and shall meet the following conditions:

- i. Connections for those exceptions as set forth in 25 Pa. Code §§94.51-94-57;
- ii. connections for projects for Economic Development; and,
- iii. any proposed exceptions to the Prohibition shall be submitted to the Department by BASA. Such proposals shall be in writing and shall comply with Section 94.51 of the Regulations, 25 Pa. Code §94.51.

e. The Department, in its sole discretion which will include consideration of whether BASA and the Tributary Municipalities are in compliance with all of their obligations under this Consent Order and Agreement, shall determine whether or not to grant any requests for exceptions to the Prohibition, and BASA and the Tributary Municipalities agree to waive their right to appeal any such determination.

Future Connections

f. When the Deshon Sewer Rehabilitation Project is complete, and if BASA and the Tributary Municipalities are in compliance with all of their obligations under this Consent Order and Agreement, the Department will consider written annual requests from BASA for additional connections to the sewer system. The requests for additional connections shall be for the following circumstances and shall meet the following conditions:

- i. Connection requests shall be based on actual sewage needs defined in BASA's service area;

- ii. BASA shall provide supporting documentation to demonstrate that flow reduction activities have reduced sewage flows in the POTW in an amount greater than the requested flow from the new connection; and
- iii. any requests for additional connections shall be submitted to the Department, in writing, in BASA's annual Wasteload Management Report, pursuant to 25 Pa. Code §94.12.

g. The Department, in its sole discretion, shall determine whether or not to grant any requests for connections, and BASA and the Tributary Municipalities agree to waive their right to appeal any such determination.

h. If BASA and the Tributary Municipalities are in violation of any term or condition of this Consent Order and Agreement, the Department may rescind and ban any allocation of new connections granted to BASA. Any such rescission and ban shall not apply to any new connection that has been lawfully issued a building permit by the municipality. If and when BASA and the Tributary Municipalities come back into compliance with all of their obligations under this Consent Order and Agreement, the Department may reinstate the connection allocation upon a written request from BASA, as determined by the Department in its sole discretion and BASA and the Tributary Municipalities agree to waive their right to appeal any such determination.

10. *Additional Remedies.*

a. If BASA and the Tributary Municipalities fail to comply with any of their obligations under this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.

b. The remedies provided by this Paragraph and Paragraph 8 (Stipulated Civil Penalties), above, are cumulative and the exercise of one does not preclude the exercise of any other.

The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated civil penalty is paid.

11. *Reservation of Rights.* The Department reserves the right to require additional measures to achieve compliance with applicable law. BASA and the Tributary Municipalities reserve the right to challenge any action that the Department may take to require those measures.

12. *Liability of BASA.* BASA shall be solely liable for any of its violations of the Consent Order and Agreement, except Paragraph 3, including those caused by, contributed to, or allowed by its officers, directors, agents, employees, contractors, successors, and assigns.

13. *Joint and Several Liability for Paragraph 3.* BASA and the Tributary Municipalities shall be jointly and severally liable for any violation of Paragraph 3 of this Consent Order and Agreement, including those caused by, contributed to, or allowed by their council members, officers, directors, agents, employees, contractors, successors, and assigns.

14. *Transfer of Sewerage Facilities and POTW.*

a. BASA's and the Tributary Municipalities' duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated, or otherwise altered by the transfer of any legal or equitable interest in the sewerage facilities and POTW or any part thereof.

b. If BASA intends to transfer any legal or equitable interest in the sewerage facilities and POTW, or any part thereof, which is affected by this Consent Order and Agreement, BASA shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least 30 days prior to the contemplated transfer, and shall simultaneously inform the Department of such intent pursuant to Paragraph 15 (Correspondence with the Department), below.

c. The Department, in its sole discretion, may agree to modify or terminate BASA's and/or the Tributary Municipalities' duties and obligations under this Consent Order and Agreement upon transfer of the sewerage facilities and POTW, or any part thereof, and upon the transferee entering into an enforceable agreement with the Department concerning the matters addressed in this Consent Order and Agreement. BASA and the Tributary Municipalities agree to waive their right to appeal any Department's decision in this regard.

15. *Correspondence with the Department.* All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to the following with copies sent to all other Parties to this Consent Order and Agreement:

Compliance and Monitoring Manager
Water Management
Department of Environmental Protection
230 Chestnut Street
Meadville, PA 16335-3481
Telephone: 814-332-6942
Fax: 814-332-6121

16. *Correspondence with BASA.*

a. All correspondence with BASA concerning this Consent Order and Agreement shall be addressed to the following, with copies sent to all other Parties to this Consent Order and Agreement:

Authority Manager
Butler Area Sewer Authority
100 Litman Road
Butler, PA 16001

b. All correspondence and service of any notice of any legal correspondence for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first-class mail to the above address:

17. *Correspondence with the Tributary Municipalities.*

a. All correspondence with the Tributary Municipalities concerning this Consent Order and Agreement shall be addressed to the following, with copies sent to all other Parties to this Consent Order and Agreement:

Mayor
City of Butler
140 West North Street
Butler, PA 16001

Chairman of the Board of Supervisors
Oakland Township
565 Chicora Road
Butler, PA 16001

Chairman of the Board of Supervisors
Center Township
419 Sunset Drive
Butler, PA 16001

Chairman of the Board of Supervisors
Connoquenessing Township
102 Township Drive
Renfrew, PA 16053

Chairman of the Board of Supervisors
Summit Township
502 Bonniebrook Road
Butler, PA 16002

Township Manager
Butler Township
290 South Duffy Road
Butler, PA 16001

Mayor
East Butler Borough
P.O. Box 195
East Butler, PA 16029

b. Service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first-class mail to the above addresses.

18. *Severability.* The Paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the Parties.

19. *Entire Agreement.* This Consent Order and Agreement shall constitute the entire integrated agreement of the Parties. No prior or contemporaneous communications or prior drafts

shall be relevant or admissible for purposes of determining the meaning or intent of any provisions herein in any litigation or any other proceeding.

20. **Attorney Fees.** The Parties shall bear their respective attorney fees, expenses, and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

21. **Modifications.** No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by all of the Parties.

22. **Titles.** A title used at the beginning of any Paragraph of this Consent Order and Agreement may be used to aid in the construction of that Paragraph, but shall not be treated as controlling.

23. **Replacement of 2001 Agreement.** Upon signature of this Consent Order and Agreement by all of the Parties, this Consent Order and Agreement shall replace the obligations, but not the Findings, of the 2001 Agreement.

24. **Agreement to not Appeal Final Renewal NPDES Permit.** BASA has reviewed, commented on, and approved the final renewal NPDES Permit for the POTW that is attached to this Consent Order and Agreement at Exhibit A. BASA hereby agrees not to appeal the final renewal NPDES Permit which will be issued by the Department to BASA on the date of this Consent Order and Agreement.

25. *Termination of Consent Order and Agreement.*

a. The obligations, but not the Findings, of this Consent Order and Agreement shall terminate when:

i. BASA has:

- (1) Completed all of its obligations under this Consent Order and agreement;
- (2) eliminated all unpermitted discharges for a minimum of six consecutive months and permanently closed or eliminated all Overflow Structures that do not have both a NPDES permit and a Water Quality Management;
- (3) paid any outstanding stipulated civil penalties owed by BASA pursuant to Paragraph 8, above; and
- (4) achieved compliance with the Clean Streams Law, the Sewage Facilities Act, and all applicable Regulations by December 31, 2012; and

ii. the Tributary Municipalities have fully-complied with Paragraph 3, of this Consent Order and Agreement.

b. The Department, in its sole discretion, may decide to terminate this Consent Order and Agreement after December 31, 2012, and BASA and the Tributary Municipalities agree to waive their right to appeal any Department decision in this regard.

26. *Resolution.* Attached as Exhibit B are resolutions of BASA and the Tributary Municipalities authorizing their signatories below to enter into this Consent Order and Agreement on their behalf.

27. *Execution of Agreement.* This Consent Order and Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the Parties have caused this Consent Order and Agreement to be executed by their duly authorized representative. The undersigned representatives of BASA and the

Tributary Municipalities certify under penalty of law, as provided by 18 Pa.C.S. §4904, that they are authorized to execute this Consent Order and Agreement on behalf of BASA and the Tributary Municipalities consent to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that BASA and the Tributary Municipalities hereby knowingly waive their rights to appeal this Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. §7514; the Administrative Agency Law, 2 Pa.C.S. §103(a) and Chapters 5A and 7A; or any other provision of law. Signature by BASA's and the Tributary Municipalities' attorneys certify only that the agreement has been signed after consulting with counsel.

**FOR THE BUTLER AREA SEWER
AUTHORITY:**

**FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:**

Chairman

Ricardo F. Gilson
Regional Manager
Water Management
Northwest Region

Name
Attorney

Stephanie K. Gallogly
Assistant Counsel

Appendix B: Draft NPDES Permit



230 Chestnut Street
Meadville, PA 16335-3481
June 8, 2006

Northwest Regional Office

814-332-6942
Fax: 814-332-6121

The Mayor
Borough of East Butler
P.O. Box 195
East Butler, PA 16029

Re: Draft Consent Order and Agreement/Draft
NPDES Permit No. PA0026697
Butler Area Sewer Authority
City of Butler, Butler County

Dear Mayor:

Attached please find a copy of the draft NPDES Permit No. PA0026697 for the Butler Area Sewer Authority sewage treatment plant. The draft permit is an exhibit to the draft Consent Order and Agreement between the Department, the Butler Area Sewer Authority, and each tributary municipality served by the Authority. Comments on the draft permit can be directed to the Permits Chief, Mr. David Balog, P.E., at the above listed address.

I can be reached by email at rlybrook@state.pa.us or by phone at 814-332-6643 with any other questions you may have.

Sincerely,

Ronald P. Lybrook
Acting Monitoring and Compliance Manager
Water Management

Enclosure

cc: R. Gilson (email)
S. Gallogly (email)
R. Hutchinson (email)
J. Hill (email)
J. Szumlanski (email)
Corres. File

*cc: Council
Walden + Assoc.
GAP, III. 6/13/06*

RPL:ls1





COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER SUPPLY AND WASTEWATER MANAGEMENT

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE REQUIREMENTS FOR PUBLICLY OWNED
TREATMENT WORKS (POTWs)**

NPDES PERMIT NO: PA0026697

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* ("the Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 *et seq.*,

Butler Area Sewer Authority

100 Littman Road

Butler, PA 16001-3256

is authorized to discharge from a facility known as **Butler Area Sewer Authority**, located at **100 Littman Road, Butler, PA 16001-3256, Butler Township, Butler County** to the **Connoquenessing Creek (Outfall 001) and Butchers Run (Outfalls 005, 011-014 and 018)** in Watershed **20-C** in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts A, B and C hereof.

THIS PERMIT SHALL BECOME EFFECTIVE ON

THIS PERMIT SHALL EXPIRE AT MIDNIGHT ON

The authority granted by this permit is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.
2. Failure to comply with the terms, conditions or effluent limitations of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
3. A complete application for renewal of this permit, or notice of intent to cease discharging by the expiration date, must be submitted to DEP at least 180 days prior to the above expiration date (unless permission has been granted by DEP for submission at a later date), using the appropriate NPDES permit application form.

In the event that a timely and complete application for renewal has been submitted and DEP is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit, including submission of the Discharge Monitoring Reports (DMRs), will be automatically continued and will remain fully effective and enforceable against the discharger until DEP takes final action on the pending permit application.

4. This NPDES permit does not constitute authorization to construct or make modifications to wastewater treatment facilities necessary to meet the terms and conditions of this permit.

DATE PERMIT ISSUED _____

ISSUED BY _____
Ricardo F. Gilson

DATE PERMIT AMENDMENT ISSUED _____

TITLE: Water Management Program Manager
Northwest Regional Office

PART A EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS

I. For Outfall 001, Latitude 40° 50' 21", Longitude 79° 55' 13", River Mile Index 43.73, Stream Code 34025

which receives wastewater from treated domestic sewage

- a. The permittee is authorized to discharge during the period from issuance date through expiration date.
- b. Based on the anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or amendments, the following effluent limitations and monitoring requirements apply (see also Additional Requirements, Footnotes and Supplemental Information).

Discharge Parameter	Effluent Limitations						Monitoring Requirements	
	Mass Units (lbs/day) ⁽¹⁾		Concentrations (mg/L)				Minimum ⁽³⁾ Measurement Frequency	Required Sample Type
	Monthly Average	Average Weekly	Minimum	Monthly Average	Average Weekly	Instantaneous Maximum ⁽²⁾		
Flow	XX	XX					continuous	measurement
CBOD5								
(05/01 - 10/31)	1001	1501		12	18	24	daily	24-hr comp
(11/01 - 04/30)	2001	3002		24	36	48	daily	24-hr comp
TSS	2502	3753		30	45	60	daily	24-hr comp
Ammonia Nitrogen								
(05/01 - 10/31)	167			2		4	daily	24-hr comp
(11/01 - 04/30)	500			6		12	daily	24-hr comp
Cadmium Total+								
(Interim)	XX			XX			4/month	24-hr comp
(Final)	42			0.5		1.0	4/month	24-hr comp
Fecal Coliform*								
(05/01 - 09/30)				200/100ml			daily	grab
(10/01 - 04/30)				2000/100ml			daily	grab

PART A EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS

I. For Outfall 001, (continued)

Discharge Parameter	Effluent Limitations						Monitoring Requirements	
	Mass Units (lbs/day) ⁽¹⁾		Concentrations (mg/L)				Minimum ⁽³⁾ Measurement Frequency	Required Sample Type
	Monthly Average	Average Weekly	Minimum	Monthly Average	Average Weekly	Instantaneous Maximum ⁽²⁾		
Total Residual Chlorine				0.33		1.1	daily	grab
Dissolved Oxygen			5				daily	grab
Phosphorus	167			2		4	daily	24-hr comp
pH			6.0			9.0	daily	grab

XX -- Monitor and report on monthly DMRs.

* -- Average monthly limits expressed as a geometric mean.

+ -- Refer to Special Condition #8.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

Outfall 001 -- after disinfection

PART A EFFLUENT LIMITATIONS, MONITORING, RECORD KEEPING AND REPORTING REQUIREMENTS

- I. For Outfall 011, Latitude 40° 50' 29", Longitude 79° 55' 06", River Mile Index _____, Stream Code _____
- For Outfall 012, Latitude 40° 50' 29", Longitude 79° 55' 06", River Mile Index _____, Stream Code _____
- For Outfall 013, Latitude 40° 50' 27", Longitude 79° 55' 00", River Mile Index _____, Stream Code _____
- For Outfall 014, Latitude 40° 50' 28", Longitude 79° 54' 50", River Mile Index _____, Stream Code _____
- For Outfall 018, Latitude 40° 50' 28", Longitude 79° 55' 50", River Mile Index _____, Stream Code _____

which receives wastewater from stormwater runoff from the sewage treatment plant site

- a. The permittee is authorized to discharge during the period from issuance date through expiration date.
- b. Based on the anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or amendments, the following effluent limitations and monitoring requirements apply (see also Additional Requirements, Footnotes and Supplemental Information).

Discharge Parameter	Effluent Limitations						Monitoring Requirements	
	Mass Units (lbs/day) ⁽¹⁾		Concentrations (mg/L)				Minimum ⁽³⁾ Measurement Frequency	Required Sample Type
	Monthly Average	Average Weekly	Minimum	Monthly Average	Average Weekly	Instantaneous Maximum ⁽²⁾		
These discharges shall consist of stormwater runoff from the sewage treatment plant site only. Refer to Special Condition 6.								

XX -- Monitor and report on monthly DMRs.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

ART A EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS (Cont)

Additional Requirements

- c. The permittee shall provide for effective disinfection of this discharge to control disease-producing organisms during the swimming season (May 1 through September 30) to achieve a fecal coliform concentration not greater than 200/100 ml as a geometric average (mean), and not greater than 1,000/100 ml in more than 10% of the samples tested.
- d. All discharges of floating materials, oil, grease, scum, sheen and substances which produce color, tastes, odors, turbidity or settle to form deposits shall be controlled to levels which will not be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life.
- e. Except as otherwise specified in this permit, the 30-day average percent removal for carbonaceous biochemical oxygen demand and total suspended solids shall not be less than 85 percent.

Footnotes

- (1) When sampling to determine compliance with mass effluent limitations, the discharge flow at the time of sampling must be measured and recorded.
- (2) The Instantaneous Maximum Discharge Limitations are for compliance use by DEP only. Do not report instantaneous maximums on DMRs or supplemental DMRs unless specifically required on those forms to do so.
- (3) This is the minimum number of sampling events required. Permittees are encouraged, and it may be advantageous in demonstrating compliance, to perform more than the minimum number of sampling events.

Supplemental Information

- (1) The hydraulic design capacity of 10.0 million gallons per day for the treatment facility is used to prepare the annual Municipal Wasteload Management Report to help determine whether a "hydraulic overload" situation exists, as defined in Title 25 Pa. Code Chapter 94.
- (2) The effluent limitations for this outfall were determined using an effluent discharge rate of 10.0 million gallons per day for Outfall 001.

II. DEFINITIONS

~~At Outfall XXX~~ means a sampling location in outfall line XXX below the last point at which wastes are added to outfall line (XXX), or where otherwise specified.

~~Average~~ refers to the use of an arithmetic mean, unless otherwise specified in this permit.

~~Best Management Practices~~ (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution to surface waters of the Commonwealth. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

~~Bypass~~ means the intentional diversion of waste streams from any portion of a treatment facility.

~~Clean Water Act~~ means the Federal Water Pollution Control Act, as amended. (33 U.S.C.A. §§1251 to 1387).

~~Composite Sample~~ (for all except GC/MS volatile organic analysis) means a combination of individual samples (at least eight for a 24-hour period or four for an 8-hour period) of at least 100 milliliters (mL) each obtained at spaced time intervals during the compositing period. The composite must be flow-proportional; either the volume of each individual sample is proportional to discharge flow rates, or the sampling interval is proportional to the flow rates over the time period used to produce the composite.

~~Composite Sample~~ (for GC/MS volatile organic analysis) consists of at least four aliquots or grab samples collected during the sampling event (not necessarily flow proportioned). The samples must be combined in the laboratory immediately before analysis and then one analysis is performed.

~~Daily Average Temperature~~ means the average of all temperature measurements made, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar day or during the operating day if flows are of a shorter duration.

~~Daily Discharge~~ means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

~~Daily Maximum Discharge Limitation~~ means the highest allowable "daily discharge."

~~Discharge Monitoring Report~~ (DMR) means the DEP or EPA supplied form(s) for the reporting of self-monitoring results by the permittee.

~~Estimated Flow~~ means any method of liquid volume measurement based on a technical evaluation of the sources contributing to the discharge including, but not limited to, pump capabilities, water meters and batch discharge volumes.

~~Geometric Mean~~ means the average of a set of n sample results given by the nth root of their product.

~~Grab Sample~~ means an individual sample of at least 100 mL collected at a randomly selected time over a period not to exceed 15 minutes.

~~Hazardous Substance~~ means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.

~~Immersion Stabilization~~ (i-s) means a calibrated device is immersed in the wastewater until the reading is stabilized.

~~Industrial User or Indirect Discharge~~ means a non-domestic discharger introducing pollutants to a Publicly Owned Treatment Works (POTW).

~~Maximum Any Time~~ or ~~Instantaneous Maximum~~ means the level not to be exceeded at any time in any grab sample.

~~Measured Flow~~ means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.

~~Monthly Average Discharge Limitation~~ means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

~~Municipality~~ means a city, town, borough, country, parish, district, association or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §1288 of the Clean Water Act.

~~Publicly Owned Treatment Works~~ (POTW) means a treatment works as defined by §1292. of the Clean Water Act, owned by a municipality. The definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes or other conveyances if they convey wastewater to a POTW providing treatment.

~~Severe Property Damage~~ means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

~~Stormwater~~ means the runoff from precipitation, snow melt runoff, and surface runoff and drainage.

~~Stormwater Associated With Industrial Activity~~ means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas as defined at 40 CFR §122.26(b)(14).

~~Toxic Pollutant~~ means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains may, on the basis of information available to DEP cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in these organisms or their offspring.

~~Weekly Average Discharge Limitation~~ means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week.

III. SELF-MONITORING, REPORTING AND RECORDKEEPING

A. Representative Sampling

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. Records Retention

Except for records of monitoring information required by this permit related to the permittee's sludge use and disposal activities which shall be retained for a period of at least 5 years, all records of monitoring activities and results (including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records), copies of all reports required by this permit, and records of all data used to complete the application for this permit shall be retained by the permittee for 3 years from the date of the sample measurement, report or application. The 3-year period shall be extended as requested by DEP or the EPA Regional Administrator.

3. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date and time of sampling or measurements.
- b. The person(s) who performed the sampling or measurements.
- c. The date(s) the analyses were performed.
- d. The person(s) who performed the analyses.
- e. The analytical techniques or methods used; and the associated detection level.
- f. The results of such analyses.

4. Test Procedures

Facilities that test or analyze environmental samples used to demonstrate compliance with this permit shall be in compliance with laboratory accreditation requirements of Act 90 of 2002 (27 Pa. C.S. §§4101-4113), relating to environmental laboratory accreditation. Unless otherwise specified in this permit, the test procedures for the analysis of pollutants shall be those approved under 40 CFR Part 136 (or in the case of sludge use or disposal, approved under 40 CFR Part 136, unless otherwise specified in 40 CFR Part 503), or alternate test procedures approved pursuant to those parts, unless other test procedures have been specified in this permit.

5. Quality/Assurance/Control

In an effort to assure accurate self-monitoring analyses results:

- a. The permittee, or its designated laboratory, shall participate in the periodic scheduled quality assurance inspections conducted by DEP and EPA.
- b. The permittee, or its designated laboratory, shall develop and implement a program to assure the quality and accurateness of the analyses performed to satisfy the requirements of this permit, in accordance with 40 CFR Part 136.

B. Reporting of Monitoring Results

1. The permittee shall effectively monitor the operation and efficiency of all wastewater treatment and control facilities, and the quantity and quality of the discharge(s) as specified in this permit.
2. Unless instructed otherwise in PART C of this permit, a properly completed DMR must be received by the following address within 28 days after the end of each monthly report period:

Department of Environmental Protection
Water Management Program
230 Chestnut Street
Meadville, PA 16335

Office of Compliance & Enforcement (3WP31)
NPDES Branch
Water Protection Division
US EPA -- Region III
1650 Arch Street
Philadelphia, PA 19103-2029

3. The completed DMR Form shall be signed and certified either by the following applicable person, as defined in 40 CFR 122.22(a), or by that person's duly authorized representative, as defined in 40 CFR §122.22(b):
 - For a corporation - by a principal executive officer of at least the level of vice president, or an authorized representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the NPDES form originates.
 - For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
 - For a municipality, state, federal or other public agency - by a principal executive officer or ranking elected official.

If signed by a person other than the above, written notification of delegation of DMR signatory authority must be submitted to DEP in advance of or along with the relevant DMR form.

4. If the permittee monitors any pollutant, using analytical methods described in PART A III.A.4. herein, more frequently than the permit requires, the results of this monitoring shall be incorporated, as appropriate, into the calculations used to report self-monitoring data on the DMR.

C. Reporting Requirements

1. Planned Changes - The permittee shall give notice to DEP as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b).
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in this permit, nor to notification requirements under 40 CFR §122.42(a)(1).
 - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. Anticipated Noncompliance

The permittee shall give advance notice to DEP of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Unanticipated Noncompliance or Potential Pollution Reporting

- a. The permittee shall report any noncompliance, accident or incidents causing or threatening pollution pursuant to Title 25 Pa. Code §91.33 to DEP by telephone immediately giving the location and nature of the danger and, if reasonably possible to do so, to notify known downstream users of the waters.
- b. The permittee shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, in addition, within 15 days from the incident, shall remove any residual substances from the ground and affected waters to the extent required as stated in Title 25 Pa. Code §91.33.
- c. A written submission shall also be provided within 5 days of the time the permittee becomes aware of any noncompliance or incident causing or threatening pollution. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including the exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- d. DEP may waive the written report on a case-by-case basis for reports under paragraph C.3.c. of this section if the oral report was received immediately and no adverse impact has been reported.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under paragraph C.3.a of this section, at the time DMRs are submitted. The reports shall contain the information listed in paragraph C.3.c. of this section.

PART B

I. MANAGEMENT REQUIREMENTS

A. Compliance Schedules

1. The permittee shall achieve compliance with the terms and conditions of this permit within the time frames specified in this permit.
2. The permittee shall submit reports of compliance or noncompliance, or progress reports as applicable, for any interim and final requirements contained in this permit. Such reports shall be submitted no later than 14 days following the applicable schedule date or compliance deadline.

B. Permit Modification, Termination, or Revocation and Reissuance

1. This permit may be modified, terminated, or revoked and reissued during its term in accordance with Title 25 Pa. Code Chapter 92.
2. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
3. In the absence of DEP action to modify or revoke and reissue this permit, the permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time specified in the regulations that establish those standards or prohibitions.

C. Duty to Provide Information

1. The permittee shall furnish to DEP, within a reasonable time, any information which DEP may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit.
2. The permittee shall furnish to DEP, upon request, copies of records required to be kept by this permit.
3. Other Information - Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to DEP, it shall promptly submit the correct and complete facts or information.
4. The permittee shall provide the following information in the annual Municipal Wasteload Management Report, required under the provisions of Title 25 Pa. Code Chapter 94.
 - a. A new introduction of pollutants into the POTW from an indirect discharger which would be subject to Sections 301 and 306 of the Clean Water Act if it were directly discharging pollutants.
 - b. A substantial change in the volume or character of pollutants being introduced into the POTW by an indirect discharger introducing pollutants into the POTW at the time of issuance of this permit.
 - c. Information on the quality and quantity of the effluent introduced into the POTW by an industrial user or an indirect discharger and the anticipated impact of the change in the quality and quantity of effluent to be discharged from the POTW.
 - d. The identity of the industrial users served by the POTW which are subject to pretreatment standards adopted under Section 307(b) of the Clean Water Act; the POTW shall also specify the total volume of discharge and estimate concentration of each pollutant discharged into the POTW by the industrial user.

- e. The POTW shall require all industrial users subject to pretreatment standards adopted under Section 307(b) of the Clean Water Act to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Clean Water Act and regulations thereunder.

D. Proper Operation and Maintenance

1. The permittee shall employ operator's certified in compliance the Water and Wastewater Systems Operators Certification Act (63 P.S. §§1001-1015.1).
2. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes, but is not limited to, adequate laboratory controls including appropriate quality assurance procedures. This provision also includes the operation of backup or auxiliary facilities or similar systems that are installed by the permittee, only when necessary to achieve compliance with the terms and conditions of this permit.

E. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge, sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

F. Bypassing

1. Bypassing Not Exceeding Permit Limitations - The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are subject to the reporting and notification requirements of Part A.III.C.4. (Other Noncompliance).
2. Other Bypassing - In all other situations, bypassing is prohibited and DEP may take enforcement action against the permittee for bypass unless:
 - a. A bypass is unavoidable to prevent loss of life, personal injury or "severe property damage."
 - b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.
 - c. The permittee submitted the necessary notice required in F.4.a. and b. below.
3. DEP may approve an anticipated bypass, after considering its adverse effects, if DEP determines that it will meet the conditions listed in F.2. above.
4. Notice
 - a. Anticipated Bypass – If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least 10 days before the bypass.
 - b. Unanticipated Bypass – The permittee shall submit notice of an unanticipated bypass causing or threatening pollution as required in PART A III.C.3. (Unanticipated Noncompliance or Potential Pollution Reporting) and other bypass as required in C.4. (Other Noncompliance).

II. PENALTIES AND LIABILITY

A. Violations of Permit Conditions

Any person violating Sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act or any permit condition or limitation implementing such sections in a permit issued under Section 402 of the Act is subject to civil, administrative and/or criminal penalties as set forth in 40 CFR §122.41(a)(2).

Any person or municipality who violates any provision of this permit; any rule, regulation or order of DEP; or any condition or limitation of any permit issued pursuant to the Clean Streams Law, is subject to criminal and/or civil penalties as set forth in Sections 602, 603 and 605 of the Clean Streams Law.

B. Falsifying Information

The Clean Water Act provides that any person who does any of the following:

- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, or
- Knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit (including monitoring reports or reports of compliance or noncompliance), shall, upon conviction, be punished by a fine and/or imprisonment as set forth in 18 P.S. §4904 and 40 CFR §122.41(j)(5) and (k)(2).

C. Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance pursuant to Section 309 of the Clean Water Act or Sections 602, 603 or 605 of the Clean Streams Law.

Nothing in this permit shall be construed to preclude the institution of any legal action or to relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under the Clean Water Act and the Clean Streams Law.

D. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

III. OTHER RESPONSIBILITIES

A. Right of Entry

Pursuant to Sections 5(b) and 305 of Pennsylvania's Clean Streams Law, and Title 25 Pa. Code Chapter 92 and 40 CFR §122.41(i), the permittee shall allow authorized representatives of DEP and EPA, upon the presentation of credentials and other documents as may be required by law:

1. To enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. To have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. To inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

4. To sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or the Clean Streams Law, any substances or parameters at any location.

B. Transfer of Permits

1. Transfers by modification. Except as provided in paragraph 2 of this section, a permit may be transferred by the permittee to a new owner or operator only if this permit has been modified or revoked and reissued, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act.
2. Automatic transfers. As an alternative to transfers under paragraph 1 of this section, any NPDES permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies DEP at least 30 days in advance of the proposed transfer date in paragraph 2.b. of this section;
 - b. The notice includes the appropriate DEP transfer form signed by the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them; and
 - c. If DEP does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue this permit, the transfer is effective on the date specified in the agreement mentioned in paragraph 2.b. of this section.
3. In the event DEP does not approve transfer of this permit, the new owner or controller must submit a new permit application.

C. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

D. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

E. Other Laws

The issuance of this permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

PART C

I. OTHER REQUIREMENTS

ONE: No storm water from pavements, area ways, roofs, foundation drains or other sources shall be admitted to the sanitary sewers associated with the herein approved discharge.

TWO: The approval herein given is specifically made contingent upon the permittee acquiring all necessary property rights by easement or otherwise, providing for the satisfactory construction, operation, maintenance and replacement of all sewers or sewerage structures associated with the herein approved discharge in, along, or across private property, with full rights of ingress, egress and regress.

THREE: If, in the opinion of the Department, these works are not so operated or if by reason of change in the character of wastes or increased load upon the works, or changed use or condition of the receiving body of water, or otherwise, the said effluent ceases to be satisfactory or the sewerage facilities shall have created public nuisance, then upon notice by the Department the right herein granted to discharge such effluent shall cease and become null and void unless within the time specified by the Department, the permittee shall adopt such remedial measures as will produce an effluent which, in the opinion of the Department, will be satisfactory for discharge into the said receiving body of water.

FOUR: Collected screenings, slurries, sludges, and other Solids shall be handled and disposed of in compliance with 25 Pa. Code, Chapter 75, and in a manner "equivalent" to the requirements indicated in Chapters 271, 273, 275, 283 and 285 (relating to permits and requirements for landfilling, land application, incineration, and storage of sewage sludge), Federal Regulation 40 CFR 257, Pennsylvania Clean Streams Law, Pennsylvania Solid Waste Management Act of 1980, and the Federal Clean Water Act and its amendments.

The permittee is responsible to obtain or assure that contracted agents have all necessary permits and approvals for the handling, storage, transport and disposal of solid waste materials generated as a result of wastewater treatment.

II. SPECIAL CONDITIONS

1. Other Permits

"Effluent limitations, monitoring requirements, and other standard and special conditions which relate to the discharges of pollutants authorized by this permit and which are contained in Water Quality Management Permit(s):

No. 1074404 issued on January 7, 1977

are superseded by the terms and conditions of this permit, unless specifically noted otherwise herein."

2. Permit Condition For The Operation And Implementation Of A Pretreatment Program

A. General Requirement - The permittee shall operate, and implement an industrial pretreatment program in accordance with the Federal Clean Water Act, the Pennsylvania Clean Streams Law, and the federal regulations at 40 CFR Section 403. The program shall also be implemented in accordance with the pretreatment program and any modifications thereto submitted by the permittee and approved by the Approval Authority.

B. Annual Report and Other Requirements - The permittee shall submit an Annual Report by March 31 of each year to DEP and EPA that describes the permittee's pretreatment activities for the previous calendar year. The Annual Report shall include a description of pretreatment activities in all municipalities from which wastewater is received at the permittee's POTW. The submission to DEP shall be incorporated into the permittee's Annual Municipal Wasteload Management Report required by 25 Pa. Code Chapter 94. In addition, the permittee shall meet all of the conditions specified below whether or not they relate to the Annual Report:

- 1) Control Mechanism Issuance - The Annual Report shall contain a summary of Significant Industrial User (SIU) control mechanism issuance, including a list of issuance and expiration dates for each SIU;
 - 2) Sampling and Inspection - The Annual Report shall contain a summary of the number and type of inspections and samplings of SIUs by the permittee, including a list of all SIUs either not sampled or not inspected, and the reason that the sampling and/or inspection was not conducted;
 - 3) Industrial User Compliance and POTW Enforcement - The Annual Report shall contain a summary of the number and type of violations of pretreatment standards and requirements, including local limits, and the actions taken by the permittee to obtain compliance, including civil penalty assessments and actions for injunctive relief. The report shall state whether each SIU was in significant noncompliance, as that term is defined in 40 CFR Section 403.8(f)(2)(vii);
 - 4) Industrial Listing - The Annual Report shall contain an updated industrial listing showing all current SIUs and the categorical standard, if any, applicable to each. In addition, the report shall contain a summary of any trucked or hauled wastewater accepted at the plant including the source of the wastewater (domestic or industrial), the amount of wastewater received on a monthly basis, any controls imposed on the users, and the discharge point designated by the POTW for acceptance of such wastewater;
 - 5) Summary of POTW Operation - The Annual Report shall contain a summary of any interference, pass-through, or permit violations by the POTW which may be attributed to industrial users, and actions taken to address these events. The summary shall also include sampling and analysis of treatment plant influent, effluent, and sludge for toxic and incompatible pollutants, and an analysis of any trends in such data for the last three years;
 - 6) Pretreatment Program Changes - The Annual Report shall contain a summary of any changes to the approved program and the date of submission to the Approval Authority;
 - 7) Monitoring - The permittee shall conduct monitoring at its treatment plant that, at a minimum, includes quarterly influent, effluent, and sludge analysis for all local limit parameters, and an annual priority pollutant scan for influent and sludge.
- C. Notification of Pass-Through or Interference - The permittee shall notify EPA and DEP, in writing, of any instance of pass-through or interference related to an industrial discharge from an IU into the POTW. The notification shall be attached to the discharge monitoring report submitted to EPA and DEP and shall describe the incident, including the date, time, length, cause (including responsible user if known), and the steps taken by the permittee and IU (if identified) to address the incident. A copy of the notification shall also be sent to the EPA at the address provided below.
- D. Headworks Analysis - The permittee shall submit to EPA and DEP a reevaluation of its local limits based on a headworks analysis of its treatment plant within 1 year of permit issuance. The list of pollutants to be evaluated, as well as a sampling plan for collection of necessary data, shall be submitted to EPA and DEP within 3 months of permit issuance. Within 4 months of acceptance of the headworks analysis by the Approval Authority, the permittee shall adopt the revised limits and notify all contributing municipalities of the need to adopt the revised local limits.
- E. Changes to Pretreatment Program - DEP and EPA may require the permittee to submit for approval changes to its pretreatment program if any one or more of the following conditions is present:
- 1) The program is not implemented in accordance with 40 CFR Part 403;
 - 2) Problems such as interference, pass-through or sludge contamination develop or continue;
 - 3) Federal, State, or local requirements change;

- 4) Changes are needed to assure protection of waters of the Commonwealth.
- F. Procedure For Pretreatment Program Changes - Upon submittal by the permittee, and written notice of approval by the Approval Authority to the permittee of any changes to the permittee's approved pretreatment program, such changes are effective and binding upon the permittee.
- G. Correspondence - The Approval Authority shall be EPA at the following address:

Pretreatment Coordinator
NPDES Permits Branch (3WP41)
Office of Permits & Enforcement
Water Protection Division
US EPA -- Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Copies of all correspondence and reports dealing with this program shall be sent to:

Department of Environmental Protection
Northwest Regional Office
Water Management Program
230 Chestnut Street
Meadville, PA 16335

3. Effluent Chlorine Optimization and Minimization

To reduce or eliminate the amount of chlorine discharged into water bodies, the permittee must: (1) implement source reduction activities, (2) improve operation/maintenance practices and, (3) improve/adjust process controls.

The permittee will ensure that applied chlorine dosages, used for disinfection or other purposes, are optimized to the degree necessary such that the total residual chlorine in the discharge does not cause an adverse stream impact. In doing so, the permittee shall consider relevant factors affecting chlorine dosage, such as wastewater characteristics, mixing and contact times, desired result of chlorination, and expected impact on the receiving water body.

If the Department determines or receives documented evidence levels of TRC in the permittee's effluent are causing adverse impacts in the receiving water, the permittee shall institute necessary additional steps to reduce or eliminate such impact.

4. Chronic Whole Effluent Toxicity (WET) Monitoring

A. General Requirements

The permittee shall conduct chronic whole effluent toxicity (WET) tests in accordance with the appropriate test protocols or guidance described in Section D, Test Conditions and Methods, below. The permittee shall collect discharge samples and perform WET tests to generate chronic survival and reproduction data for the cladoceran, *Ceriodaphnia dubia* and survival and growth data for the fathead minnow, *Pimephales promelas*. These results will be reported as No Observed Effect Concentration (NOEC) and a dose-response curve shall be plotted, if possible.

B. Test Frequency

- 1. Chronic WET testing shall be conducted quarterly starting within three months of the permit's effective date and continue until four tests have been completed. If all four chronic tests demonstrate a NOEC (No Observed Effect Concentration) greater than TIWCc (Target Instream Waste Concentration chronic) of 72.6% (The TIWCc is the IWCC / 1), the permittee may request

that the Department reevaluate the performance of the facility and the effects of the facility effluent upon the aquatic community and reduce or remove the WETT frequency for the remainder of the permit cycle.

2. If any of the quarterly chronic tests result in an NOEC less than the TIWCc of 72.6%, the permittee shall conduct a Toxicity Identification Evaluation (TIE) to identify the toxic constituents of the effluent. During the period the permittee is conducting the TIE and Toxicity Reduction Evaluation (TRE), WET testing will be conducted semi-annually. This schedule will continue until the toxicants are identified, confirmed and controlled to acceptable levels through establishment of chemical specific limits or institutional methods. At this point, the permittee may submit a request to the Department for modification of the permit condition, documenting the changes instituted to achieve the toxicity reduction. Documentation may include, but is not limited to: the results of TIE/TRE, pretreatment program changes, plant operation and maintenance, design changes, or establishment of and compliance with a chemical limit specific that address the effluent toxicity.

The Department will decide if the toxicity has been properly addressed based upon the permittee's report and completion of four consecutive WET tests with NOECs greater than the TIWCc of 72.6% subsequent to institution of the controls specified in the report. If the permittee does not identify the sources of toxicity or adequately control them, a WETT limit, adequate to protect the aquatic community, will be imposed for the next permit cycle.

Toxicity Identification/Reduction Evaluation

If any of the chronic tests show an NOEC less than the TIWCc of 72.6%, the permittee shall, within 30 days of the test completion, submit a report of the chronic test results to the Department and begin a Toxicity Identification Evaluation/Toxicity Reduction Evaluation (TIE/TRE). The TIE/TRE evaluates the possible causes of the effluent toxicity; the possible sources of the causative agents; possible control options to reduce or eliminate the effluent toxicity; and implementation of controls.

Within 30 days of submitting the chronic test report, the permittee must submit either a written report on the results of the TIE/TRE or, if the TIE/TRE is not complete, a schedule for completing the TIE/TRE. The schedule must contain specific timeframes for completing major elements of the TIE/TRE. The Department will review the schedule and respond within 60 days. If the Department fails to respond within that time period, the permittee may commence with the study in accordance with the submitted schedule.

The TIE/TRE must be conducted in accordance with EPA's guidance in "Methods for Aquatic Identification Evaluations, Phase I (600/3-88/034, September 1988), Phase II (600/3-88/035, February 1989), and Phase III (600/3-88/036, February 1989) or current approved TIE/TRE protocols.

C. Sample Collection

For each chronic testing event, three 24-hour flow proportioned, composite samples shall be collected over a seven day exposure period. The samples must be collected at a frequency of not greater than every two hours and flow proportioned. The samples must be collected at the NPDES permit sampling point. The permittee shall collect chemical and physical data on the chronic effluent samples specified in this permit.

D. Test Conditions and Methods

The permittee shall follow DEP's "Biomonitoring WETT Data QA/QC Guidelines for Chronic Toxicity Testing with Amendments, March 20, 1995", attached and included in this permit condition, supplemented by Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, Third Edition (EPA/600/4-91/002). If the Department determines that the proper chronic test acceptability criteria are not met or the proper QA/QC conditions were not followed, the permittee must perform a retest within 30 days.

To properly conduct chronic WET tests the laboratory must prepare a series of effluent dilutions that are specific to your discharge. The permittee must inform the WETT laboratory of the proper dilution series, which is calculated, using a linear regression equation, from and geometric to the Targeted In-stream Waste Concentration (TIWCc) for your discharge. The dilution series must include at least one dilution below the TIWCc. Based upon your calculated TIWC, your specific dilution series is (100%, 85%, 73%, 62%, 53%).

E. Chemical Analysis

The chemistry tests shall include pH, conductivity, total alkalinity, total hardness, total residual chlorine, total ammonia (unionized ammonia), dissolved oxygen and temperature. Chemical analyses as described in the EPA Methods (above) shall be performed for each sampling event, including each new batch of dilution water and each testing event.

In addition to the chemical analyses required above, those parameters listed in PART A and PART C of the NPDES permit for the outfall(s) tested will be analyzed concurrently with the WET Test by using the method specified in the NPDES permit or, if not specified, by using EPA methods at 40 CFR Part 136; Standard Methods for the Examination of Water and Wastewater, American Public Health Association; and approved methods cited in 25 PA Code Chapter 16, Water Quality Toxics Management Strategy, Statement of Policy.

F. Chronic Toxicity Test Report Elements

At a minimum, the following must be reported with each chronic WET test:

1. General test description: - origin and age of test organisms, dates and results of reference toxicant tests; light and temperature regimes; other information on test conditions.
2. Completion of Ceriodaphnia dubia and Pimephales promelas coversheets (Forms 3620-FM-WQ0146 3/95 and 3620-FM-W2 145 3/95).
3. Description of sample collection procedures and of the sample location.
4. Names of individuals collecting and transporting samples, times and dates of sample collection and analysis, and temperature of sample upon receipt.
5. Description, time and date of sample renewals.
6. All chemical and physical data including method detection levels and observations made on the species. The chronic WET test hardness shall be reported with each test.
7. Copies of raw data sheets and/or bench sheets with data entries and signatures.
8. When effluents are dechlorinated, dechlorination procedures must be described and a thiosulfate control used in addition to the normal dilution water control. Appropriate statistical consideration of test results should include comparison of both controls.
9. All observations or test conditions affecting the test outcome should be described. Any identified type I or type II errors must be explained.
10. The reference toxicant shall be identified and be a commonly used toxicant approved by EPA. Reports of reference toxicant tests shall include all information needed for the proper evaluation of the test. This includes the following: water chemistry parameters of controls and test concentrations; chronic endpoint with appropriate statistical analyses; and control charts (for point estimates, cumulative mean \pm two standards deviations; for NOEC's central tendency \pm one for concentration interval).

G. Submission of test reports

The permittee shall submit copies of all chronic WET test reports to DEP at the address listed below within 30 days of the test completion.

Department of Environmental Protection
Water Quality Protection
Northwest Regional Office
230 Chestnut Street
Meadville, PA 16335

5. **Whole Effluent Toxicity Testing**

The permittee shall submit the results of whole effluent testing with their next NPDES application, according to 40 CFR 122.21(j)(5). The permittee shall obtain the appropriate biomonitoring protocol for testing from the DEP Regional Office.

6. **Requirements Applicable to Stormwater Outfalls**

A. Prohibition of Non-stormwater Discharges

1. Except as provided in A.2, all discharges to stormwater outfalls (011 thru 014, & 018) shall be composed entirely of non-polluting stormwater.
2. The following non-polluting water discharges may be authorized, provided the discharge is in compliance with D.2.b: discharges from fire fighting activities; fire hydrant flushings, potable water sources including waterline flushings, irrigation drainage, lawn watering, routine external building washdown which does not use detergents or other compounds, pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used, air conditioning condensate, springs, uncontaminated groundwater, and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. Spills

This permit does not authorize the discharge of any polluting substances resulting from an on-site spill. Such spills shall be controlled through proper implementation of a PPC Plan as stated in Section D below.

- C. This permit does not authorize any discharge (storm water or non-storm water) containing any pollutant that may cause or contribute to an impact on aquatic life or pose a substantial hazard to human health or the environment due to its quantity or concentration.

D. Preparedness, Prevention and Contingency Plans

1. Development of Plan

Operators of facilities shall have developed a Preparedness, Prevention and Contingency (PPC) Plan in accordance with 25 Pa. Code § 91.34 and the "Guidelines for the Development and Implementation of Environmental Emergency Response Plans". The PPC Plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges from the facility. In addition, the PPC Plan shall describe the BMPs that are to be used to reduce the pollutants in stormwater discharges at the facility ensuring compliance with the terms and conditions of this permit.

2. Non-stormwater Discharges

- a. The PPC Plan shall contain a certification that the discharge has been tested or evaluated for the presence of non-stormwater discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-stormwater discharges, the evaluation criteria or testing methods used, the date of any testing and/or evaluation, and the on-site drainage points that were directly observed during the test. Such certification may not be feasible if the facility operating the stormwater discharge does not have access to an outfall, manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the PPC Plan shall indicate why the certification was not feasible. A discharger that is unable to provide the certification must notify the Department within 180 days of the effective date of this permit.
- b. Except for flows from fire fighting activities, sources of non-storm water listed in A.2. (authorized non-stormwater discharges) that are combined with stormwater discharges must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the discharge.

3. Comprehensive Site Compliance Evaluations and Record Keeping

Qualified personnel shall conduct site compliance evaluations at least once a year. Such evaluations shall include:

- a. Visual inspection and evaluation of areas contributing to a stormwater discharge for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural stormwater management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.
- b. Based on the results of the inspection, the description of potential pollutant sources identified in the PPC plan, and pollution prevention measures and controls identified in the plan shall be revised as appropriate within 15 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.
- c. A report summarizing the scope of the inspection, using the DEP's Annual Inspection Form shall be completed and made available upon request and retained as part of the PPC Plan for at least one year after coverage under this permit terminates.

E. Stormwater Management Best Management Practices(BMPs)

The permittee shall implement at least the following BMPs:

- (1) Manage sludge in accordance with all applicable permit requirements; temporarily collect and store sludge in enclosed containers or tanks.
- (2) Store chemicals in secure areas on impervious surfaces away from storm drains.

- (3) Design wastewater treatment facilities to prevent run on and avoid storm water commingling with sanitary wastewater.
- (4) Efficiently use pesticides for weed control; where practicable investigate use of the least toxic pesticides; do not apply during windy conditions.

7. **Sanitary Sewer Overflows**

"Unless otherwise authorized under Part B of this permit, any discharge from any point other than a permitted treatment outfall or permitted combined sewer system outfall is prohibited. See e.g. Section 301(b)(1) (B) & (C) of the Clean Water Act; 40 CFR 122.44 & 133.102 (relating to limitations, standards and permit conditions; and secondary treatment). In the event there is a prohibited discharge from a sewer conveyance system, report every such discharge to the Department within 24 hours of the discharge and on your monthly Discharge Monitoring Report (DMR) in the Remarks block. Indicate the date of discharge, action taken and volume of discharge. 40 CFR 122.41(l) (6) & (7) (relating to reporting requirements)."

8. **Toxics Reduction Evaluation (TRE)**

A. Water Quality-Based Effluent Limitations (WQBELs)

- 1) Based on the discharge and stream data currently available to the Department, the WQBELs for Cadmium on Page 2 are necessary to protect the receiving stream uses designated in the Department's Rules and Regulations.
- 2) Within 60 days of the permit effective date (PED), the permittee must submit notification to the Department verifying one of the following options has been selected.
 - a) The permittee accepts the Department's data, assumptions and water quality modeling which was the basis for the WQBELs and will not proceed with optional site-specific data collection activities described in Section C of this condition. The WQBELs will be considered final and enforceable three years after the PED and should be used as the basis for conducting Phase II of the TRE.
 - b) During the period following permit issuance, and prior to the WQBELs becoming final, the permittee agrees to conduct site-specific discharge and/or stream data collection and provide the Department with data to verify or refine the WQBELs in accordance with the schedule in Section B.2, herein. If warranted, modified WQBELs will be established through a permit amendment. Any such permit amendment shall be considered a formal permitting action of the Department subject to applicable permit modification procedures.

If the permittee fails to select one of these options within 60 days of permit effective date, option A.2.a. is selected by default. If the permittee selects option A.2.b, and conducts TRE actions within the schedule in Section B.2 of this condition of the permit, herein, the Department will issue a written decision by letter or permit amendment. The permittee will have 30 days from the date of receipt of such written Department letter or decision to file an appeal of the final WQBELs.

- 3) In either case, the Permittee must conduct a TRE as outlined below. Phase I of the TRE has both required and optional components.

B. TRE Submission Requirements

- 1) The TRE shall be developed to:
 - a) Confirm and quantify the presence of the pollutant in the discharge with WQBELs.
 - b) Verify or refine the modeling data and/or assumptions used to develop the WQBELs.

- c) Identify sources of the pollutant with final WQBELs.
 - d) Recommend management practices, wastewater treatment technologies, or other control techniques to reduce or eliminate this pollutant.
- 2) A copy of the Department's "Guidelines for Conducting a Toxics Reduction Evaluation" is enclosed for your use. The TRE and associated reports shall be completed and submitted in accordance with the following schedule:

Action	Date
a) Submit notification specified in A.2 above	within 60 days of PED
b) Submit work plan for conducting Phase I	within 90 days of PED
c) Start Phase I	within 120 days of PED
d) Submit complete Phase I report (3 copies)	within 18 months of PED
e) Start Phase II from the Department to proceed with Phase II	within 30 days of notice
f) Submit complete Phase II report to proceed with Phase II	within 180 days of notice
g) Progress reports starting 120 days after PED	every three months

C. Phase I TRE Requirements

- 1) The permittee is required to submit Phase I of the TRE consisting of the following components:
 - a) Influent and effluent quality review
 - b) Source inventory and evaluation
 - c) Source reduction evaluation
 - d) Implementation of pollution prevention, sound housekeeping practices, and other management practices.

- 2) The permittee selecting option A(2)(b) above has the option of providing all or some of the following site-specific data as part of Phase I for use in verifying and refining the WQBELs:
 - Discharge hardness
 - Discharge pollutant concentration and variability
 - Design discharge flow
 - Discharge mixing characteristics
 - Pollutant fate characteristics
 - Stream width, depth and slope
 - Stream velocity
 - Ambient stream data for pollutants, pH, temperature
 - Instream hardness

- Water intake quality and quantity
- Treatment plant influent pollutant concentrations
- Chemical translators
- Water Effects Ratio (WER)

The permittee should contact the Department for guidance in determining which of the above data will have a significant impact on the WQBELs and also for protocols on collecting and submitting the data. The Department will determine the adequacy of any site-specific data submitted and advise the permittee accordingly. If initial review of the submitted data suggests that additional data collection is necessary, the Department will so advise the permittee. The Department will notify the permittee what effect, if any, the data have on the WQBELs using the procedure outlined in A.2 above.

3) Site-Specific Criteria

The permittee may request an opportunity to demonstrate alternative, site-specific criteria for any pollutants with WQBELs. The procedures for carrying out such demonstrations must receive written approval in advance by the Department and must be in accordance with the requirements of Section 93.8 of the Department's Rules and Regulations.

If the permittee chooses this option, requests for alternative, site-specific criteria must be submitted to the Department as part of the Phase I TRE report. Where the demonstration results in more stringent limitations than those previously established by the Department, the more stringent limitation will apply. Any less stringent limitations which are approved by the Department shall not violate any other applicable water criteria.

4) Alternative Site Specific Method Detection Limits (MDL)

In some cases, the WQBEL may be less than the Method Detection Level (MDL) in the Department's Policy, 25 PA Code 16. In this event, the permittee has the option to demonstrate alternative, facility-specific MDLs to account for analytical matrix interference associated with the wastewater in question. The procedures for determining MDLs, published as Appendix B in 40 CFR 136 must be followed and complete documentation provided. The request for approval of alternative facility-specific MDLs including all documentation required to support such a request must be submitted to the Department with the Phase I TRE report.

The Department may grant a facility specific MDL by including the numeric alternate MDL value for compliance purposes through the permit modification or renewal process.

D. Phase II TRE Requirements

The permittee should not proceed with Phase II until notified by the Department to do so. Depending on the results of Phase I, the WQBELs may need to be modified or Phase II may not be necessary.

1) Source Reduction Evaluation

In addition to those items in C.1 above, as part of Phase II, the permittee must conduct source reduction evaluations including recycle, reuse, and process/chemical substitution. The intent of this portion of the TRE is to investigate and implement all low-cost, non-structural alternatives to reduce pollutants.

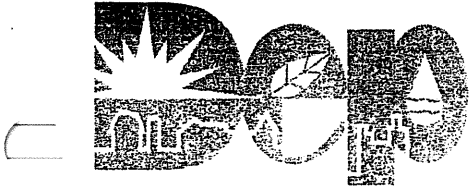
2) Final WQBEL Compliance Strategies and Schedule

A complete TRE report must consist of identification and assessment of all available pollution control options (Best Management Practices and/or treatment technologies and other structural alternatives) and their ability to comply with the final WQBELs or other WQBELs identified in response to Phase I. The permittee must select a specific pollution control option that will achieve the applicable WQBELs and specify a schedule for the implementation of this option.

3) Section 95.4 Time Extension Requests

In some cases, the final WQBEL may not be technologically achievable using any combination of control options. In this event, the permittee has the option of requesting an extension of time to achieve the WQBEL, provided the permittee demonstrates eligibility for time extension under the requirements contained in 25 Pa. Code 95, Section 95.4 of the Department's Rules and Regulations. If the permittee elects to submit the 95.4 time extension request, the request must be submitted with Phase II of the TRE report. Forms are available from the Department to be used for any such requests.

Appendix C: Final Consent Order and Agreement



Pennsylvania Department of Environmental Protection

Office of Chief Counsel
230 Chestnut Street
Meadville, PA 16335-3481
September 8, 2006

Northwest Regional Counsel

814-332-6070
FAX 814-332-6996

VIA E-MAIL and FIRST-CLASS U.S. MAIL

Michael D. Hnath, Esquire
DILLON MCCANDLESS KING COULTER
& GRAHAM, LLP
128 West Cunningham Street
Butler, PA 16001

Bruno A. Muscatello, Esquire
STEPANIAN & MUSCATELLO, LLP
222 S. Main Street
Butler, PA 16001

Michael Gallagher, Esquire
110 E. Diamond Street
Butler, PA 16001

Re: Final Consent Order and Agreement - BASA's POTW

Dear Messrs. Hnath, Muscatello and Gallagher:

Enclosed please find the Department's final Consent Order and Agreement to address the continuing issues surrounding BASA's POTW ("Final Agreement"). The Final Agreement reflects some, but not all, of the comments that were contained in your most recent comment letters. The Final Agreement also contains a copy of the draft renewal NPDES Permit for BASA's POTW. Upon execution of the Final Agreement by all parties, the Department will issue the renewal of the NPDES Permit and will attach a copy of the final renewal NPDES Permit to the Final Agreement as Exhibit A.

The Department believes that the enclosed Final Agreement is reasonable and fair. Upon your clients' approval and execution of the Final Agreement at their next meetings, please forward their resolutions and the signed Final Agreement to my attention. Once the Final Agreement is fully executed, I will send each of you copies of the Final Agreement with all Exhibits.

It is the Department's intention to resolve BASA's violations as soon as possible. Thus, this offer of settlement will expire at the close of business on October 13, 2006.

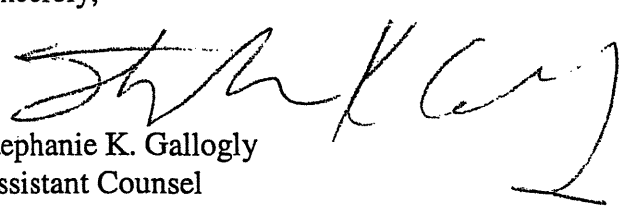
Michael D. Hnath, Esquire
Bruno A. Muscatello, Esquire
Michael Gallagher, Esquire

2

September 8, 2006

Please contact me if you have any questions.

Sincerely,


Stephanie K. Gallogly
Assistant Counsel

Enclosures

cc: R. Gilson
K. Burch
R. Lybrook

I:\sgallogly\BASA\finalCOA Ltr 90706.wpd

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of:

Butler Area Sewer Authority,	:	
City of Butler, Butler Township,	:	
Center Township, Summit	:	The Clean Streams Law
Township, Borough of East	:	Pennsylvania Sewage Facilities Act
Butler, Oakland Township, and	:	
Connoquenessing Township	:	
Butler County, Pennsylvania	:	

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this _____ day of _____ 2006, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”), Butler Area Sewer Authority (“BASA”), the City of Butler, Butler Township, Center Township, Summit Township, the Borough of East Butler, Oakland Township, and Connoquenessing Township.

FINDINGS

The Department has found and determined the following:

Parties

A. The Department is the agency with the duty and authority to administer and enforce The Clean Streams Law, Act of June 22, 1937, P.L. 1987, *as amended*, 35 P.S. §§691.1-691.1001 (“Clean Streams Law”); the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. 1535, *as amended*, 35 P.S. §§750.1-750.20a (“Sewage Facilities Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. §510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder (“Regulations”).

B. BASA is a municipal authority organized and existing under the Municipality Authorities Act of 1945, Act of May 2, 1945, P.L. 382, *as amended*, 53 Pa.C.S. §§5601-5623 (“Municipality Authorities Act”), with a mailing address of 100 Litman Road, Butler, Pennsylvania 16001-3256. BASA was created by the Butler City Council and the Butler Township Commissioners on November 13, 1962.

C. The City of Butler is a municipal entity with a mailing address of 140 West North Street, Butler, Pennsylvania 16001.

D. Butler Township is a municipal entity with a mailing address of 290 South Duffy Road, Butler, Pennsylvania 16001.

E. Center Township is a municipal entity with a mailing address of 419 Sunset Drive, Butler, Pennsylvania 16001.

F. Summit Township is a municipal entity with a mailing address of 502 Bonniebrook Road, Butler, Pennsylvania 16002.

G. The Borough of East Butler is a municipal entity with a mailing address of P.O. Box 195, East Butler, Pennsylvania 16029.

H. Oakland Township is a municipal entity with a mailing address of 565 Chicora Road, Butler, Pennsylvania 16001.

I. Connoquenessing Township is a municipal entity with a mailing address of 102 Township Drive, Renfrew, Pennsylvania 16053.

J. BASA, the City of Butler, Butler Township, Center Township, Summit Township, the Borough of East Butler, Oakland Township, and Connoquenessing Township are each a “municipality” as defined in Section 1 of the Clean Streams Law, 35 P.S. §691.1, and Section 2 of the Sewage Facilities Act, 35 P.S. §750.2. For the purpose of this Consent Order and Agreement, the

City of Butler, Butler Township, Center Township, Summit Township, the Borough of East Butler, Oakland Township, and Connoquenessing Township shall be referred to collectively as “the Tributary Municipalities.”

Background

K. BASA owns and operates public sewerage facilities under the provisions of Sewerage Permit No. 9817-S-T1 issued by the Sanitary Water Board and Water Management Permit No. 1074404 issued by the Department.

L. BASA’s sewerage facilities are part of a publicly-owned treatment works (“POTW”) that consists of a sewage treatment plant, a sewer system, and sewage pumping stations. The POTW includes the public sewage collection and conveyance systems located within the boundaries of the Tributary Municipalities that connect to BASA’s sewage treatment plant.

M. Section 5 of the Sewage Facilities Act, 35 P.S. §750.5, requires a municipality to maintain an Official Plan for the provision of adequate sewage systems. Official Plans address both the existing and future sewage disposal needs of a municipality. The Official Plans of the Tributary Municipalities provide that the POTW shall supply sewer service for designated portions of the Tributary Municipalities.

N. The POTW is a separate sanitary sewer system that collects, conveys, and treats “sewage,” as defined in Section 1 of the Clean Streams Law, 35 P.S. §691.1. The sewage treatment plant has a permitted monthly average daily design capacity of 10 million gallons per day, and a permitted maximum peak flow capacity of 25 million gallons per day.

O. BASA’s sewage treatment plant discharges treated sewage effluent by authorization of NPDES Permit No. PA0026697 into Connoquenessing Creek, a “water of the Commonwealth,” as that term is defined in Section 1 of the Clean Streams Law, 35 P.S. §691.1.

P. Based on information that the Department has obtained to date, the POTW has ten structures located before the headworks of the sewage treatment plant that are capable of discharging untreated sewage into the Connoquenessing Creek watershed (“Sanitary Sewer Overflow Structures”). These Sanitary Sewer Overflow Structures are located at the Deshon pump station, Monroe pump station, the General Tire area, the Ball Park area, the 006 Overflow, the Center Avenue pump station, the Diamond Street pump station, the Negley Avenue pump station, the Ziegler Avenue pump station, and the September Drive pump station. During the past five years, discharges of untreated sewage have occurred from some, but not all, of the Sanitary Sewer Overflow Structures during wet weather events. Discharges from any Sanitary Sewer Overflow Structure are not authorized by any current permit issued by the Department and discharges of untreated sewage from the POTW into the waters of the Commonwealth are not authorized or permitted by federal or State law.

Q. The POTW has been and continues to be hydraulically overloaded, whereby the flow exceeds its hydraulic carrying capacity in portions of the system and causes overflows, as defined by Section 94.1 of the Regulations, 25 Pa. Code §94.1.

February 20, 2001, Consent Order and Agreement

R. On February 20, 2001, the Department and BASA entered into a Consent Order and Agreement (“2001 Agreement”) to resolve violations of the Clean Streams Law and the Sewage Facilities Act. The 2001 Agreement included, among other things, a requirement for BASA to fully implement the March, 20, 2001, Corrective Action Plan (revised April 23, 2001), to eliminate the discharges, caused by the hydraulic overload conditions, from the Deshon pump station, the General Tire area, and the Ball Park area Sanitary Sewer Overflow Structures. The 2001 Agreement is maintained as a public record by the Department at its Northwest Regional Office in Meadville,

Pennsylvania, and the Findings contained in the 2001 Agreement are incorporated herein by reference.

S. On December 31, 2005, BASA informed the Department by letter that it had not completed all of the tasks under the March 20, 2001, Corrective Action Plan, as amended, as required under the 2001 Agreement (“December 31, 2005 Letter”).

T. In the December 31, 2005 Letter, BASA also requested an extension of time until April 30, 2009, to complete all of the tasks set forth in the March 20, 2001, Corrective Action Plan, as well as an additional project funded by a \$7.2 million PENNVEST loan (identified as ME #71317). The PENNVEST funded project, as set forth in Contract 2004-4, executed December 13, 2005, and inclusive of all maps and general specifications regarding Contract 2004-4, is for the reconstruction and rehabilitation of the public sewers within the Deshon service area to address extraneous flow from storm water and groundwater (“Deshon Sewer Rehabilitation Project”).

U. On January 24, 2006, BASA requested by letter that the Department approve 195 equivalent dwelling units (“EDUs”) in new sewer connections to the POTW as provided by the 2001 Agreement.

V. In a letter dated February 9, 2006, the Department informed BASA that, because it had not completed all of the tasks under the March 20, 2001, Corrective Action Plan, as amended, BASA was in violation of the 2001 Agreement, and owed stipulated penalties under the 2001 Agreement. The Department also denied BASA’s request for 195 new sewer connections.

W. On April 27, 2006, BASA paid all outstanding stipulated civil penalties owed under the 2001 Agreement.

NPDES Permit

X. Pursuant to 25 Pa. Code §§92.9(a) and (b), all NPDES permits have a fixed term not to exceed five years. Moreover, the terms and conditions of a NPDES permit can only be administratively extended if the permittee submits a timely application within 180 days prior to the expiration date of the NPDES permit and the Department, through no fault of the permittee, is unable to issue or deny a new permit before the expiration date of the previous permit.

Y. BASA's NPDES Permit has an expiration date of July 2, 2006. Therefore, in accordance with 25 Pa. Code §92.9(b), an application to renew the NPDES Permit was due by January 3, 2006. BASA submitted its administratively complete application to renew the NPDES Permit to the Department on February 3, 2006, *e.g.* 31 days late.

Z. BASA has requested that the Department accept the February 3, 2006, application as a timely submittal so that the terms and conditions of the existing NPDES Permit can be administratively extended until a renewal NPDES permit is issued by the Department. For settlement purposes only, the Department has agreed to this request. The Department published a notice of the draft renewal NPDES Permit in the *Pennsylvania Bulletin* on June 10, 2006, and BASA reviewed and commented on the draft. Upon signing this Consent Order and Agreement, the Department will issue the final renewal NPDES Permit for the POTW. The final renewal NPDES Permit for the POTW is attached as Exhibit A, and incorporated by reference.

Official Plans

AA. Because the POTW remains hydraulically overloaded, the Tributary Municipalities must revise their official plans pursuant to 25 Pa. Code §71.12.

AB. As of the date of this Consent Order and Agreement, all of the Tributary Municipalities have begun the process of revising their official plans by submitting a Task Activity Report (“TAR”) to the Department, as detailed below:

TRIBUTARY MUNICIPALITY	DATE TAR SUBMITTED	DATE TAR APPROVED
Butler Township	May 18, 2006	June 28, 2006
City of Butler	June 2, 2006	June 28, 2006
Summit Township	June 19, 2006	June 28, 2006
Borough of East Butler	June 21, 2006	August 2, 2006
Center Township	June 21, 2006	August 2, 2006
Connoquenessing Township	July 10, 2006	July 25, 2006
Oakland Township	July 26, 2006	July 31, 2006

Violations

AC. BASA’s failure to comply with the 2001 Agreement violates Sections 5 and 610 of the Clean Streams Law, 35 P.S. §§691.5 and 691.610.

AD. BASA’s failure to submit an application to renew its NPDES Permit within 180 days prior to the expiration of its existing NPDES Permit constitutes a violation of 25 Pa. Code §92.1.

AE. BASA’s past and continuing unpermitted discharges from the Sanitary Sewer Overflow Structures constitute separate violations of Sections 201, 202, 401, and 402 of the Clean Streams Law, 35 P.S. §§691.201, 691.202, 691.401, and 691.402.

AF. The violations set forth in Paragraphs AC-AE, above, constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. §691.611; a statutory nuisance under Sections

401 and 601 of the Clean Streams Law, 35 P.S. §§691.401 and 691.601, and subject BASA to civil penalty liability under Section 605 of the Clean Streams Law, 35 P.S. §691.605.

ORDER

After full and complete negotiation of all matters set forth in this Consent Order and Agreement, and upon mutual exchange of the covenants contained herein, BASA and the Tributary Municipalities, desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by BASA and the Tributary Municipalities as follows:

1. **Authority.** This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Section 610 of the Clean Streams Law, 35 P.S. §691.610; Section 10 of the Sewage Facilities Act, 35 P.S. §750.10; and Section 1917-A of the Administrative Code.

2. **Findings.**

a. BASA and the Tributary Municipalities agree that the Findings in Paragraphs A through AF are true and correct and, in any matter or proceeding involving BASA and the Tributary Municipalities, BASA and the Tributary Municipalities shall not challenge the accuracy or validity of these Findings.

b. The Parties do not authorize any other persons to use the Findings in this Consent Order and Agreement in any matter or proceeding.

3. **Planning and Plan Implementation Obligations of BASA and the Tributary Municipalities.**

a. Each Tributary Municipality shall prepare and submit to the Department for approval, an administratively complete Official Plan revision Special Study that focuses on each municipality's current and future sewage needs to be served by the POTW according to the following schedule:

- i. Within **45 days** of the date of this Consent Order and Agreement, each Tributary Municipality shall submit a draft Official Plan revision Special Study to its respective municipal planning agency, the Butler County Planning Commission, and BASA to solicit comments on each Tributary Municipality's projections of future sewage needs;
- ii. Within **105 days** of the date of this Consent Order and Agreement, each Tributary Municipality shall consider the comments of its respective municipal planning agency, the Butler County Planning Commission, and BASA, and revise its draft Official Plan revision Special Study, as necessary; and
- iii. Within **150 days** of the date of this Consent Order and Agreement, each Tributary Municipality shall submit to the Department, for approval, an Official Plan revision Special Study that shall include a resolution from the Tributary Municipality evidencing adoption of the Special Study as a revision to the respective municipality's Official Plan.
- iv. Upon a Tributary Municipality's receipt of written notification that the Department has approved the Tributary Municipality's Official Plan revision Special Study, that Tributary Municipality shall submit a copy of the approved Official Plan revision Special Study to BASA.

b. BASA, on behalf of the Tributary Municipalities, shall prepare and submit to the Department, for approval, an administratively complete Official Plan Update Revision to the Tributary Municipalities Official Plans that: provides adequate conveyance and treatment for the future sewage needs of each Tributary Municipality, as defined in Paragraph 3.a., above; provides for the elimination of all unpermitted discharges from the POTW; and provides for the closure of the Deshon, General Tire, and Ball Park Sanitary Sewer Overflow Structures, according to the following schedule:

- i. Within **30 days** of BASA's receipt of all Department-approved Official Plan revision Special Studies by all Tributary Municipalities, BASA shall, on behalf of the Tributary Municipalities, prepare and submit to the Department, for approval, a proposed TAR. The TAR shall list the planning elements from 25 Pa. Code §71.21, that are needed to prepare an Official Plan Update Revision that provides adequate conveyance and treatment for the future sewage needs of

each Tributary Municipality, as defined in Paragraph 3.a., above; provides for the elimination of all unpermitted discharges from the POTW; and provides for the closure of the Deshon, General Tire, and Ball Park Sanitary Sewer Overflow Structures. The TAR shall include an itemized cost proposal to prepare the Official Plan Update Revision.

- ii. Within **180 days** of the Department's approval of the TAR, BASA shall simultaneously submit to the Department and each Tributary Municipality, for review and comment, a draft Official Plan Update Revision that updates each of the Tributary Municipality's Official Plans. The draft Update Revision shall evaluate the alternatives and recommend an alternative which shall adequately address the existing sewage needs and the future sewage needs of each Tributary Municipality as specified in each Tributary Municipality's Special Study. The draft Update Revision shall be prepared in accordance with 25 Pa. Code §§71.21 and 71.31, and shall contain an implementation schedule that provides for all projects to be completed by July 31, 2012, and provides for the elimination of all unpermitted discharges from the POTW and the closure of the Deshon, General Tire, and Ball Park Sanitary Sewer Overflow Structures by July 31, 2012.
- iii. Within **180 days** of receiving written comments from the Department and the Tributary Municipalities concerning the draft Official Plan Update Revision, BASA shall submit to the Department, on behalf of the Tributary Municipalities, and after review, comment, and approval by the Tributary Municipalities, the final Update Revision ("Final Update Revision"). The Final Update Revision shall be administratively complete and include a resolution from each Tributary Municipality evidencing adoption of the Final Update Revision as an update to each Tributary Municipality's Official Plan.
- iv. If the Department determines that the Final Update Revision is not administratively and technically complete, BASA shall, within **90 days** of receiving the Department's written comments, submit to the Department, on behalf of the Tributary Municipalities, a revised Final Update Revision that addresses the Department's written comments.
- v. If the Department determines that revisions to the Final Update Revision under Paragraph 3.b.iv., above, represent significant changes to the selected alternative and/or the implementation schedule set forth in the original Final Update Revision submitted pursuant to Paragraph 3.b.iii., above, the Tributary Municipalities agree, upon written notice from the Department of such determination, to submit to the

Department updated resolutions evidencing their adoption of the revised Final Update Revision.

- vi. If the Department disapproves the revised Final Update Revision submitted by BASA, BASA, on behalf of the Tributary Municipalities shall, within 90 days of receipt of the Department's written disapproval, submit a new revised Final Update Revision that includes a resolution from each Tributary Municipality evidencing adoption of the new revised Final Update Revision. This process shall continue until such time as the Department has approved an Update Revision for the Tributary Municipalities.
- vii. Upon the Department's written approval of the Final Update Revision, the revised Final Update Revision, or a new revised Final Update Revision, BASA, on behalf of the Tributary Municipalities, shall implement the approved Final Update Revision in accordance with the schedule(s) therein, and the approved implementation schedule(s) shall be incorporated herein by reference, and shall be an obligation under this Consent Order and Agreement and enforceable hereunder.

4. ***BASA's Corrective Actions.*** BASA shall take all actions necessary and shall timely obtain all funding necessary to comply with the Clean Streams Law, the Sewage Facilities Act, all relevant Regulations, the renewal NPDES Permit, Water Quality Management Permits, the Department-approved Final Update Revision, and any other obligations under this Consent Order and Agreement. In doing so, BASA shall also perform the following tasks in accordance with the following schedule:

- a. **Deshon Sewer Rehabilitation Project.** BASA shall complete the Deshon Sewer Rehabilitation Project, according to the following schedule:
 - i. As of the date of this Consent Order and Agreement, continue sewer rehabilitation work;
 - ii. Within 30 months of the date of this Consent Order and Agreement, complete the Deshon Sewer Rehabilitation Project and begin post-construction flow monitoring for a period of six months; and
 - iii. Within 38 months of the date of this Consent Order and Agreement, submit a summary of the results of the post construction flow

monitoring within the Deshon service area in a report to the Department.

b. Quarterly Progress Reporting. BASA shall submit to the Department, with a copy to all Tributary Municipalities, written progress reports of its efforts to comply with the requirements of this Consent Order and Agreement. The written progress reports shall be submitted by the 30th day after each calendar quarter and continue every calendar quarter thereafter until this Consent Order and Agreement is terminated. The Quarterly Progress Reports shall specifically include, at a minimum, a description of BASA's progress with the Deshon Sewer Rehabilitation Project, progress with the preparation of any planning and plan implementation obligations, and a report of sewage connections issued.

5. *Implementation Schedule Submittals*. For any proposal, plan, permit, or other document that is required to be submitted to the Department pursuant to the implementation schedule incorporated in this Consent Order and Agreement under Paragraph 3.b.vii., above, the Department will review the document and will approve, modify, or disapprove the document in writing. If the Department disapproves the document, BASA or the Tributary Municipality, as the case may be, shall submit a revised document to the Department within the time specified by the Department. Upon receipt of the revised document, the Department will approve, disapprove, or modify and approve, the revised document in writing. The approved document, or approved and modified document, shall become a part of this Consent Order and Agreement for all purposes and shall be enforceable as such.

6. *Administrative Completeness*. For the purposes of this Consent Order and Agreement, the term "administratively complete" shall mean that all permit applications and planning documents (including public and planning agency comments and responses) submitted by

BASA and the Tributary Municipalities shall contain all applicable fees, modules, signatures, certifications/reports by applicable licensed professionals, with all necessary laboratory analyses, plans, maps, drawings, specifications, and/or supporting calculations, and any other necessary information/documents of sufficient quality to merit a full technical review by the Department or other applicable agency.

7. **Civil Penalty Settlement.** Upon signing this Consent Order and Agreement, BASA shall pay a civil penalty of \$500. This payment is in settlement of the Department's claim for civil penalties for the violation set forth in Paragraph AD, above, relating to the NPDES application and permit, and covering the dates set forth herein. The payment shall be made by corporate check or the like made payable to Commonwealth of PA Clean Water Fund, and sent to the individual at the address set forth in Paragraph 15 (Correspondence with the Department), below.

8. **Stipulated Civil Penalties.**

a. If BASA fails to comply with the terms or conditions of this Consent Order and Agreement, BASA shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount determined under the following schedule and for the following violations:

- i. \$200 per day for any unpermitted discharges from the sewerage facilities or POTW other than those set forth in Sub-paragraphs ii.-v., below:
- ii. \$1,000 per month for all unpermitted discharges from the Sanitary Sewer Overflow Structures reported during a monthly monitoring period from the date of this Consent Order and Agreement until July 31, 2012;
- iii. \$100 per parameter for each effluent violation of weekly average loading or concentration reported on the monthly Discharge Monitoring Reports;
- iv. \$150 per parameter for each effluent violation of monthly average

loading or concentration reported on the monthly Discharge Monitoring Reports; and

v. \$25,000 for the first day, plus \$200 per day thereafter, for each day after July 31, 2012, that one or more unpermitted discharges from the Sanitary Sewer Overflow Structures occur.

b. Stipulated civil penalty payments shall be payable monthly on or before the 30th day of each succeeding month, and shall be forwarded as described in Paragraph 7 (Civil Penalty Settlement), above.

c. Any payment under this Paragraph shall neither waive BASA's duty to meet its obligations under this Consent Order and Agreement, nor preclude the Department from commencing an action to compel BASA to comply with the terms and conditions of this Consent Order and Agreement. The payment resolves only BASA's liability for civil penalties arising from specific violations of this Consent Order and Agreement for which the payment is made.

9. ***Civil Penalty Liability for Planning.***

a. If the Department disapproves the revised Final Update Revision submitted by BASA on behalf of the Tributary Municipalities, pursuant to Paragraph 3.b.iv., above, one or more of the Tributary Municipalities may be subject to civil penalty liability under Section 605 of the Clean Streams Law, 35 P.S. §691.605, and Section 13a of the Sewage Facilities Act, 35 P.S. §750.13a.

b. For all other violations of the obligations under this Consent Order and Agreement, except those violations set forth in Paragraph 9.a., above, and those violations subject to stipulated penalties under Paragraph 8, above, BASA and/or the specific Tributary Municipality may be subject to civil penalty liability for their respective violations under Section 605 of the Clean Streams Law, 35 P.S. §691.605, and Section 13a of the Sewage Facilities Act, 35 P.S. §750.13a.

10. ***Prohibition on Connections.***

a. For the purposes of this Consent Order and Agreement, the following definitions shall apply:

- i. The term "connection," as defined in 25 Pa. Code §94.1, is a connection of a structure that contributes sewage to an organically and/or hydraulically overloaded sewerage system, or one equivalent dwelling unit;
- ii. ~~The term "EDU" is a connection to a sewerage system with the amount of sewage flow equal to 400 gallons per day;~~
- iii. The term "Economic Development" is defined as local development projects that are specifically created to serve the public good and are supported by at least 50% public funding, or are Special Industrial Areas as specified in Section 305(a) of the Land Recycling and Environmental Remediation Standards Act, 35 P.S. §6026.305(a); and
- iv. The term "all of their obligations under this Consent Order and Agreement" shall mean and include all of the obligations under Paragraphs 3-5 and 8 of this Consent Order and Agreement, including all of the obligations under any document approved by the Department under this Consent Order and Agreement.

Grant of Initial Connections

b. Upon signing this Consent Order and Agreement, BASA shall receive an allocation of 200 EDUs. BASA shall continue to be the approving and issuing agency for new connections to the POTW.

Connection Prohibition

c. Upon issuance of all permits exhausting the initial allocation of 200 EDUs, BASA and the Tributary Municipalities agree to a Prohibition on issuing new connections within the area of the City of Butler, Butler Township, Center Township, Summit Township, the Borough of

East Butler, Oakland Township, and Connoquenessing Township served by the POTW, except as allowed below.

Exceptions to the Prohibition

d. BASA may request exceptions to the Prohibition from the Department for the following circumstances:

- i. Connections for those exceptions as set forth in 25 Pa. Code §§94.51-94.57; and/or
- ii. connections for projects for Economic Development.

e. Any proposed exceptions to the Prohibition shall be submitted to the Department by BASA. Such proposals shall be in writing and shall comply with the requirements of Section 94.51 of the Regulations, 25 Pa. Code §94.51.

f. The Department, in its sole discretion which will include consideration of whether BASA and the Tributary Municipalities are in compliance with all of their obligations under this Consent Order and Agreement, shall determine whether or not to grant any requests for exceptions to the Prohibition, and BASA and the Tributary Municipalities agree to waive their right to appeal any such determination.

Future Connections

g. Beginning with BASA's 2007 Chapter 94 annual Wasteload Management Report, the Department will consider written annual requests from BASA for additional connections to the sewer system.

h. Such annual requests for additional connections shall be submitted to the Department, in writing, in BASA's annual Wasteload Management Report, pursuant to 25 Pa. Code

§94.12, and shall include a detailed accounting of all of the activities that BASA has taken over the past year to reduce flow within the POTW.

i. The Department, in its sole discretion, which will include consideration of whether BASA and the Tributary Municipalities are in compliance with all of their obligations under this Consent Order and Agreement, and the activities that BASA has taken during the past year to reduce flow within the POTW, shall determine whether or not to grant any requests for additional connections, and BASA and the Tributary Municipalities agree to waive their right to appeal any such determination.

j. If BASA and the Tributary Municipalities are in violation of any term or condition of this Consent Order and Agreement, the Department may rescind and ban any allocation of new connections granted to BASA. Any such rescission and ban shall not apply to any new connection that has been lawfully issued a building permit by the municipality. If and when BASA and the Tributary Municipalities come back into compliance with all of their obligations under this Consent Order and Agreement, the Department may reinstate the connection allocation upon a written request from BASA, as determined by the Department in its sole discretion, and BASA and the Tributary Municipalities agree to waive their right to appeal any such determination.

11. ***Additional Remedies.***

a. If BASA and the Tributary Municipalities fail to comply with any of their obligations under this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.

b. The remedies provided by this Paragraph and Paragraph 8 (Stipulated Civil Penalties), above, are cumulative and the exercise of one does not preclude the exercise of any other.

The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated civil penalty is paid.

12. ***Reservation of Rights.*** The Department reserves the right to require additional measures to achieve compliance with applicable law. BASA and the Tributary Municipalities reserve the right to challenge any action that the Department may take to require those measures.

13. ***Liability of BASA and the Tributary Municipalities.*** BASA and the Tributary Municipalities shall be separately and individually liable for any of their respective violations of this Consent Order and Agreement, including those caused by, contributed to, or allowed by their council members, officers, directors, agents, employees, contractors, successors, and assigns.

14. ***Transfer of Sewerage Facilities and POTW.***

a. BASA's and the Tributary Municipalities' duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated, or otherwise altered by the transfer of any legal or equitable interest in the sewerage facilities and POTW or any part thereof.

b. If BASA intends to transfer any legal or equitable interest in the sewerage facilities and POTW, or any part thereof, which is affected by this Consent Order and Agreement, BASA shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least 30 days prior to the contemplated transfer, and shall simultaneously inform the Department of such intent pursuant to Paragraph 15 (Correspondence with the Department), below.

c. Until BASA and the Tributary Municipalities have satisfied all of their obligations under this Consent Order and Agreement, BASA and the Tributary Municipalities shall not transfer any legal or equitable interest in the sewerage facilities and POTW, or any part thereof,

except upon the Department's prior written approval as documented in a consent order and agreement between the Transferee and the Department concerning the matters addressed under this Consent Order and Agreement.

15. *Correspondence with the Department.* All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to the following with copies sent to all other Parties to this Consent Order and Agreement:

Compliance and Monitoring Manager
Water Management
Department of Environmental Protection
230 Chestnut Street
Meadville, PA 16335-3481
Telephone: 814-332-6942
Fax: 814-332-6121

16. *Correspondence with BASA.*

a. All correspondence with BASA concerning this Consent Order and Agreement shall be addressed to the following, with copies sent to all other Parties to this Consent Order and Agreement:

Authority Manager
Butler Area Sewer Authority
100 Litman Road
Butler, PA 16001

b. All correspondence and service of any notice of any legal correspondence for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first-class mail to the above address.

17. *Correspondence with the Tributary Municipalities.*

a. All correspondence with the Tributary Municipalities concerning this Consent Order and Agreement shall be addressed to the following, with copies sent to all other Parties to this Consent Order and Agreement:

Mayor
City of Butler
140 West North Street
Butler, PA 16001

Chairman of the Board of Supervisors
Oakland Township
565 Chicora Road
Butler, PA 16001

Chairman of the Board of Supervisors
Center Township
419 Sunset Drive
Butler, PA 16001

Chairman of the Board of Supervisors
Connoquenessing Township
102 Township Drive
Renfrew, PA 16053

Chairman of the Board of Supervisors
Summit Township
502 Bonniebrook Road
Butler, PA 16002

Chairman of the Board of Supervisors
Butler Township
290 South Duffy Road
Butler, PA 16001

Mayor
East Butler Borough
P.O. Box 195
East Butler, PA 16029

b. Service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first-class mail to the above addresses.

18. *Force Majeure.*

a. If BASA and/or a Tributary Municipality is prevented from complying in a timely manner with any time limit imposed in this Consent Order and Agreement solely because of a strike, fire, flood, act of God, or other circumstances beyond BASA's and/or a Tributary Municipality's control and which BASA and/or the Tributary Municipality by the exercise of all reasonable diligence is unable to prevent, then BASA and/or the Tributary Municipality may petition

the Department for an extension of time. An increase in the cost of performing the obligations set forth in this Consent Order and Agreement shall not constitute circumstances beyond BASA's and/or a Tributary Municipality's control. BASA and/or a Tributary Municipality's economic inability to comply with any of the obligations of this Consent Order and Agreement shall not be grounds for any extension of time.

b. BASA and/or a Tributary Municipality shall only be entitled to the benefits of this Paragraph if it notifies the Department within five working days by telephone and within ten working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by BASA and/or the Tributary Municipality to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. BASA's and/or a Tributary Municipality's failure to comply with the requirements of this Paragraph specifically, and in a timely fashion, shall render this Paragraph null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by BASA and/or the Tributary Municipality and other information available to the Department. In any subsequent litigation, BASA and/or the Tributary Municipality shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

19. **Severability.** The Paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the Parties.

20. **Entire Agreement.** This Consent Order and Agreement shall constitute the entire integrated agreement of the Parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or intent of any provisions herein in any litigation or any other proceeding.

21. **Attorney Fees.** The Parties shall bear their respective attorney fees, expenses, and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

22. **Modifications.** No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by all of the Parties.

23. **Titles.** A title used at the beginning of any Paragraph of this Consent Order and Agreement may be used to aid in the construction of that Paragraph, but shall not be treated as controlling.

24. **Replacement of 2001 Agreement.** Upon signature of this Consent Order and Agreement by all of the Parties, this Consent Order and Agreement shall supercede the Order but not the Findings contained in the 2001 Agreement.

25. **Limited Right to Appeal Final Renewal NPDES Permit.** BASA has reviewed, and commented on the final renewal NPDES Permit for the POTW that is attached to this Consent Order and Agreement at Exhibit A. Pursuant to this Consent Order and Agreement, BASA may only appeal to the Environmental Hearing Board the Whole Effluent Toxicity (“WET”) numeric limit set

forth in Part A, on page 2 of the final renewal NPDES Permit. This appeal right shall only be available to BASA for 30 days after the WET numeric limit becomes effective under the final renewal NPDES Permit. Except for the WET numeric limit, BASA agrees that it will not appeal any other terms and conditions of the final renewal NPDES Permit, which will be issued by the Department to BASA on the date of this Consent Order and Agreement.

26. *Termination of Consent Order and Agreement.*

a. The obligations, but not the Findings, of this Consent Order and Agreement shall terminate when **EITHER**:

i. BASA has:

- (1) Completed all of its obligations under this Consent Order and Agreement;
- (2) closed the Deshon, General Tire, and Ball Park Sanitary Sewer Overflow Structures;
- (3) had 36 consecutive months without an unpermitted discharge from the Sanitary Sewer Overflow Structures that BASA has not closed; and
- (4) paid any outstanding stipulated civil penalties owed by BASA pursuant to Paragraph 8, above; and

the Tributary Municipalities have fully-complied with Paragraph 3, of this Consent Order and Agreement; **OR**

ii. on July 31, 2015, whichever occurs first.

b. BASA's and the Tributary Municipalities' compliance with this Consent Order and Agreement shall be determined by the Department and in any subsequent litigation regarding a determination by the Department that BASA and/or a Tributary Municipality has failed to comply with the terms and conditions of this Consent Order and Agreement, BASA and/or the Tributary Municipality, as applicable, shall have the burden of proving that the Department's

determination of noncompliance was an abuse of discretion and was arbitrary and capricious based upon the information available to the Department at that time.

27. **Resolution.** Attached as Exhibit B are resolutions of BASA and the Tributary Municipalities authorizing their signatories below to enter into this Consent Order and Agreement on their behalf.

28. **Execution of Agreement.** This Consent Order and Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the Parties have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of BASA and the Tributary Municipalities certify under penalty of law, as provided by 18 Pa.C.S. §4904, that they are authorized to execute this Consent Order and Agreement on behalf of BASA and the Tributary Municipalities that BASA and the Tributary Municipalities consent to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that BASA and the Tributary Municipalities hereby knowingly waive their rights to appeal this Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. §7514; the Administrative Agency Law, 2 Pa.C.S. §103(a) and Chapters 5A and 7A; or any other provision of law. Signature by BASA's and the Tributary Municipalities' attorneys certify only that the agreement has been signed after consulting with counsel.

**FOR THE BUTLER AREA SEWER
AUTHORITY:**

**FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:**

Name
Chairman

Ricardo F. Gilson
Regional Manager
Water Management
Northwest Region

Name
Attorney

Stephanie K. Gallogly
Assistant Counsel

COA-Final Template:5/17/02:RL:jb:BASA:5/04/06.SKG:yef 9/8/06
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FOR THE CITY OF BUTLER:

Name
Mayor

Name
Solicitor

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FOR BUTLER TOWNSHIP:

Name
Chairman

Name
Solicitor

COA-Final Template:5/17/02:RL:jb:BASA:5/04/06.SKG:yef 9/8/06
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FOR CENTER TOWNSHIP:

Name
Chairman

Name
Solicitor

COA-Final Template:5/17/02:RL:jb:BASA:5/04/06.SKG:yef 9/8/06
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FOR SUMMIT TOWNSHIP:

Name
Chairman

Name
Solicitor

COA-Final Template:5/17/02:RLjb:BASA:5/04/06.SKG:yef 9/8/06
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**FOR CONNOQUENESSING
TOWNSHIP:**

Name
Chairman

Name
Solicitor



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER SUPPLY AND WASTEWATER MANAGEMENT

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE REQUIREMENTS FOR PUBLICLY OWNED
TREATMENT WORKS (POTWs)**

NPDES PERMIT NO: PA0026697

In compliance with the provisions of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* ("the Act") and Pennsylvania's Clean Streams Law, as amended, 35 P.S. Section 691.1 *et seq.*,

**Butler Area Sewer Authority
100 Littman Road
Butler, PA 16001-3256**

is authorized to discharge from a facility known as **Butler Area Sewer Authority**, located at **100 Littman Road, Butler, PA 16001-3256, Butler Township, Butler County** to the **Connoquenessing Creek (Outfall 001) and Butchers Run (Outfalls 005, 011-014)** in Watershed **20-C** in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts A, B and C hereof.

THIS PERMIT SHALL BECOME EFFECTIVE ON

THIS PERMIT SHALL EXPIRE AT MIDNIGHT ON

The authority granted by this permit is subject to the following further qualifications:

1. If there is a conflict between the application, its supporting documents and/or amendments and the terms and conditions of this permit, the terms and conditions shall apply.
2. Failure to comply with the terms, conditions or effluent limitations of this permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
3. A complete application for renewal of this permit, or notice of intent to cease discharging by the expiration date, must be submitted to DEP at least 180 days prior to the above expiration date (unless permission has been granted by DEP for submission at a later date), using the appropriate NPDES permit application form.

In the event that a timely and complete application for renewal has been submitted and DEP is unable, through no fault of the permittee, to reissue the permit before the above expiration date, the terms and conditions of this permit, including submission of the Discharge Monitoring Reports (DMRs), will be automatically continued and will remain fully effective and enforceable against the discharger until DEP takes final action on the pending permit application.

4. This NPDES permit does not constitute authorization to construct or make modifications to wastewater treatment facilities necessary to meet the terms and conditions of this permit.

DATE PERMIT ISSUED _____

ISSUED BY _____
Ricardo F. Gilson

DATE PERMIT AMENDMENT ISSUED _____

TITLE: Water Management Program Manager
Northwest Regional Office

PART A - EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS

I. For Outfall 001, Latitude 40° 50' 21", Longitude 79° 55' 13", River Mile Index 43.73, Stream Code 34025

which receives wastewater from treated domestic sewage and industrial wastewater

- a. The permittee is authorized to discharge during the period from issuance date through expiration date.
- b. Based on the anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or amendments, the following effluent limitations and monitoring requirements apply (see also Additional Requirements, Footnotes and Supplemental Information).

Discharge Parameter	Effluent Limitations						Monitoring Requirements	
	Mass Units (lbs/day) ⁽¹⁾		Concentrations (mg/L)				Minimum ⁽³⁾ Measurement Frequency	Required Sample Type
	Monthly Average	Average Weekly	Minimum	Monthly Average	Average Weekly	Instantaneous Maximum ⁽²⁾		
Flow (MGD)	XX	XX					daily	measurement
CBOD5								
(05/01 - 10/31)	1001	1501		12	18	24	daily	24-hr comp
(11/01 - 04/30)	2001	3002		24	36	48	daily	24-hr comp
TSS	2502	3753		30	45	60	daily	24-hr comp
Ammonia Nitrogen								
(05/01 - 10/31)	167			2		4	daily	24-hr comp
(11/01 - 04/30)	459			6.0		12	daily	24-hr comp
Chronic Whole Effluent Toxicity				1.38TUc			**	24-hr comp
Fecal Coliform*								
(05/01 - 09/30)				200/100ml			daily	grab
(10/01 - 04/30)				2000/100ml			daily	grab

PART A - EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS

I. For Outfall 001, (continued)

Discharge Parameter	Effluent Limitations						Monitoring Requirements	
	Mass Units (lbs/day) ⁽¹⁾		Concentrations (mg/L)				Minimum ⁽³⁾ Measurement Frequency	Required Sample Type
	Monthly Average	Average Weekly	Minimum	Monthly Average	Average Weekly	Instantaneous Maximum ⁽²⁾		
Total Residual Chlorine				0.33		1.1	daily	grab
Dissolved Oxygen			5				daily	grab
Phosphorus	167			2		4	daily	24-hr comp
pH			6.0			9.0	daily	grab

XX -- Monitor and report on monthly DMRs.

* -- Average monthly limits expressed as a geometric mean.

** -- Refer to Special Condition #4.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

Outfall 001-after disinfection

PART A - EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS

- I. For Outfall 011, Latitude 40° 50' 29", Longitude 79° 55' 06", River Mile Index _____, Stream Code _____
- For Outfall 012, Latitude 40° 50' 29", Longitude 79° 55' 06", River Mile Index _____, Stream Code _____
- For Outfall 013, Latitude 40° 50' 27", Longitude 79° 55' 00", River Mile Index _____, Stream Code _____
- For Outfall 014, Latitude 40° 50' 28", Longitude 79° 54' 50", River Mile Index _____, Stream Code _____

which receives wastewater from stormwater runoff from the sewage treatment plant site

- a. The permittee is authorized to discharge during the period from issuance date through expiration date.
- b. Based on the anticipated wastewater characteristics and flows described in the permit application and its supporting documents and/or amendments, the following effluent limitations and monitoring requirements apply (see also Additional Requirements, Footnotes and Supplemental Information).

Discharge Parameter	Effluent Limitations						Monitoring Requirements	
	Mass Units (lbs/day) ⁽¹⁾		Concentrations (mg/L)				Minimum ⁽³⁾ Measurement Frequency	Required Sample Type
	Monthly Average	Average Weekly	Minimum	Monthly Average	Average Weekly	Instantaneous Maximum ⁽²⁾		
These discharges shall consist of stormwater runoff from the sewage treatment plant site only. Refer to Special Condition 6.								

XX -- Monitor and report on monthly DMRs.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

PART A EFFLUENT LIMITATIONS, MONITORING, RECORDKEEPING AND REPORTING REQUIREMENTS (Con't)

Additional Requirements

- c. The permittee shall provide for effective disinfection of this discharge to control disease-producing organisms during the swimming season (May 1 through September 30) to achieve a fecal coliform concentration not greater than 200/100 ml as a geometric average (mean), and not greater than 1,000/100 ml in more than 10% of the samples tested.
- d. All discharges of floating materials, oil, grease, scum, sheen and substances which produce color, tastes, odors, turbidity or settle to form deposits shall be controlled to levels which will not be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life.
- e. Except as otherwise specified in this permit, the 30-day average percent removal for carbonaceous biochemical oxygen demand and total suspended solids shall not be less than 85 percent.

Footnotes

- When sampling to determine compliance with mass effluent limitations, the discharge flow at the time of sampling must be measured and recorded.
- (2) The Instantaneous Maximum Discharge Limitations are for compliance use by DEP only. Do not report instantaneous maximums on DMRs or supplemental DMRs unless specifically required on those forms to do so.
- (3) This is the minimum number of sampling events required. Permittees are encouraged, and it may be advantageous in demonstrating compliance, to perform more than the minimum number of sampling events.

Supplemental Information

- (1) The hydraulic design capacity of 10.0 million gallons per day for the treatment facility is used to prepare the annual Municipal Wasteload Management Report to help determine whether a "hydraulic overload" situation exists, as defined in Title 25 Pa. Code Chapter 94.
- (2) The effluent limitations for this outfall were determined using an effluent discharge rate of 10.0 million gallons per day for Outfall 001.

DEFINITIONS

At Outfall (XXX) means a sampling location in outfall line XXX below the last point at which wastes are added to outfall line (XXX), or where otherwise specified.

Average refers to the use of an arithmetic mean, unless otherwise specified in this permit.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution to surface waters of the Commonwealth. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Clean Water Act means the Federal Water Pollution Control Act, as amended. (33 U.S.C.A. §§1251 to 1387).

Composite Sample (for all except GC/MS volatile organic analysis) means a combination of individual samples (at least eight for a 24-hour period or four for an 8-hour period) of at least 100 milliliters (mL) each obtained at spaced time intervals during the compositing period. The composite must be flow-proportional; either the volume of each individual sample is proportional to discharge flow rates, or the sampling interval is proportional to the flow rates over the time period used to produce the composite.

Composite Sample (for GC/MS volatile organic analysis) consists of at least four aliquots or grab samples collected during the sampling event (not necessarily flow proportioned). The samples must be combined in the laboratory immediately before analysis and then one analysis is performed.

Daily Average Temperature means the average of all temperature measurements made, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar day or during the operating day if flows are of a shorter duration.

Daily Discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Daily Maximum Discharge Limitation means the highest allowable "daily discharge."

Discharge Monitoring Report (DMR) means the DEP or EPA supplied form(s) for the reporting of self-monitoring results by the permittee.

Estimated Flow means any method of liquid volume measurement based on a technical evaluation of the sources contributing to the discharge including, but not limited to, pump capabilities, water meters and batch discharge volumes.

Geometric Mean means the average of a set of n sample results given by the nth root of their product.

Grab Sample means an individual sample of at least 100 mL collected at a randomly selected time over a period not to exceed 15 minutes.

Hazardous Substance means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.

Immersion Stabilization (i-s) means a calibrated device is immersed in the wastewater until the reading is stabilized.

Industrial User or Indirect Discharger means a non-domestic discharger introducing pollutants to a Publicly Owned Treatment Works (POTW).

Maximum Any Time or Instantaneous Maximum means the level not to be exceeded at any time in any grab sample.

Measured Flow means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or for which a relationship to absolute volume has been obtained.

Monthly Average Discharge Limitation means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Municipality means a city, town, borough, country, parish, district, association or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §1288 of the Clean Water Act.

Publicly Owned Treatment Works (POTW) means a treatment works as defined by §1292. of the Clean Water Act, owned by a municipality. The definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes or other conveyances if they convey wastewater to a POTW providing treatment.

Severe Property Damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Stormwater means the runoff from precipitation, snow melt runoff, and surface runoff and drainage.

Stormwater Associated With Industrial Activity means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas as defined at 40 CFR §122.26(b)(14).

Toxic Pollutant means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains may, on the basis of information available to DEP cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in these organisms or their offspring.

Weekly Average Discharge Limitation means the highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all "daily discharges" measured during a calendar week divided by the number of "daily discharges" measured during that week.

III. SELF-MONITORING, REPORTING AND RECORDKEEPING

A. Representative Sampling

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. Records Retention

Except for records of monitoring information required by this permit related to the permittee's sludge use and disposal activities which shall be retained for a period of at least 5 years, all records of monitoring activities and results (including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records), copies of all reports required by this permit, and records of all data used to complete the application for this permit shall be retained by the permittee for 3 years from the date of the sample measurement, report or application. The 3-year period shall be extended as requested by DEP or the EPA Regional Administrator.

3. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The exact place, date and time of sampling or measurements.
- b. The person(s) who performed the sampling or measurements.
- c. The date(s) the analyses were performed.
- d. The person(s) who performed the analyses.
- e. The analytical techniques or methods used; and the associated detection level.
- f. The results of such analyses.

4. Test Procedures

Facilities that test or analyze environmental samples used to demonstrate compliance with this permit shall be in compliance with laboratory accreditation requirements of Act 90 of 2002 (27 Pa. C.S. §§4101-4113), relating to environmental laboratory accreditation. Unless otherwise specified in this permit, the test procedures for the analysis of pollutants shall be those approved under 40 CFR Part 136 (or in the case of sludge use or disposal, approved under 40 CFR Part 136, unless otherwise specified in 40 CFR Part 503), or alternate test procedures approved pursuant to those parts, unless other test procedures have been specified in this permit.

5. Quality/Assurance/Control

In an effort to assure accurate self-monitoring analyses results:

- a. The permittee, or its designated laboratory, shall participate in the periodic scheduled quality assurance inspections conducted by DEP and EPA.
- b. The permittee, or its designated laboratory, shall develop and implement a program to assure the quality and accurateness of the analyses performed to satisfy the requirements of this permit, in accordance with 40 CFR Part 136.

B. Reporting of Monitoring Results

1. The permittee shall effectively monitor the operation and efficiency of all wastewater treatment and control facilities, and the quantity and quality of the discharge(s) as specified in this permit.
2. Unless instructed otherwise in PART C of this permit, a properly completed DMR must be received by the following address within 28 days after the end of each monthly report period:

Department of Environmental Protection
Water Management Program
230 Chestnut Street
Meadville, PA 16335

Office of Compliance & Enforcement (3WP31)
NPDES Branch
Water Protection Division
US EPA -- Region III
1650 Arch Street
Philadelphia, PA 19103-2029

3. The completed DMR Form shall be signed and certified either by the following applicable person, as defined in 40 CFR 122.22(a), or by that person's duly authorized representative, as defined in 40 CFR §122.22(b):
 - For a corporation - by a principal executive officer of at least the level of vice president, or an authorized representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the NPDES form originates.
 - For a partnership or sole proprietorship - by a general partner or the proprietor, respectively.
 - For a municipality, state, federal or other public agency - by a principal executive officer or ranking elected official.

If signed by a person other than the above, written notification of delegation of DMR signatory authority must be submitted to DEP in advance of or along with the relevant DMR form.

4. If the permittee monitors any pollutant, using analytical methods described in PART A III.A.4. herein, more frequently than the permit requires, the results of this monitoring shall be incorporated, as appropriate, into the calculations used to report self-monitoring data on the DMR.

C. Reporting Requirements

1. **Planned Changes** - The permittee shall give notice to DEP as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b).
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in this permit, nor to notification requirements under 40 CFR §122.42(a)(1).
 - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. Anticipated Noncompliance

The permittee shall give advance notice to DEP of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

3. Unanticipated Noncompliance or Potential Pollution Reporting

- a. The permittee shall report any noncompliance, accident or incidents causing or threatening pollution pursuant to Title 25 Pa. Code §91.33 to DEP by telephone immediately giving the location and nature of the danger and, if reasonably possible to do so, to notify known downstream users of the waters.
- b. The permittee shall immediately take or cause to be taken steps necessary to prevent injury to property and downstream users of the waters from pollution or a danger of pollution and, in addition, within 15 days from the incident, shall remove any residual substances from the ground and affected waters to the extent required as stated in Title 25 Pa. Code §91.33.
- c. A written submission shall also be provided within 5 days of the time the permittee becomes aware of any noncompliance or incident causing or threatening pollution. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including the exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance.
- d. DEP may waive the written report on a case-by-case basis for reports under paragraph C.3.c. of this section if the oral report was received immediately and no adverse impact has been reported.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under paragraph C.3.a of this section, at the time DMRs are submitted. The reports shall contain the information listed in paragraph C.3.c. of this section.

PART B**I. MANAGEMENT REQUIREMENTS****A. Compliance Schedules**

1. The permittee shall achieve compliance with the terms and conditions of this permit within the time frames specified in this permit.
2. The permittee shall submit reports of compliance or noncompliance, or progress reports as applicable, for any interim and final requirements contained in this permit. Such reports shall be submitted no later than 14 days following the applicable schedule date or compliance deadline.

B. Permit Modification, Termination, or Revocation and Reissuance

1. This permit may be modified, terminated, or revoked and reissued during its term in accordance with Title 25 Pa. Code Chapter 92.
2. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
3. In the absence of DEP action to modify or revoke and reissue this permit, the permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time specified in the regulations that establish those standards or prohibitions.

C. Duty to Provide Information

1. The permittee shall furnish to DEP, within a reasonable time, any information which DEP may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit.
2. The permittee shall furnish to DEP, upon request, copies of records required to be kept by this permit.
3. Other Information - Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to DEP, it shall promptly submit the correct and complete facts or information.
4. The permittee shall provide the following information in the annual Municipal Wasteload Management Report, required under the provisions of Title 25 Pa. Code Chapter 94.
 - a. A new introduction of pollutants into the POTW from an indirect discharger which would be subject to Sections 301 and 306 of the Clean Water Act if it were directly discharging pollutants.
 - b. A substantial change in the volume or character of pollutants being introduced into the POTW by an indirect discharger introducing pollutants into the POTW at the time of issuance of this permit.
 - c. Information on the quality and quantity of the effluent introduced into the POTW by an industrial user or an indirect discharger and the anticipated impact of the change in the quality and quantity of effluent to be discharged from the POTW.
 - d. The identity of the industrial users served by the POTW which are subject to pretreatment standards adopted under Section 307(b) of the Clean Water Act; the POTW shall also specify the total volume of discharge and estimate concentration of each pollutant discharged into the POTW by the industrial user.

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- e. The POTW shall require all industrial users subject to pretreatment standards adopted under Section 307(b) of the Clean Water Act to comply with the reporting requirements of Sections 204(b), 307, and 308 of the Clean Water Act and regulations thereunder.

D. Proper Operation and Maintenance

1. The permittee shall employ operator's certified in compliance the Water and Wastewater Systems Operators Certification Act (63 P.S. §§1001-1015.1).
2. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes, but is not limited to, adequate laboratory controls including appropriate quality assurance procedures. This provision also includes the operation of backup or auxiliary facilities or similar systems that are installed by the permittee, only when necessary to achieve compliance with the terms and conditions of this permit.

E. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge, sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

F. Bypassing

1. Bypassing Not Exceeding Permit Limitations - The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the reporting and notification requirements of Part A.III.C.4. (Other Noncompliance).
2. Other Bypassing - In all other situations, bypassing is prohibited and DEP may take enforcement action against the permittee for bypass unless:
 - a. A bypass is unavoidable to prevent loss of life, personal injury or "severe property damage."
 - b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.
 - c. The permittee submitted the necessary notice required in F.4.a. and b. below.
3. DEP may approve an anticipated bypass, after considering its adverse effects, if DEP determines that it will meet the conditions listed in F.2. above.
4. Notice
 - a. Anticipated Bypass – If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least 10 days before the bypass.
 - b. Unanticipated Bypass – The permittee shall submit notice of an unanticipated bypass causing or threatening pollution as required in PART A III.C.3. (Unanticipated Noncompliance or Potential Pollution Reporting) and other bypass as required in C.4. (Other Noncompliance).

PENALTIES AND LIABILITY**A. Violations of Permit Conditions**

Any person violating Sections 301, 302, 306, 307, 308, 318 or 405 of the Clean Water Act or any permit condition or limitation implementing such sections in a permit issued under Section 402 of the Act is subject to civil, administrative and/or criminal penalties as set forth in 40 CFR §122.41(a)(2).

Any person or municipality who violates any provision of this permit; any rule, regulation or order of DEP; or any condition or limitation of any permit issued pursuant to the Clean Streams Law, is subject to criminal and/or civil penalties as set forth in Sections 602, 603 and 605 of the Clean Streams Law.

B. Falsifying Information

The Clean Water Act provides that any person who does any of the following:

- Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit, or
- Knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit (including monitoring reports or reports of compliance or noncompliance), shall, upon conviction, be punished by a fine and/or imprisonment as set forth in 18 P.S. §4904 and 40 CFR §122.41(j)(5) and (k)(2).

C. Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance pursuant to Section 309 of the Clean Water Act or Sections 602, 603 or 605 of the Clean Streams Law.

Nothing in this permit shall be construed to preclude the institution of any legal action or to relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under the Clean Water Act and the Clean Streams Law.

D. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

III. OTHER RESPONSIBILITIES**A. Right of Entry**

Pursuant to Sections 5(b) and 305 of Pennsylvania's Clean Streams Law, and Title 25 Pa. Code Chapter 92 and 40 CFR §122.41(i), the permittee shall allow authorized representatives of DEP and EPA, upon the presentation of credentials and other documents as may be required by law:

1. To enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. To have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. To inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

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4. To sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act or the Clean Streams Law, any substances or parameters at any location.

B. Transfer of Permits

1. Transfers by modification. Except as provided in paragraph 2 of this section, a permit may be transferred by the permittee to a new owner or operator only if this permit has been modified or revoked and reissued, or a minor modification made to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act.
2. Automatic transfers. As an alternative to transfers under paragraph 1 of this section, any NPDES permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies DEP at least 30 days in advance of the proposed transfer date in paragraph 2.b. of this section;
 - b. The notice includes the appropriate DEP transfer form signed by the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them; and
 - c. If DEP does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue this permit, the transfer is effective on the date specified in the agreement mentioned in paragraph 2.b. of this section.
3. In the event DEP does not approve transfer of this permit, the new owner or controller must submit a new permit application.

C. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

D. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

E. Other Laws

The issuance of this permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

PART C**I. OTHER REQUIREMENTS**

ONE: No storm water from pavements, area ways, roofs, foundation drains or other sources shall be admitted to the sanitary sewers associated with the herein approved discharge.

TWO: The approval herein given is specifically made contingent upon the permittee acquiring all necessary property rights by easement or otherwise, providing for the satisfactory construction, operation, maintenance and replacement of all sewers or sewerage structures associated with the herein approved discharge in, along, or across private property, with full rights of ingress, egress and regress.

THREE: If, in the opinion of the Department, these works are not so operated or if by reason of change in the character of wastes or increased load upon the works, or changed use or condition of the receiving body of water, or otherwise, the said effluent ceases to be satisfactory or the sewerage facilities shall have created public nuisance, then upon notice by the Department the right herein granted to discharge such effluent shall cease and become null and void unless within the time specified by the Department, the permittee shall adopt such remedial measures as will produce an effluent which, in the opinion of the Department, will be satisfactory for discharge into the said receiving body of water.

FOUR: Collected screenings, slurries, sludges, and other Solids shall be handled and disposed of in compliance with 25 Pa. Code, Chapter 75, and in a manner "equivalent" to the requirements indicated in Chapters 271, 273, 275, 283 and 285 (relating to permits and requirements for landfilling, land application, incineration, and storage of sewage sludge), Federal Regulation 40 CFR 257, Pennsylvania Clean Streams Law, Pennsylvania Solid Waste Management Act of 1980, and the Federal Clean Water Act and its amendments.

The permittee is responsible to obtain or assure that contracted agents have all necessary permits and approvals for the handling, storage, transport and disposal of solid waste materials generated as a result of wastewater treatment.

II. SPECIAL CONDITIONS**1. Other Permits**

"Effluent limitations, monitoring requirements, and other standard and special conditions which relate to the discharges of pollutants authorized by this permit and which are contained in Water Quality Management Permit(s):

No. 1074404 issued on January 7, 1977

are superseded by the terms and conditions of this permit, unless specifically noted otherwise herein."

2. Permit Condition For The Operation And Implementation Of A Pretreatment Program

A. General Requirement - The permittee shall operate, and implement an industrial pretreatment program in accordance with the Federal Clean Water Act, the Pennsylvania Clean Streams Law, and the federal regulations at 40 CFR Section 403. The program shall also be implemented in accordance with the pretreatment program and any modifications thereto submitted by the permittee and approved by the Approval Authority.

B. Annual Report and Other Requirements - The permittee shall submit an Annual Report by March 31 of each year to DEP and EPA that describes the permittee's pretreatment activities for the previous calendar year. The Annual Report shall include a description of pretreatment activities in all municipalities from which wastewater is received at the permittee's POTW. The submission to DEP shall be incorporated into the permittee's Annual Municipal Wasteload Management Report required by 25 Pa. Code Chapter 94. In addition, the permittee shall meet all of the conditions specified below whether or not they relate to the Annual Report:

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- 1) Control Mechanism Issuance - The Annual Report shall contain a summary of Significant Industrial User (SIU) control mechanism issuance, including a list of issuance and expiration dates for each SIU;
 - 2) Sampling and Inspection - The Annual Report shall contain a summary of the number and type of inspections and samplings of SIUs by the permittee, including a list of all SIUs either not sampled or not inspected, and the reason that the sampling and/or inspection was not conducted;
 - 3) Industrial User Compliance and POTW Enforcement - The Annual Report shall contain a summary of the number and type of violations of pretreatment standards and requirements, including local limits, and the actions taken by the permittee to obtain compliance, including civil penalty assessments and actions for injunctive relief. The report shall state whether each SIU was in significant noncompliance, as that term is defined in 40 CFR Section 403.8(f)(2)(viii);
 - 4) Industrial Listing - The Annual Report shall contain an updated industrial listing showing all current SIUs and the categorical standard, if any, applicable to each. In addition, the report shall contain a summary of any trucked or hauled wastewater accepted at the plant including the source of the wastewater (domestic or industrial), the amount of wastewater received on a monthly basis, any controls imposed on the users, and the discharge point designated by the POTW for acceptance of such wastewater;
 - 5) Summary of POTW Operation - The Annual Report shall contain a summary of any interference, pass-through, or permit violations by the POTW which may be attributed to industrial users, and actions taken to address these events. The summary shall include all sampling and analysis of treatment plant influent, effluent, and sludge for priority pollutants or any other pollutant for which a local limit has been established, except that data required to be submitted as part of the discharge monitoring reports required under Part A of this permit need not be included in the summary;
 - 6) Pretreatment Program Changes - The Annual Report shall contain a summary of any changes to the approved program and the date of submission to the Approval Authority;
 - 7) Monitoring - The permittee shall conduct monitoring at its treatment plant that, at a minimum, includes quarterly influent, effluent, and sludge analysis for all local limit parameters, and an annual priority pollutant scan for influent and sludge.
- C. Notification of Pass-Through or Interference - The permittee shall notify EPA and DEP, in writing, of any instance of pass-through or interference related to an industrial discharge from an IU into the POTW. The notification shall be attached to the discharge monitoring report submitted to EPA and DEP and shall describe the incident, including the date, time, length, cause (including responsible user if known), and the steps taken by the permittee and IU (if identified) to address the incident. A copy of the notification shall also be sent to the EPA at the address provided below.
- D. Changes to Pretreatment Program - DEP and EPA may require the permittee to submit for approval changes to its pretreatment program if any one or more of the following conditions is present:
- 1) The program is not implemented in accordance with 40 CFR Part 403;
 - 2) Problems such as interference, pass-through or sludge contamination develop or continue;
 - 3) Federal, State, or local requirements change;
 - 4) Changes are needed to assure protection of waters of the Commonwealth.

- E. Procedure For Pretreatment Program Changes - Upon submittal by the permittee, and written notice of approval by the Approval Authority to the permittee of any changes to the permittee's approved pretreatment program, such changes are effective and binding upon the permittee unless the permittee objects within 30 days of receipt of the written notice of approval. Any such objection must be submitted in writing to both the Department and EPA at the addresses shown below.
- F. Correspondence - The Approval Authority shall be EPA at the following address:

Pretreatment Coordinator
NPDES Permits Branch (3WP24)
Office of Permits & Enforcement
Water Protection Division
US EPA -- Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Copies of all correspondence and reports dealing with this program shall be sent to:

Department of Environmental Protection
Northwest Regional Office
Water Management Program
230 Chestnut Street
Meadville, PA 16335

3. Effluent Chlorine Optimization and Minimization

To reduce or eliminate the amount of chlorine discharged into water bodies, the permittee must: (1) implement source reduction activities, (2) improve operation/maintenance practices and, (3) improve/adjust process controls.

The permittee will ensure that applied chlorine dosages, used for disinfection or other purposes, are optimized to the degree necessary such that the total residual chlorine in the discharge does not cause an adverse stream impact. In doing so, the permittee shall consider relevant factors affecting chlorine dosage, such as wastewater characteristics, mixing and contact times, desired result of chlorination, and expected impact on the receiving water body.

If the Department determines or receives documented evidence levels of TRC in the permittee's effluent are causing adverse impacts in the receiving water, the permittee shall institute necessary additional steps to reduce or eliminate such impact.

4. Chronic Whole Effluent Toxicity (Wet) Permit Limit Condition

The WET Limitation of 1.38 TUc in Part A (page 2) will become effective three years after permit issuance unless the testing and TIE/TRE identify and eliminate the sources of toxicity.

A. General Requirements

The permittee shall conduct chronic whole effluent toxicity (WET) tests quarterly in accordance with the appropriate test protocols or guidance described in Section D, Test Conditions and Methods, below. The permittee shall collect discharge samples and perform WET tests to generate chronic survival and reproduction data for the cladoceran, Ceriodaphnia dubia, and survival and growth data for the fathead minnow, Pimephales promelas. These results will be reported as No Observed Effect Concentration (NOEC) and a dose-response curve shall be plotted, if possible. NOEC results will be reported on Discharge Monitoring Reports as Chronic Toxicity Units (TUc).

B. Test Frequency

1. Chronic WET testing shall be conducted quarterly starting within three months of the permit's effective date and continue until four tests have been completed. If all four chronic tests demonstrate a TUC less than 1.38, the permittee may request that the Department reduce the frequency of the WETT testing necessary under this condition.
2. If any of the quarterly chronic tests exceed 1.38 TUC, the permittee shall conduct a Toxicity Identification Evaluation (TIE) to identify the toxic constituents of the effluent. During the period the permittee is conducting the TIE and the Toxicity Reduction Evaluation (TRE), WET testing will continue quarterly. WET testing will continue during the period the permittee is conducting the TIE and the Toxicity Reduction Evaluation. Once the toxicant(s) or other cause(s) of the WETT failure(s) are identified, confirmed and controlled to acceptable levels through establishment of chemical specific limits or institutional methods, the permittee may submit a request to the Department for modification of the permit condition, documenting the changes instituted to achieve the toxicity reduction. Documentation may include, but is not limited to: the results of TIE/TRE, pretreatment program changes, plant operation and maintenance modifications, design changes, or establishment of and compliance with chemical limits that address the effluent toxicity.

The Department will decide if the toxicity has been properly addressed based upon the permittee's report and completion of four consecutive WET tests with TUC less than 1.38 subsequent to institution of the controls specified in the report.

Toxicity Identification/Reduction Evaluation

If any of the WET tests indicate a TUC greater than 1.38, the permittee shall, within 30 days of the test completion, submit a report of the chronic test results to the Department and begin a Toxicity Identification Evaluation/Toxicity Reduction Evaluation (TIE/TRE). The TIE/TRE evaluates the possible causes of the effluent toxicity; the possible sources of the causative agents; possible control options to reduce or eliminate the effluent toxicity; and implementation of controls.

Within 30 days of submitting the chronic test report, the permittee must submit either a written report on the results of the TIE/TRE or, if the TIE/TRE is not complete, a schedule for completing the TIE/TRE. The schedule must contain specific timeframes for completing major elements of the TIE/TRE.

The TIE/TRE must be conducted in accordance with EPA's guidance in "Methods for Aquatic Identification Evaluations, Phase I (600/3-88/034, September 1988), Phase II (600/3-88/035, February 1989), and Phase III (600/3-88/036, February 1989) or current approved TIE/TRE protocols.

C. Sample Collection

For each chronic testing event, three 24-hour flow proportioned, composite samples shall be collected over a seven day exposure period. The samples shall be collected at a frequency of not greater than every two hours and flow proportioned. The samples must be collected at the NPDES permit sampling point. The permittee shall collect chemical and physical data on the effluent samples specified in this permit.

D. Test Conditions and Methods

The permittee shall follow DEP's "Biomonitoring WETT Data QA/QC Guidelines for Chronic Toxicity Testing with Amendments, March 20, 1995", attached and included in this permit condition, supplemented by Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, Fourth Edition, October 2002 (EPA/821/R-02/013). If the Department determines that the proper chronic test acceptability criteria are not met or the proper QA/QC conditions were not followed, the permittee must perform a retest within 30 days.

To properly conduct chronic WET tests the laboratory must prepare a series of effluent dilutions that are specific to your discharge. The permittee must inform the WETT laboratory of the proper dilution series, which is

To properly conduct chronic WET tests the laboratory must prepare a series of effluent dilutions that are specific to your discharge. The permittee must inform the WETT laboratory of the proper dilution series, which is calculated, using a linear regression equation, from and geometric to the Targeted In-stream Waste Concentration (TIWCC) for your discharge. The dilution series must include at least one dilution below the TIWCC. Based upon your calculated TIWCC, your specific dilution series is (100%, 85.2%, 72.6%, 62%, 53%).

E. Chemical Analysis

The chemistry tests shall include pH, conductivity, total alkalinity, total hardness, total residual chlorine, total ammonia (unionized ammonia), dissolved oxygen and temperature. Chemical analyses as described in the EPA Methods (above) shall be performed for each sampling event, including each new batch of dilution water and each testing event.

In addition to the chemical analyses required above, those parameters listed in PART A and PART C of the NPDES permit for the outfall(s) tested will be analyzed concurrently with the WET Test by using the method specified in the NPDES permit or, if not specified, by using EPA methods at 40 CFR Part 136; Standard Methods for the Examination of Water and Wastewater, American Public Health Association; and approved methods cited in 25 PA Code Chapter 16, Water Quality Toxics Management Strategy, Statement of Policy.

F. Chronic Toxicity Test Report Elements

At a minimum, the following must be reported with each chronic WET test:

1. General test description: - origin and age of test organisms, dates and results of reference toxicant tests; light and temperature regimes; other information on test conditions.
2. Completion of Ceriodaphnia dubia and Pimephales promelas coversheets (Forms 3620-FM-WQ0145 Rev. 3/99 and 3620-FM-WQ0146 Rev. 3/99).
3. Description of sample collection procedures and of the sample location.
4. Names of individuals collecting and transporting samples, times and dates of sample collection and analysis, and temperature of sample upon receipt.
5. Description, time and date of sample renewals.
6. All chemical and physical data including method detection levels and observations made on the species. The chronic WET test hardness shall be reported with each test.
7. Copies of raw data sheets and/or bench sheets with data entries and signatures.
8. Dechlorination procedures with test statistical comparisons.
9. All observations or test conditions affecting the test outcome. All type I or type II errors must be explained.
10. The reference toxicant shall be identified and be a commonly used toxicant approved by EPA. Reports of reference toxicant tests shall include all information needed for the proper evaluation of the test. This includes the following: water chemistry parameters of controls and test concentrations; chronic endpoint with appropriate statistical analyses; and control charts (for point estimates, cumulative mean \pm two standards deviations; for NOEC's central tendency \pm one for concentration interval).

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Submission of test reports

The permittee shall submit copies of all chronic WET test reports to DEP at the addresses listed below within 30 days of the test completion.

Department of Environmental Protection
Water Quality Protection
Northwest Regional Office
230 Chestnut Street
Meadville, PA 16335

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION BUREAU OF WATER QUALITY PROTECTION
 A summary of DEP's "Biomonitoring WETT Data QA/QC Guidelines for Chronic Toxicity Testing with
 Amendments, March 20, 1995 follows:

**SUMMARY OF EFFLUENT TOXICITY TEST CONDITIONS AND TEST ACCEPTABILITY CRITERIA
 FOR CHRONIC TOXICITY TESTS**

1. General Condition:

Effluent concentrations: - Five concentrations and a control. For chlorinated effluents, an additional control (0% effluent) treated with the same concentration of sodium thiosulfate used to dechlorinate the effluent sample will be run. If the initial sample has no chlorine present, start the additional control with no sodium thiosulfate. The DEP shall assign a serial dilution series geometric to the TIWCc to determine the WET test concentrations.

2. Summary of effluent toxicity test conditions and test acceptability criteria for the Ceriodaphnia dubia survival and reproduction test (adapted from EPA/600/4-89/001).

- a. No. neonates per test chamber: - 1
- b. No. replicate test chambers per concentration: - 10
- c. No. neonates per test concentration: - 10
- d. Test duration: Until 60% of control females have three broods (seven days or less).
- e. Endpoints: - Survival and reproduction.
- f. Test acceptability criterion: - 80% or greater survival and an average of 15 or more young per surviving female in the control solutions. At least 60% of the surviving females in controls must have produced their third brood in seven days or less.
- g. Age of organism: - Less than 30 hrs. and inside an 8 hr. window.

3. Summary of effluent toxicity test conditions and test acceptability criteria for the fathead minnow (Pimephales promelas) survival and growth test (adapted from EPA/600/4-89/001).

- a. No. of larvae per test chamber: - 10
- b. No. of replicate test chambers per concentration: - 4
- c. No. of larvae per test concentration: - 40
- d. Test duration: - 7 days
- e. Endpoints: - Survival and growth (weight)
- f. Test Acceptability: - 80% or greater survival in controls; average dry weight of surviving controls equals or exceeds 0.25 mg.
- g. Age of organism: - Less than 30 hours, eggs may need to be shipped.

The hardness of the control water and the 100% effluent water shall be similar before the start of the toxicity test.

Whole Effluent Toxicity Testing

The permittee shall submit the results of whole effluent testing with their next NPDES application, according to 40 CFR 122.21(j)(5). The permittee shall obtain the appropriate biomonitoring protocol for testing from the DEP Regional Office.

6. Requirements Applicable to Stormwater Outfalls**A. Prohibition of Non-stormwater Discharges**

1. Except as provided in A.2, all discharges to stormwater outfalls (011 thru 014) shall be composed entirely of non-polluting stormwater. A non-polluting stormwater discharge(s) is defined as causing no significant adverse environmental impact.
2. The following non-polluting water discharges may be authorized, provided the discharge is in compliance with D.2.b: discharges from fire fighting activities; fire hydrant flushings, potable water sources including waterline flushings, irrigation drainage, lawn watering, routine external building washdown which does not use detergents or other compounds, pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used, air conditioning condensate, springs, uncontaminated groundwater, and foundation or footing drains where flows are not contaminated with process materials such as solvents.

B. Spills

This permit does not authorize the discharge of any polluting substances resulting from an on-site spill. Such spills shall be controlled through proper implementation of a PPC Plan as stated in Section D below.

- C. This permit does not authorize any discharge (storm water or non-storm water) containing any pollutant that has the potential to cause significant adverse environmental impact or pose a substantial hazard to human health or the environment due to its quantity or concentration.

D. Preparedness, Prevention and Contingency Plans**1. Development of Plan**

Operators of facilities shall develop a Preparedness, Prevention and Contingency (PPC) Plan in accordance with 25 Pa. Code § 91.34 and the "Guidelines for the Development and Implementation of Environmental Emergency Response Plans". The PPC Plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharges from the facility. In addition, the PPC Plan shall describe the BMPs that are to be used to reduce the pollutants in stormwater discharges at the facility ensuring compliance with the terms and conditions of this permit.

2. Non-stormwater Discharges

- a. The PPC Plan shall contain a certification that the discharge has been tested or evaluated for the presence of non-stormwater discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-stormwater discharges, the evaluation criteria or testing methods used, the date of any testing and/or evaluation, and the on-site drainage points that were directly observed during the test. Such certification may not be feasible if the facility operating the stormwater discharge does not have access to an outfall,

manhole, or other point of access to the ultimate conduit that receives the discharge. In such cases, the source identification section of the PPC Plan shall indicate why the certification was not feasible. A discharger that is unable to provide the certification must notify the Department within 180 days of the effective date of this permit.

- b. Except for flows from fire fighting activities, sources of non-storm water listed in A.2. (authorized non-stormwater discharges) that are combined with stormwater discharges must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the discharge.

3. Comprehensive Site Compliance Evaluations and Record Keeping

Qualified personnel shall conduct site compliance evaluations at least once a year. Such evaluations shall include:

- a. Visual inspection and evaluation of areas contributing to a stormwater discharge for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural stormwater management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.
- b. Based on the results of the inspection, the description of potential pollutant sources identified in the PPC plan, and pollution prevention measures and controls identified in the plan shall be revised as appropriate within 15 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.
- c. A report summarizing the scope of the inspection, using the DEP's Annual Inspection Form shall be completed and made available upon request and retained as part of the PPC Plan for at least one year after coverage under this permit terminates.

E. Stormwater Management Best Management Practices(BMPs)

The permittee shall implement at least the following BMPs:

- (1) Manage sludge in accordance with all applicable permit requirements and DEP regulations.
- (2) Store chemicals in secure areas on impervious surfaces away from storm drains.
- (3) Design of future wastewater treatment facilities should incorporate/consider plans to prevent run on and avoid storm water commingling with sanitary wastewater.
- (4) Efficiently use pesticides for weed control; where practicable investigate use of the least toxic pesticides; do not apply during windy conditions.

7. **Sanitary Sewer Overflows**

“Unless otherwise authorized under Part B of this permit, any discharge from any point other than a permitted treatment outfall or permitted combined sewer system outfall is prohibited. See e.g. Section 301(b)(1) (B) & (C) of the Clean Water Act; 40 CFR 122.44 & 133.102 (relating to limitations, standards and permit conditions; and secondary treatment). In the event there is a prohibited discharge from a sewer conveyance system, report every such discharge to the Department immediately. On your monthly Discharge Monitoring Report (DMR) in the Remarks block, indicate the date of discharge, action taken and volume of discharge.

Appendix D: Approved Task Activity Reports



Pennsylvania Department of Environmental Protection

121 North Mill Street
New Castle, PA 16101

July 3, 2007

724-656-3160

Fax: 724-656-3267

New Castle District Office

East Butler Borough
Lois J. Fennell
P.O. Box 195
East Butler PA 16029

Re: Act 537 Special Study
Future Needs/BASA
East Butler Borough, Butler County

Dear Ms. Fennell:

The Department of Environmental Protection hereby approves the Revised Task Activity Report (TAR) submitted on your behalf by Olsen and Associates for the above-captioned planning effort. The TAR contains the basic outline for the submission of an Act 537 Special Study of the Butler Area Sewer Authority's current and potential service areas in East Butler Borough.

This Special Study, along with those being prepared by the other municipalities, which contribute sewage flows to BASA, is an important step in resolving the sewage problems in the Butler area.

The projected cost for completion of this planning effort is now \$8,647.50. This is the second submitted revised TAR with increased cost due to revisions completed per DEP's comment letter. Under Act 537, the Department is able to reimburse up to 50% of the municipality's eligible costs of preparing and submitting an Official Sewage Plan Update Revision or Special Study. Once the Special Study has been submitted, reviewed and approved by the Department, an application will be provided for you to request this planning grant.

Should you have any questions on this matter, please do not hesitate to contact me at the above referenced telephone number.

Sincerely,

Tomisa Schneider
Sewage Planning Specialist
Water Management

cc: Jeremy Olsen - Olsen & Associates, LLC
BCPC
BASA
Cynthia Selby

TS:dmp





TASK/ACTIVITY REPORT

Borough of East Butler Butler (Special Study for Entire Borough)
 Municipality County Proposed Planning Area (Attach Map)
 Date of Report: 6/26/07

Date Completed plan will be submitted to DEP 12-Mar-2007 Estimated Cost of Plan \$8,647.50

Column Headings May Be Changed To Suit The Needs of the Planning Effort Use Additional Sheets if Necessary Sheet 1 of 2

TASK ACTIVITY NUMBER FROM APPENDIX I	PRINCIPAL		PROJECT ENG.		SR. ENG.		ENGINEER		PLANNER		DRAFTSMAN		CLERICAL		LEGAL		SUB TOTAL
	HR/ RATE	\$95	HR/ RATE	\$80	HR/ RATE		HR/ RATE	\$85	HR/ RATE	\$80	HR/ RATE	\$55	HR/ RATE	\$35	HR/ RATE	\$120	
	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	
71.21.a.1.i (ID & Map Boundaries)			0.5	\$40					1	\$80	10.75	\$591.25					\$711.25
71.21.a.1.ii (ID & Map Physical Characteristics)			0.5	\$40							6.5	\$375.50					\$397.50
71.21.a.1.iii (Map Soils and Geological Features)			0.5	\$40							5	\$275					\$315
71.21.a.1.iv (Population)			0.5	\$40					1	\$80			2	\$70			\$190
71.21.a.1.v (ID wetlands)											5	\$275					\$275
71.21.a.2.i.A (Location of System Features)	1	\$95	0.5	\$40							5	\$275					\$410
71.21.a.2.i.B (Desc. of Problems)	3	\$285	0.5	\$40			2	\$170									\$495
71.21.a.3.i (Existing Dev.)			0.5	\$40					1	\$80	5	\$275					\$395

Jeremy C. Olsen Jeremy C. Olsen Project Manager Lois Fennell
 Name of Person Completing Report Signature Title Municipal Secretary Signature



Pennsylvania Department of Environmental Protection

121 North Mill Street
New Castle, PA 16101

March 1, 2007

724-656-3160

Fax: 724-656-3267

New Castle District Office

Lois Fennell
East Butler Borough
P.O. Box 195
East Butler PA 16029

Re: Act 537 Special Study
Future Needs/BASA
East Butler Borough, Butler County

Dear Ms. Fennell:

The Department of Environmental Protection hereby approves the Revised Task Activity Report (TAR) submitted on your behalf by Olsen and Associates for the above-captioned planning effort. The TAR contains the basic outline for the submission of an Act 537 Special Study of the Butler Area Sewer Authority's current and potential service areas in East Butler Borough.

This Special Study, along with those being prepared by the other municipalities which contribute sewage flows to BASA, is an important step in resolving the sewage problems in the Butler area.

The projected cost for completion of this planning effort is now \$6,692.50. Under Act 537, the Department is able to reimburse up to 50% of the municipality's eligible costs of preparing and submitting an Official Sewage Plan Update Revision or Special Study. Once the Special Study has been submitted, reviewed and approved by the Department, an application will be provided for you to request this planning grant.

Should you have any questions on this matter, please do not hesitate to contact me at the above referenced telephone number.

Sincerely,

Tomisa Schneider
Sewage Planning Specialist
Water Management

CC: Olsen & Associates
BCPC
BASA
NWRO through Cynthia Selby
File





COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATER STANDARDS AND FACILITY REGULATION

Amended Appendix A--22-b

TASK/ACTIVITY REPORT

Borough of East Butler
Municipality

Butler
County

(Special Study for Entire Borough)
Proposed Planning Area (Attach Map)
Date of Report: 2/8/2007

Date Completed plan will be submitted to DEP 12-Mar-2007

Estimated Cost of Plan \$6,692.50

Column Headings May Be Changed To Suit The Needs of the Planning Effort Use Additional Sheets if Necessary Sheet 1 of 2

TASK ACTIVITY NUMBER FROM APPENDIX I	PRINCIPAL		PROJECT ENG.		SR. ENG.		ENGINEER		PLANNER		DRAFTSMAN		CLERICAL		LEGAL		SUB TOTAL
	HR/ RATE	\$95	HR/ RATE	\$80	HR/ RATE		HR/ RATE	\$85	HR/ RATE	\$80	HR/ RATE	\$55	HR/ RATE	\$35	HR/ RATE	\$120	
	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	
71.21.a.1.i (ID & Map Boundaries)			0.5	\$40					1	\$80	10.75	\$591.25					\$711.25
71.21.a.1.ii (ID & Map Physical Characteristics)			0.5	\$40							6.5	\$375.50					\$397.50
71.21.a.1.iii (Map Soils and Geological Features)			0.5	\$40							5	\$275					\$315
71.21.a.1.iv (Population)			0.5	\$40					1	\$80			2	\$70			\$190
71.21.a.1.v (ID wetlands)											5	\$275					\$275
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71.21.a.3.i (Existing Dev.)			0.5	\$40					1	\$80	5	\$275					\$395

Jeremy C. Olsen
Name of Person Completing Report

Jeremy C. Olsen
Signature

Project Manager
Title

Lois J. Fennell
Municipal Secretary Signature



COMMONWEALTH OF PENNSYLVANIA
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 BUREAU OF WATER STANDARDS AND FACILITY REGULATION

Amended Appendix A--22-b

TASK/ACTIVITY REPORT

Borough of East Butler
 Municipality

Butler
 County

(Special Study for Entire Borough)
 Proposed Planning Area (Attach Map)
 Date of Report: 2/8/2007

Date Completed plan will be submitted to DEP 12-Mar-2007

Estimated Cost of Plan \$6,692.50

Column Headings May Be Changed To Suit The Needs of the Planning Effort Use Additional Sheets if Necessary

Sheet 2 of 2

TASK ACTIVITY NUMBER FROM APPENDIX I	PRINCIPAL		PROJECT ENG.		SR. ENG.		ENGINEER		PLANNER		DRAFTSMAN		CLERICAL		LEGAL		SUB TOTAL
	HR/ RATE	\$95	HR/ RATE	\$80	HR/ RATE		HR/ RATE	\$85	HR/ RATE	\$80	HR/ RATE	\$55	HR/ RATE	\$35	HR/ RATE	\$120	
	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	HRS.	COST	
71.21.a.3.iii (Future Growth)	3	\$95	1	\$80					2	\$160			1	\$35			\$370
71.21.a.3.v (Planned Areas)	3	\$95	1	\$80					2	\$160			2	\$70			\$405
Legal Notice			1	\$80													\$80
Comments and Reponses			0.5	\$40													\$40
Meetings and Project Mgmt.	2	\$190	6.25	\$500													\$690
Deliverables (Printing and Binding)			2	\$160							4.25	\$233.75	1	\$35			\$428.75
Final Revisions per BASA, DEP			8	\$640									2	\$70			\$710
Legal Fees															6.5	\$780	\$780

Jeremy C. Olsen
 Name of Person Completing Report

Signature

Project Manager
 Title

Louis J. Fennell
 Municipal Secretary Signature

**Appendix E: Draft Act 537 Official
Plan Revision: SPECIAL SEWAGE
STUDY**

PART 1: Background Information

On October 13, 2006, a Final Consent Order and Agreement was signed by the Butler Area Sewer Authority (BASA), the PA Department of Environmental Protection (PaDEP) and the municipal entities connected to BASA's Sewage Collection System, including East Butler Borough [see Appendix B for Final Consent Order and Agreement]. This Act 537 Special Study has been prepared by East Butler Borough to conform to the PaDEP's request to provide planning data to aid BASA in the possible design and/or possible rehabilitation of its sewerage system in East Butler Borough.

PART 2: Administrative Completeness Checklist

Section 1: Plan Summary

A: Identification of Proposed Service Areas and Major Problems Evaluated in the Plan

The following map, [*"Zoning Districts", from East Butler Borough's Current Zoning Map*] depicts East Butler Borough's boundaries along with its zoning districts.

Currently, no major sewage capacity problems exist within the boundaries of East Butler Borough. No documented overflows have occurred within the borough borders, as verified by BASA. However, sewage permits have been limited by BASA over the past approximately five years as a result of overflows in Butler City and Butler Township from sewer lines which carry (in part) East Butler Borough sewage.

[PLACEHOLDER FOR MAP: ZONING
DISTRICTS]

B: Identification of Alternatives Chosen to Solve Problems and Serve the Areas of Need Identified in the Plan

The alternatives considered accommodating growth in East Butler Borough and the other tributary municipalities will only be known during the Final Act 537 Plan process. Alternatives will be selected by BASA during this process.

C: Estimated Cost of Implementing the Proposed Alternative

An estimated cost will be provided by BASA during its Final Act 537 Plan process. Once alternatives are decided upon, design and construction costs can be formulated by BASA.

D: Identification of Municipal Commitments to Implement the Plan

The final Consent Order and Agreement [see Appendix C] outlines any and all commitments required by East Butler Borough and the other tributary municipalities.

E: Schedule of Implementation

- November 27, 2006: Draft of Act 537 Special Study submission to Butler County Planning Commission, and BASA.
- January 26, 2007: Borough Council shall consider comments of Butler County Planning Commission and BASA and revise the Act 537 Special Study as necessary.
- March 12, 2007: Final Act 537 Special Study shall be adopted by the Borough by Resolution and the Resolution and Study shall be submitted to DEP by this date.
- 30 Days after BASA receives add DEP-approved Official Plan Revision Special Studies: BASA Task Activity Report Preparation.
- 180 Days after BASA TAR approval: BASA Official Plan Update Revision submitted to PaDEP.
- 180 Days after receiving DEP comments on Official Plan: BASA to submit final Update Revision to PaDEP.

BASA's final Update Revision will include timeframes for design and construction of proposed upgrades and improvements.

Section 2: Municipal Adoption

East Butler Borough will adopt the East Butler Borough Final Act 537 Official Plan Revision by March 12, 2007, in accordance with the outline presented in Part 2, Section 1.E.

Section 3: Planning Commission Comments

Two additional appendices will be added to the East Butler Borough Final Act 537 Official Plan Revision, containing any and all comments received by the Butler County Planning Commission and BASA (Appendix G and H, respectively). East Butler Borough does not have its own Planning Commission; therefore, all references in the PaDEP Final Consent Order and Agreement to the "local municipality planning commission" are considered not-applicable to East Butler Borough. However, the East Butler Borough Council was given the opportunity to review and comment on the SPECIAL SEWAGE STUDY, and their comments appear in Appendix F.

Section 4: Publication

East Butler Borough will conduct a 30 day comment period, during which time the public may view and make comment on the Act 537 Official Plan Revision. An additional appendix (Appendix I) will be added to the East Butler Borough Final Act 537 Official Plan Revision containing the publication advertised for public comments.

Section 5: Comments and Responses

An additional appendix (Appendix J) will be added to the East Butler Borough Final Act 537 Official Plan Revision, containing any and all public comments. Any and all municipal responses to each comment in relation to the proposed plan can be found in Appendix K.

PART 3: Official Plan

Section 1: Description and Analysis of Physical and Demographic Characteristics of the Planning Area

A: Planning Area Boundaries and Political Subdivision Boundaries

East Butler Borough is a 1.04 square mile community situated approximately one mile east of the City of Butler and within northern Summit Township. All of East Butler Borough is tributary to BASA's sewerage system which essentially drains into Summit Township. The map on page 2 [*"Zoning Districts", from East Butler Borough's existing zoning map*] shows planning area boundaries and political subdivision boundaries, along with zoning information for East Butler Borough. The following zoning districts exist in East Butler Borough:

R: Residential
C: Commercial
I: Industrial

East Butler Borough is a community which is considered to be "built-out" in terms of projected growth, although there are areas in both the northwestern and northeastern quadrants which remain undeveloped. For the most part, these lands exhibit steep slopes and portions are situated within three (3) networked stream corridors identified as floodplains.

B: Physical Characteristics of the Planning Area

The map on page 7 [*"Topography", from USGS library*] shows the terrain in East Butler, and the map on page 8 [*"Watersheds", created for this report*] shows that East Butler lies completely within the Bonnie Brook watershed.

The map on page 9 [*"Development Constraints", created for this report*] depicts physical characteristics of East Butler Borough, including tax parcels, road centerlines, networked streams, floodplains, wetland types, and percent slope. These characteristics denote physical constraints to development.

Generally, land developments cannot infringe on floodplains or wetlands. Also, the steeper the land, the less it is conducive to economically feasible development. It is generally accepted that

lands with slopes below 15% are attractive to development; lands with slopes between 15% to 24% are marginally desirable. Lands with slopes above 25% are considered un-developable but these steep areas can provide land uses such as "open space" or "passive recreation areas" that make adjacent, flatter lands more attractive.

Therefore, physical characteristics that support most economically feasible development (in areas currently undeveloped) are found in the northwestern and northeastern areas of the Borough.

[PLACEHOLDER FOR MAP:
TOPOGRAPHY]

[PLACEHOLDER FOR MAP:
WATERSHEDS]

[PLACEHOLDER FOR MAP:
DEVELOPMENT CONSTRAINTS]

C: Soils and Geological Features

The map on page 11 [*"Hydric Soils", created for this report*] depicts USDA soil types (Hydric, partially hydric, and non hydric), along with Gravity sewer lines, force mains, manholes, and pump stations.

[PLACEHOLDER FOR MAP: HYDRIC SOILS]

D: Current and Historical Population Information

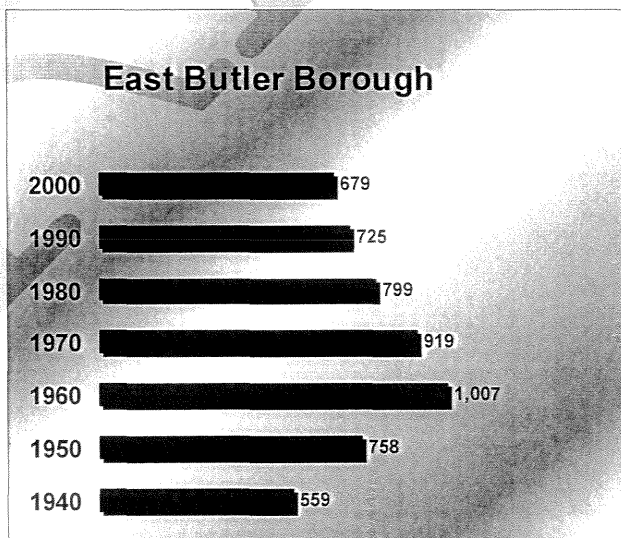
East Butler Borough's population peaked during the 1960's at about 1,007 people and the current population is estimated to be about 758 persons. From its peak population in 1960 to the official 2000 Census count of 679, East Butler's population decreased by 328 persons or about 33%.

Between 1990 and the year 2004, 7 single family residential buildings were permitted. During the same period, no multi-family buildings were constructed. Of the total of 302 housing units reported in the Borough for the year 2000 Census, only 25 units occurred in multi-unit configurations, or .8 of one percent. Nearly 98% of all housing units are occupied, most of them (84%) by the owner. The average owner-occupied household size was 2.42 persons in the year 2000, while the average renter-occupied household size was calculated at 1.71 persons.

Population 1930-2000

	1930	1940	1950	1960	1970	1980	1990	2000
East Butler Borough	521	559	758	1,007	919	799	725	679
Butler County	80,480	87,590	97,320	114,639	127,941	147,912	152,013	174,083

Source: Southwestern Pennsylvania Commission

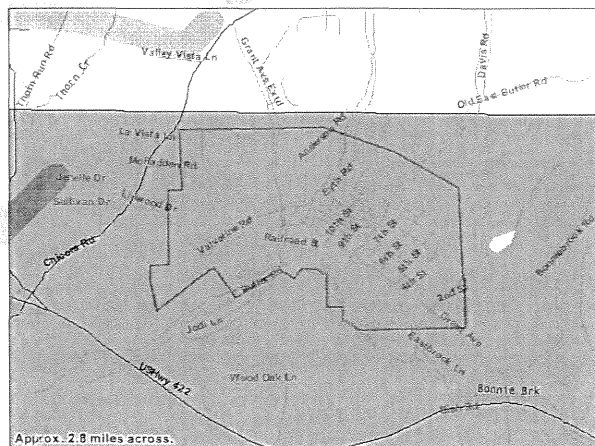


URBAN/RURAL AREA- 2000				
EAST BUTLER BOROUGH				
	Population		Housing Units	
	#	%	#	%
Urban	625	90%	280	92.7%
Rural	54	10%	22	7.3%
Total	679		302	

MEDIAN AGE		
	1990	2000
	36.7	39.7

Source: Penn State Data Center, Municipal Demographic Profile

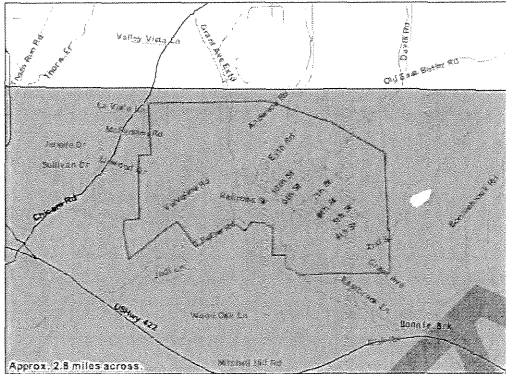
**Population
Density
2000**



- Data Classes**
Persons/Sq. Mile
- 232 - 232
- Features**
- Major Road
 - Street
 - Stream/Waterbody
 - Stream/Waterbody

Housing and Households

Housing Density 2000



- Data Classes**
- Total Units
 - 2057 - 2057
- Features**
- Major Road
 - Street
 - Stream/Waterbody
 - Stream/Waterbody

East Butler Borough – 2000

Housing Occupancy

Total Housing Units	302	100%
Occupied Housing Units	295	97.7%
Vacant Housing Units	7	2.3%
Seasonal, recreational or occasional use	0	0%

Housing Tenure

Total Occupied Housing Units	295	100%
Owner-Occupied Housing Units	247	83.7%
Renter-Occupied Housing Units	48	16.3%

Vacancy Rate

Homeowner vacancy	0.8%
Rental vacancy	7.7%

Average Household Size

Owner-occupied household size	2.42
Renter-occupied household size	1.71

Occupants Per Room

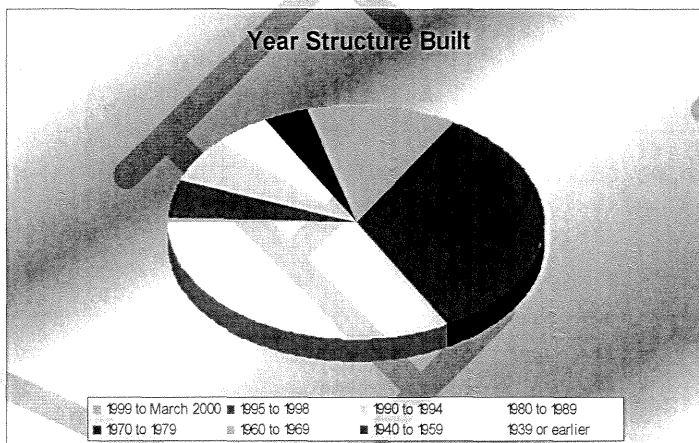
Occupied Housing Units	295	100.0
1.00 or less	290	98.3%
1.01 to 1.50	3	1.0%
1.51 or more	2	0.7%

House Heating Fuel

Utility gas	260	88.1%
Bottled, tank or LP gas	4	1.4%
Electricity	15	5.1%
Fuel oil, kerosene, etc.	14	4.7%
Coal or coke	0	0%
Wood	2	0.7%
Solar energy	0	0%
Other fuel	0	0%

Geographic area	Population	Housing units	Area in square miles			Density per square mile of land area	
			Total area	Water area	Land area	Population	Housing units
Butler County	174,083	69,868	794.79	6.26	788.53	220.8	88.6
East Butler Borough	679	302	1.04	0.00	1.04	650.4	289.3

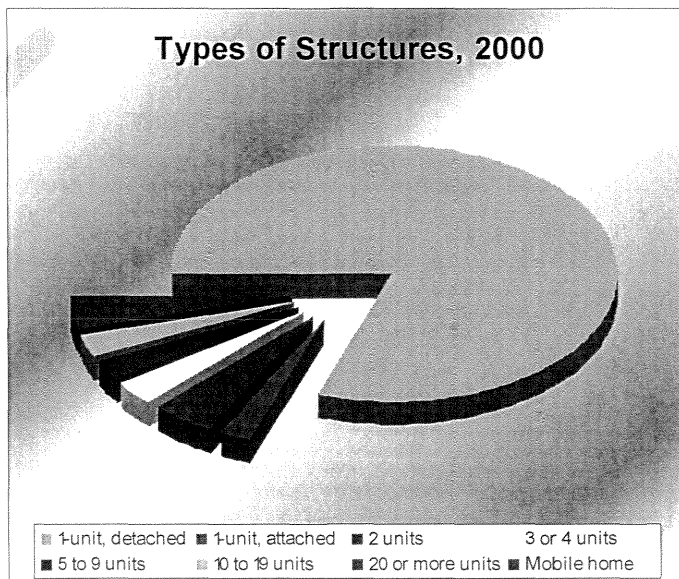
	#	%
1999 to March 2000	2	0.7
1995 to 1998	16	5.3
1990 to 1994	19	6.3
1980 to 1989	14	4.6
1970 to 1979	12	4.0
1960 to 1969	39	12.9
1940 to 1959	101	33.3
1939 or earlier	100	33.0



Types of Structures East Butler Borough, 2000

	1990	2000
1-unit, detached	235	244
1-unit, attached	2	7
2 units		14
3 or 4 units	9	9
5 to 9 units	1	8
10 to 19 units		8
20 or more units	9	0
Mobile home	30	13

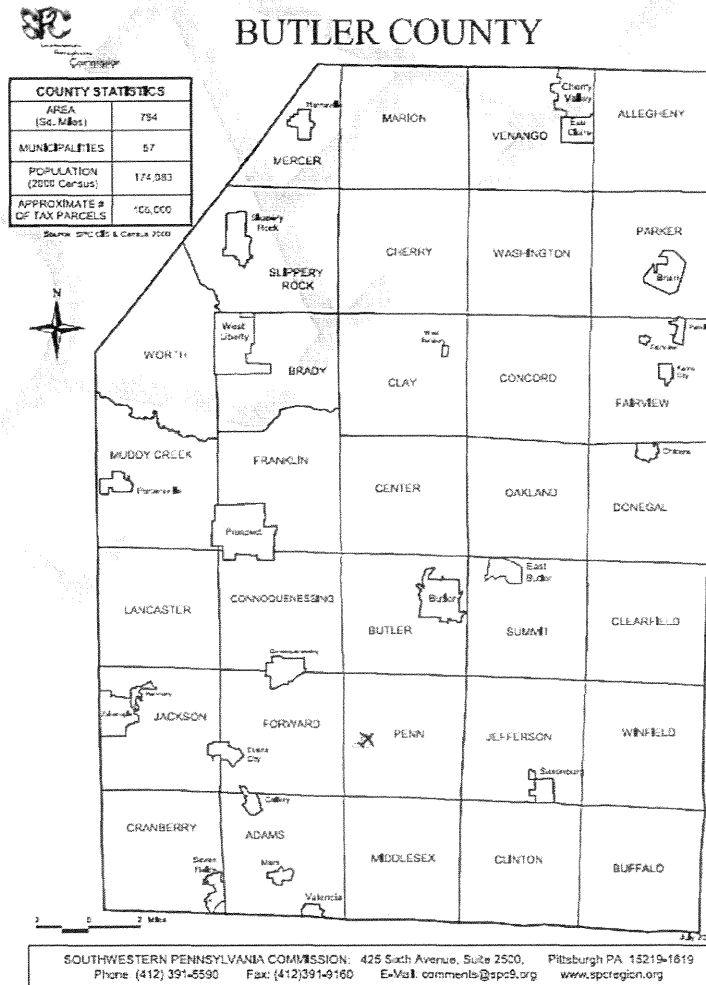
Source: U.S. Census Bureau, Table DP1, 1990 and 2000.



Geographic Comparison Table East Butler Borough and Surrounding Municipalities 2000 Census

Geographic area	Population	Housing units	Area in square miles			Density per square mile of land area	
			Total area	Water area	Land area	Population	Housing units
Butler County	174,083	69,868	794.79	6.26	788.53	220.8	88.6
East Butler Borough	679	302	1.04	0.00	1.04	650.4	289.3
Clearfield Township	2,705	958	23.36	0.00	23.36	115.8	41.0
Oakland Township	3,074	1,168	23.23	0.30	22.93	134.1	50.9
Butler Township	17,185	7,500	21.62	0.12	21.50	799.2	348.8
Jefferson Township	5,690	1,970	23.41	0.02	23.39	243.3	84.2
Summit Township	4,728	1,755	22.34	0.04	22.29	212.1	78.7

Source: GCT-1, U.S. Census Bureau



New, Privately Owned Construction Authorized by Building Permits

East Butler Borough, 1990-2004

Year	Single-Family		Multi-Family			Total		Months Reported	Summary 1990-2004
	Units	Value	Bldgs	Units	Value	Bldgs	Units		
1990	1	\$73,085	0	0	\$0	1	1	\$76,085	
1991	2	\$80,000	0	0	\$0	2	2	\$80,000	
1992	1	\$65,000	0	0	\$0	1	1	\$65,000	
1993	1	\$52,000	0	0	\$0	1	1	\$52,000	
1994	0	\$0	0	0	\$0	0	0	\$0	
1995	0	\$0	0	0	\$0	0	0	\$0	
1996	0	\$0	0	0	\$0	0	0	\$0	
1997	0	\$0	0	0	\$0	0	0	\$0	
1998	0	\$0	0	0	\$0	0	0	\$0	
1999	0	\$0	0	0	\$0	0	0	\$0	
2000	1	\$78,700	0	0	\$0	1	1	\$78,700	
2001	0	\$0	0	0	\$0	0	0	\$0	
2002	0	\$0	0	0	\$0	0	0	\$0	
2003	0	\$0	0	0	\$0	0	0	\$0	11
2004	1	\$100,000	0	0	\$0	1	1	\$100,000	12

Units:
 Single family:
 7
 Multi-family:
 0
 Total:
 7
 % Single family:
 100.0%

Value of Total Units:
 \$451,785

Source: Southwestern Pennsylvania Commission, November 30, 2005; Column "Months Reported", first time available in 2003, contains the number of months for which the data was collected.

[PLACEHOLDER FOR MAP:
CURRENT ANNUAL AVE. DAILY
TRIPS ON STATE ROADS]

Section 2: Evaluation of Existing Municipal and Nonmunicipal, Individual and Community Sewage Facilities in the Planning Area

A: Treatment Plants, Main Intercepting Lines, Pump Stations and Force Mains

The map on page 20 shows BASA's Sanitary Sewer System in within the bounds of East Butler Borough. The map depicts gravity mains (along with pipe sizes), manholes, road centerlines, tax parcels, streams, USDA soil types, floodplains, wetlands, ponds, and 100 ft. contours and 20 ft. contours.

There are no treatment plants or pump stations within the boundaries of East Butler Borough.

[PLACEHOLDER FOR MAP: SANITARY
SEWER SYSTEM]

B: Description of Problems with the Existing Facilities

No known problems exist with any area of the sewer system contained within the boundaries of East Butler Borough. The system is currently able to handle normal and peak flow occurring in the area. It is BASA’s responsibility to analyze capacities of the existing interceptors, pump stations, and force mains. This data is not included with East Butler Borough’s Act 537 Official Plan Revision.

Section 3: Development

Population projections from the Southwestern Pennsylvania Commission (SPC) put the Borough’s 2010 population at 774 persons, and the long range projection (2020 to 2030) at 778 persons, indicating no significant change one way or the other.

While the Borough has not prepared a comprehensive plan with a future land use component, there are several logical areas where limited single family dwelling construction could occur. Utilities are present at the northern end of Anderson Road and new lots could be created. In addition, a southerly extension of Brandon Road could accommodate new dwelling units.

Population Projection

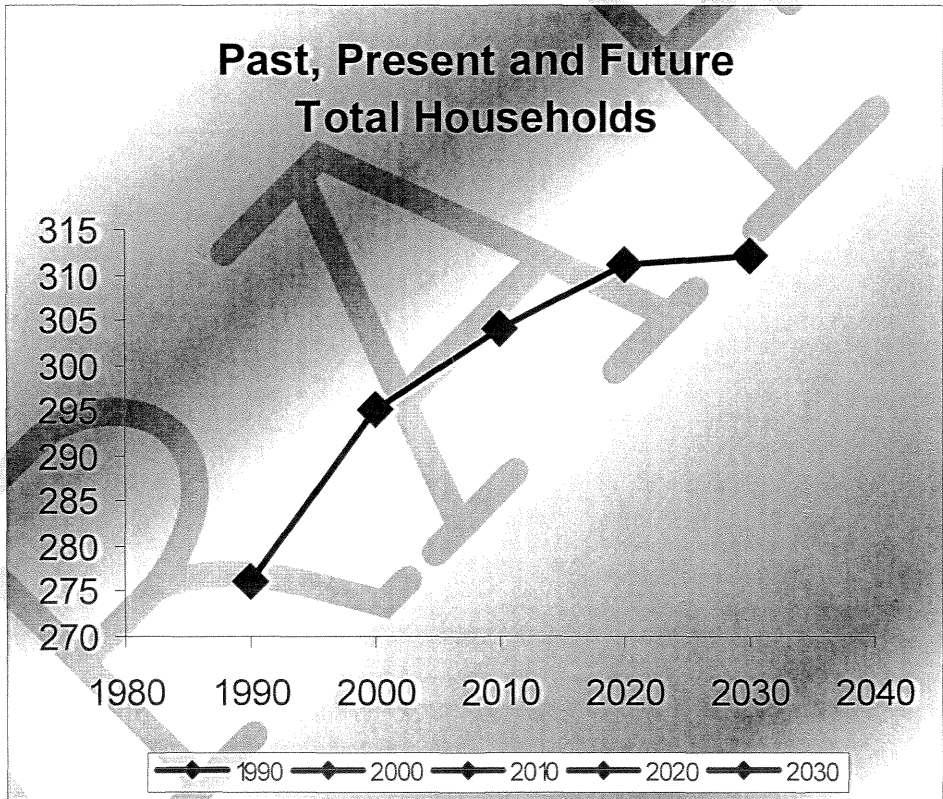
2010 to 2030

	2010	2020	2030
East Butler Borough	774	778	778
Butler County	96,535	100,907	101,358
<i>Source: Southwestern Pennsylvania Commission</i>			

Total Households 1990-2000 2010-2030 Projected

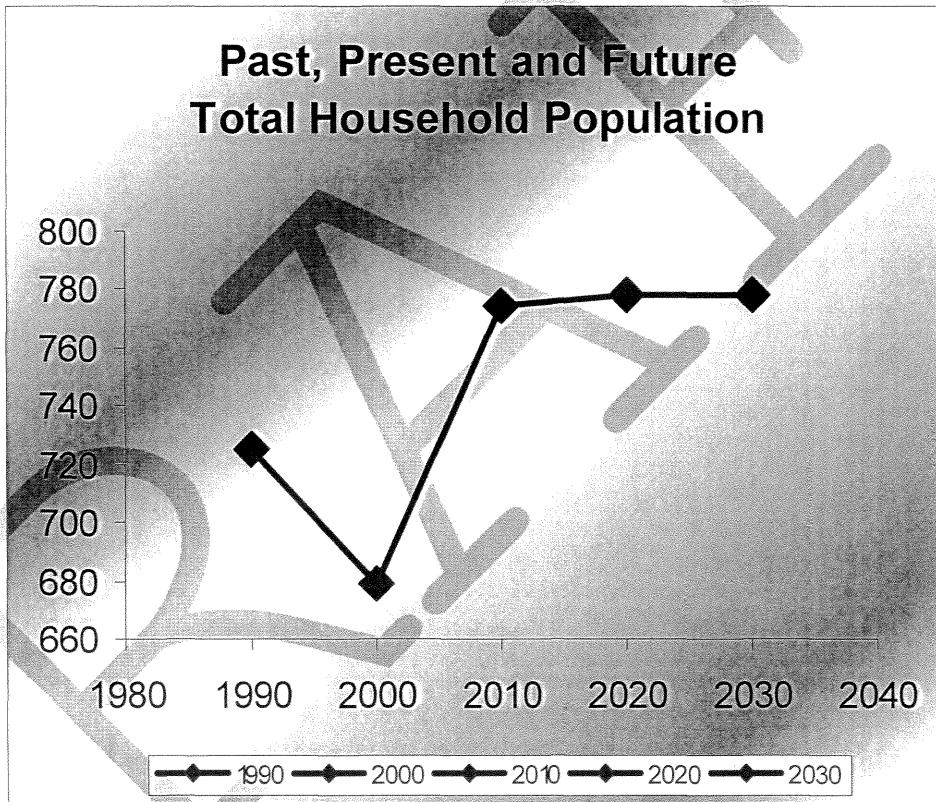
1990	2000	2010	2020	2030
276	295	304	311	312

Source: Penn State Data Center, 1190; U.S. Census Bureau, DP-1, 2000; Southwestern Pennsylvania Commission, projections.



Household Population 1990-2000 2010-2030 Projected

1990	2000	2010	2020	2030
725	679	774	778	778
Source: Penn State Data Center, 1190; U.S. Census Bureau, DP-1, 2000; Southwestern Pennsylvania Commission, projections.				



Most sewage production in East Butler Borough in the past came from industry. East Butler Borough has been the home of many important industries including American Hardware (Servistar), Magnetics, Spang, Marmon Keystone, Standard Bent Glass, and Castle Rubber Company.

American Hardware, the largest of these, closed its doors slowly over the past 10 years. Magnetics and Spang have significantly downsized, laying off a large portion of their employees. Magnetics is manufacturing an increasing amount of its product in China and as quality of its overseas production increases, a further downsizing in its East Butler plant is expected. Castle Rubber Company is now out of business.

There are continued efforts by the Butler County Community Development Corporation and others to create new businesses to re-occupy the large vacancies in the industrial segment of East Butler. The American Hardware Building was recently purchased by IDL Merchandizing Solutions (Mathews, Inc.), and other buildings are being purchased and slowly reoccupied by manufacturing and service companies.

For the purposes of this report, however, it is assumed that the best possible case is that new businesses will be found to slowly reoccupy the industrial base of East Butler over the next 20 years. Since new industry is generally more high-tech oriented and less labor intensive than in previous decades, it is assumed that there will be no net increase in sewage production from new residential or non-residential usage in East Butler over the next 5 to 10 years, nor during the next 20 years.

**Appendix F: East Butler Borough
Council Comments on Draft
SPECIAL SEWAGE STUDY**

EAST BUTLER BOROUGH

Box 87
East Butler, Pa. 16029

John Olsen

REGULAR MEETING

DECEMBER 4, 2006

CALL TO ORDER:

The regular meeting of the East Butler Borough Council was called to order by council president, Earl D. Fennell, at approx. 7:00 P.M. on Dec. 4, 2006. All rose to pledge the flag.

ROLL CALL:

Those present were Earl Fennell, Dick Day, Joe Lesnik, Susan Shever, Mitch Roth, John Shields and Lois Fennell, Sec/Treas. Tom Wells was absent.

PUBLIC COMMENT ON THE AGENDA AS PRESENTED: None.

MINUTES:

Sue Shever moved to approve the November 6, 2006 regular meeting minutes as presented. Joe Lesnik seconded. Mitch Roth, John Shields, and Earl Fennell agreed. **Motion carried.**

BUILDING PERMITS:

The zoning officer submitted one zoning permit: \$60 for an addition – Standard Bent Glass. He reported that MDIA has issued the building permit and the work has already begun.

FINANCIAL:

Lois distributed the list of bills due in December and the fund totals report ending Nov. 30, 2006. John Shields moved to pay the bills. Joe Lesnik seconded. Sue Shever, Mitch Roth and Earl Fennell agreed. **Motion carried.**

VISITORS:

Gary and Barb Osche were present regarding water run-off from Fifth St. John Shields said Fifth St. is on the maintenance list for 2007. Council directed Chuck Crispin to check on possibly putting in a ditch.

Jeremy Olsen came to present the sewage study prepared as mandated by the DEP consent order and agreement (signed Oct. 13th.) Comments on this draft are due at the next meeting, Jan. 2, 2007. The final copy will be due from Olsen & Associates by Jan. 26th. It needs to be approved by Council at the March 5th meeting because it is due to DEP by March 7th. Jeremy went through the draft with Council.

Comments: Change term "Board of Supervisors" to "East Butler Council" everywhere it occurs. Regarding future development, some Council members thought the Kovalchick (44+ acres) and Mellish (30+ acres) properties should be included somehow. Both are zoned residential. The jump in proposed population from 679 (2000) to 774 (2010) is questionable. How did they come up with it?

John Stutz reported that he spoke with Mark Lower (Lauer) from Center Township regarding the possible use of their codes officer, Rich Round. It was suggested that one or two council members, John Stutz, Mr. Round, and one supervisor from Center Township sit down to discuss the possibility. Mitch Roth moved to authorize John Stutz to set up a meeting sometime this spring. **Seconded** by Joe Lesnik. All agreed and **motion carried.**

UNFINISHED BUSINESS:

The final review and adoption of the proposed 2007 Budget was advertised for this evening. After some discussion, John Shields **moved** to give the zoning officer, John Stutz, a monthly "salary" of \$125.00 in addition to the percentage of preliminary zoning review for building permits (which is 100% of the first \$800.00 in any year; then 75% thereafter.) **Seconded** by Sue Shever. Earl Fennell agreed. Mitch Roth and Joe Lesnik voted no. **Motion carried 3 to 2.** Mayor Dick Day agreed stating that we have no one else who wants the position.

Chuck Crispin announced that his new insurance was approved at \$679.00 per month. There is no deductible; therefore he gets the \$.50 per hour (fifty-cent) raise approved last month for 2007. The premium is about \$40.00 less per month than the current premium through Chamber Choice.

The revised Emergency and Municipal Services Tax (EMST) Ordinance and the 2007 Real Estate Tax Ordinance (17 mills) were advertised for adoption this evening along with the budget. John Shields **moved** to adopt Ordinance #161 revising the EMST Ordinance to collect the maximum \$52.00 from individuals employed in the borough. **Seconded** by Sue Shever. All agreed and **motion carried.** Joe Lesnik **moved** to adopt Ordinance #162 setting the 2007 real estate tax at 17 mills (the same as in 2006). **Seconded** by Mitch Roth. All agreed and **motion carried.** Joe Lesnik **moved** to adopt the 2007 budget as revised and including the taxes just approved by ordinance. **Seconded** by Sue Shever. All agreed and **motion carried.**

NEW BUSINESS:

East Butler Volunteer Fire Dept. installation dinner is Saturday, Jan. 20th at 5:00 P.M. Each council member may bring a guest. RSVP due Jan. 12th. The matter tabled for next meeting, Jan. 2nd.

CORRESPONDENCE:

A fax from Vogel Disposal was received regarding 2007 recycling pick-up and leaf pick-up dates.

A newsletter from ABEC (Americans for Balanced Energy Choices) was received. No interest.

A letter was received from the PA American Water Co. their regarding request to PUC for an increase.

A fax was received from "Secure the Call" regarding collection and redistribution of cell phones. NO interest indicated.

The Humane Society newsletter was received.

MISC. BUSINESS:

Chuck Crispin reported that Phil Sleigher, Jr. is interested in a part-time road position this spring. Someone mentioned the missing water cap on 6th St. Chuck is to check with water company about it.

Mitch Roth will talk to the magistrate again about Mr. Crawford who is bringing materials in to the borough (we think to burn.); and about the junk/junk vehicles at the properties of Mr. Frank and Mr. Bandura. He'll report next month. (Letters were sent: Bandura -1st notice 10/11/06 re: junk and junk vehicle; Frank -certified Oct. 11, 2006 re: junk vehicles ; and to Crawford & Wm. Lucas - certified 9/6/06 - both regarding bringing materials into the borough for burning.

ADJOURN:

Sue Shever **moved to adjourn** at approx. 8:50 P.M. **Seconded** by Joe Lesnik. All agreed and **motion carried.**

ATTENDANCE:

Chuck Crispin, Jeremy Olsen, John Stutz, Gary & Barb Osche..

REORGANIZATION AND REGULAR MEETING: **Tues., Jan. 2, 2007 6 P.M.**

EAST BUTLER BOROUGH

Box 87

East Butler, Pa. 16029

REORGANIZATIONAL AND REGULAR MEETING AGENDA

JANUARY 2, 2007

CALL TO ORDER:

The re-organizational and regular meeting was called to order by Mayor Dick Day at approximately 6:02 P.M.

PUBLIC COMMENT ON THE AGENDA AS PRESENTED: None

ROLL CALL:

Those present were Dick Day, Earl Fennell, Joe Lesnik, Susan Shever, John Shields and Sec/Treas, Lois Fennell. Tom Wells and Mitch Roth were absent.

REORGANIZATION:

Joe Lesnik *moved* to leave Council Officers the same for 2007, as in 2006. They are Earl Fennell, President; John Shields, Vice-President and Mitch Roth, President Pro-Tem. *Seconded* by John Shields. Sue and Earl agreed and *motion carried*.

APPOINTMENTS:

Motion by John Shields to appoint the following employees and officers for 2007:
Lois Fennell, Sec/Treas. Charles Crispin, Road Supervisor
John Stutz, Zoning Officer Dan Cousins, Sewage Enforcement Officer
Gwilym A. Price, III, Solicitor/Attorney Olsen Engineering and Assoc., Engineers
Seconded by Joe Lesnik. Sue and Earl agreed and *motion carried*.

AUDITORS:

Debbie Douglas was elected to a 6- year term (through 12/2008.) Jason Fennell was elected for 6 years (through 12/2012.) Ruth Lesnik was appointed last January until the next municipal election – which is in Nov. 2007. So they are good for this year’s audit, but we really need to get Ruth or someone else to run for the office of auditor this year for a 6-year term (through 12/2013).

ZONING HEARING BOARD:

Karen Hankey’s term ended 12/2006. John Shields *moved* to re-appoint Karen Hankey for 2007, 2008, 2009, subject to her agreement. *Seconded* by Joe Lesnik. Sue and Earl agreed and *motion carried*. (Ken Crispin's term is good through 12/2008. He was appointed last year for 2004, 2005 and 2006. Louise Spohn's term ends 12/2007.)

COMMITTEES:

With no objections from the Council members present, Earl Fennell agreed to leave the committee appointments the same for 2007 as in 2006: ROADS – John Shields and Mitch Roth
PARKS - Sue Shever and Earl Fennell; and ZONING - Tom Wells and Joe Lesnik.

MONTHLY MEETINGS:

Earl Fennell *moved* to keep the monthly meetings on the first Monday of each month at 7:00 P.M., except for September. Because of Labor Day, Council will meet on Tuesday, Sept. 4, 2007. (Lois is not available for Thurs., Sept. 6 – so the meeting needs to be Tuesday.) *Seconded* by John Shields. All agreed and *motion carried*.

REGULAR MEETING

MINUTES:

Sue Shever *moved* to approve the Dec. 4, 2006 minutes as written and distributed *Seconded* by Joe Lesnik. John Shields and Earl Fennell agreed and *motion carried*.

BUILDING PERMITS: None.

TREASURER'S REPORT:

The list of bills due and expected and the Fund Totals Report ending 12/31/06 (not including December interest) was distributed. *Motion* by John Shields to pay the bills. *Seconded* by Joe Lesnik. Sue and Earl agreed and *motion carried*.

VISITORS:

Jeremy Olsen was present. Council had no additional comments on the draft official plan special study since the December meeting. The advertisement will be placed on Jan. 29th for the public comment period to begin on the 30th. The ad will state the location to view the study at Olsen and Associates on Main St. Butler. Feb. 28th is the last day of the comment period. All public comments will be included in the final draft and letters of response will be sent and included as well. At the March 5th meeting, Council will give final approval of the study before sending it to the DEP.

Darlene Roy wants to build a garage with a second story. Temporarily, she would like her parents to live upstairs in this proposed garage. When they no longer need the 'apartment', the area will become a workshop. (Currently her parents are living in their basement.) She has already contacted BASA and she would be permitted to tie into the house line --- for a "mother-in-law residence, but NOT for renting out!) Our zoning ordinance, page 12, Article 9, Supplementary Regulations 1c states that "only one principal permitted use shall be allowed on an undivided property except in the case...., or a second dwelling on a lot situated so that if the property is later subdivided both the dwellings will occupy lots meeting all area, yard setback and frontage requirements that apply in the zone district. John Stutz will go to their property and measure and will contact Attorney Price to make sure this section of the zoning ordinance is applicable before issuing any permits.

COUNCIL BUSINESS:

The secretary reminded Council that they never appointed an "appeals board" for the PA UCC enforcement of regulations and they need to try and come up with three people to 'serve.'

The East Butler Volunteer Fire Department installation dinner is Saturday, Jan. 20, 2007 at 5 P.M. So far, Earl and Lois Fennell will attend. Mayor Day will be there – he is a member of the fire dept.

John Shields *moved* to enter into the annual agreement with the Butler Co. Humane Society. *Seconded* by Joe Lesnik. All agreed and *motion carried*. The council president and mayor will sign, and the secretary will forward it to the dog officer, Dennis Sybert to sign and submit to the Humane Society.

MISCELLANEOUS:

We received an "order of court" regarding tax appeal for "Railing LLC" (which was Penn Champ.) A copy was sent to Attorney Price for his information on 12/19/06. Council does NOT wish to have the attorney attend the hearing.

Attorney Price sent Council a letter regarding BASA's sewage permit allocation rules. As it is proposed, the policy will give preference to residential development and "dead last" consideration to new commercial/industrial. He asked Council to consider whether to 'endorse' Butler Township's efforts to have BASA allocate some of the new sewage connection permits to new commercial and industrial uses in the region. John Shields *moved* to communicate our agreement with Butler Township. The secretary is to check with Attorney Price as to the best way to do this (either through him or via a letter signed by the Council president.) *Seconded* by Joe Lesnik. All agreed and *motion carried*.

CORRESPONDENCE:

The State Ethic Commission "Statements of Financial Interest" were received and passed to Council members present. The secretary will mail out others.

BASA sent pamphlets to be made available to Council and the public entitled: "Smoke, Dye, & Television" (Ways + Reasons to Fix Sewer Defects on Private Property) and "Stop Sewer Backups" (How to Safeguard Your Home + the Environment by Disconnecting Downspouts.)

BASA sent Council a copy of the "land development approval letter" to Day of the Lord Real Estate CAS Lot 1 dated Dec. 18, 2006.

BASA sent Council a copy of the "review letter" sent to Butler Township Commissioners commenting on their draft official plan special study. The secretary sent copies to the Borough Council in December.

Seminars on "Communication and Conflict" and "Putting Transferable Development Rights to Work" are being offered by the Governor's Center for Local Government Services. No interest indicated. The PA State Boroughs Assn. is offering the seminar "Understanding the Roles and Responsibilities of Council Members" in February. No interest indicated.

Information on "Who's Who in Pennsylvania" was received. No interest.

Information from Commonwealth Libraries regarding "grants" was received. No interest.

The Butler Co. Planning Commission reviewed the BASA study submitted and commends the Borough for their planning efforts. They copied to Olsen.

A letter was received from Allegheny League of Municipalities offering membership as an affiliate member. Cost will be \$300.00 (for population under 10,000). We don't know exactly what that cost 'gets us.'" Council wants to wait and see what Butler County can do with the proposed (COG) Council of Governments.

ADJOURN: *Motion* by Joe Lesnik to adjourn at approx. 7:40 P.M. John Shields *seconded*. All agreed and *motion carried*.

ATTENDANCE: Charles Crispin, Jeremy Olsen, John Stutz, Darlene Roy.

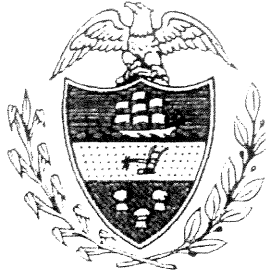
**Appendix G: Butler County
Planning Commission Comments
on Draft SPECIAL SEWAGE STUDY**

Butler County Board of Commissioners
Planning Commission

124 W. Diamond Street, PO Box 1208, Butler, PA 16003-1208
Phone 724.284.5300 Fax 724.284.5315 TDD 724.284.5473

Commissioners

Scott K. Lowe, **Chairman**
Glenn L. Anderson, **Vice Chairman**
James L. Kennedy, **Secretary**



Director of Planning
David P. Johnston

December 5, 2006

Lois J. Fennell, Secretary
East Butler Borough
Box 195
East Butler, PA 16029

Dear East Butler Borough Council,

The Butler County Planning Commission would like to thank you for preparing the Act 537 Special Study Plan for East Butler Borough. Our office has reviewed the draft plan. We commend East Butler Borough on their planning efforts.

We wish you luck in your planning endeavors and understand the importance to complete the full document. If our office can be of any assistance, please do not hesitate to contact us.

Sincerely,

Doniele J. Andrus
Associate Planner

Cc/Olsen

Appendix H: BASA Comments on Draft SPECIAL SEWAGE STUDY

Amended Appendix A--22-b

BUTLER AREA SEWER AUTHORITY

100 LITMAN ROAD • BUTLER, PA 16001-3256
(724) 282-1978 • FAX(724) 282-7656

JOHN M. HEIM
CHAIRMAN

WILLIAM M. HULTON JR.
VICE CHAIRMAN

NED H. STOKES, P. E.
SECRETARY

MARGARET N. IARRAPINO
TREASURER

GEORGE E. SHOCKEY
ASSISTANT SECRETARY
AND TREASURER

M. JOHN SCHON, P.E.
MANAGER

PHILIP A. BRUNN, III
ASSISTANT MANAGER

JAMES W. TOMAZICH, P.E.
AUTHORITY ENGINEER

ATS-CHESTER ENGINEERS
CONSULTING ENGINEER

DILLON MC CANDLESS KING
COULTER & GRAHAM L.L.P.
SOLICITOR

COPY

January 3, 2007

CERTIFIED MAIL, RETURN RECEIPT
7005-1160-0002-1852-2983

Mr. R. Richard Day, Mayor
East Butler Borough
P.O. Box 195
East Butler, PA 16029

Dear Mr. Day:

RE: REVIEW COMMENTS ON DRAFT OFFICIAL PLAN REVISION SPECIAL STUDY

The Butler Area Sewer Authority (BASA) has reviewed the draft Official Plan Revision Special Study for East Butler Borough, dated November 2006, prepared by Olsen & Associates, L.L.C. The Authority received this draft report on November 27, 2006, in accordance with the provisions of the Consent Order and Agreement (CO&A) dated October 13, 2006. The following review comments are submitted for the Borough's consideration:

SPECIFIC COMMENTS:

Page 3 – Part 2, Section 1(E) Schedule of Implementation:

The April 11, 2007 date is incorrect and inconsistent with Page 9 of the CO&A. BASA's TAR must be submitted 30 days after BASA receives all of the DEP-approved Official Plan revisions Special Studies from the municipalities. The time for DEP approval and the municipalities to submit the approved plans to BASA is not specified in the CO&A or known at this time.

Page 3 – Part 3, Section 1(A) Watersheds Tributary to Surrounding Municipalities:

The Study notes that all of East Butler Borough is tributary to BASA's sewer system, which essentially drains into BASA sewers in Summit Township. It should also be acknowledged that the Borough's sewage flows subsequently flow into BASA sewers in Butler Township, then to BASA sewers in the City of Butler, and then back into BASA sewers in Butler Township, where BASA's sewage treatment plant is located. It should also be acknowledged that there are three small watershed areas in Oakland Township (existing development area along Grant Street Extension, Route 68, and

Eyth Road) and Summit Township that are tributary to East Butler Borough. Future sewage needs for Summit and Oakland Township may impact the BASA sewer system in East Butler Borough.

Pages 5 and 6 – Physical Characteristics and Development Constraints:

The narrative and map on Page 9 are excellent in explaining and illustrating what physical characteristics constrain development potential. Wetlands, steep slopes, floodplains, and other development constraints are plotted on Page 9.

Page 12, Page 21 and Page 23 – Historical Population Data and Projections.

Historical U. S. Census populations through 2000 reveal a steady decline in population as shown on Page 12. The SPC population projections on Page 21 and Page 23 indicate a constant or virtual no growth from the years 2010 through 2030. However, the SPC's Year 2010 population projection of 774 represents a significant 14% increase from the 2000 U. S. Census population of 679. The basis of the SPC's initial population increase is inconsistent with new housing permit data and the historical trends. However, this population increase of 95 people will not have any significant impact on the capacity of the existing BASA sewer system serving East Butler Borough.

Page 21 – Part 3, Section 3: Development, Second Paragraph:

This paragraph concludes that limited single-family residential lots could potentially be developed at the northern end of Anderson Road and a southerly extension of Brandon Road. Since there are no existing homes in these areas, any required sewer extensions for such new development would normally be financed and constructed by the property developer, who in turn recovers his costs from the sale of the new sewer lots. Once BASA approves and accepts the developer's sewers, BASA would then assume ownership and long-term liability for maintaining these new public sewers. Since there are no existing customers that could be served in these areas, there is no need for public sewers. Therefore, BASA will not evaluate the costs to extend public sewers to these areas.

Page 24 - Last Paragraph, Future Flows:

BASA has experienced a significant reduction in sewer service charges due to the industry staff reductions and closings in East Butler Borough that are noted in this Study. BASA truly hopes that the lost business described in the Borough can be replaced in the future. BASA will offer whatever assistance and support legally possible to Borough, Butler County, and the Community Development Corporation (CDC) of Butler County CDC officials to find new businesses to restore this lost industrial base. BASA agrees with the Study conclusion that there should be no net increase in sewage production from new residential or commercial/industrial growth in East Butler over the next 20 years compared to the historical sewage flows from the area.

The following information may be useful for the Borough and other parties attempting to attract new businesses to replace such vacant industrial facilities. BASA policy presumes that any previously approved Sewage Facilities Planning Module sewage flow, Sewer Connection Permit sewage flow for which a fee has been properly paid, or historic sewage usage consistent with such a Permit remains attached or allocated to that original property and is an asset of that property. For

example, a property that has a DEP-approved Planning Module for 10 EDUs of sewage usage and paid a tap fee for the 10 EDU's of sewage flow, which goes out of business after several years, retains approval to discharge up to the 10 EDUs of sewage flow. Therefore, any a new business that rents or purchases that same property and produces sewage flows equivalent to 10 EDUs or less would not be required to pay any additional "new" sewer connection permit capacity fees to BASA. In addition, the property should not need to submit and obtain a "new" Sewage Facilities Planning Module approval from the DEP and the property should be exempt from any new connection permit ban that may be imposed by the DEP. The DEP's Chapter 94 Regulations and the 2006 CO&A would still require BASA to formally request DEP approval of the proposed new business as a "replacement of a discharge" under the Chapter 94 Regulations.

In the event a new facility proposed a sewage flow greater than the previously approved and permitted usage, BASA would only assess new connection permit capacity fees for the additional usage that is greater than the previously approved and permitted usage. However, the normal DEP Planning Module approvals would now be required for this increased sewage flow and the new business would no longer qualify as an exception to any sewer ban as a replacement of a discharge.

GENERAL COMMENTS:

Final Act 537 Plan Expectations:

The preliminary design of the alternatives, the recommended alternative to be implemented and the physical and monetary effects upon BASA's customers will be determined by BASA during the Act 537 planning process. All of the service area municipalities will be provided draft plans for review and comment as part of this planning process and their adoption of the recommended plan. Time schedules mandated by the CO&A will not allow BASA to consult with each municipality and/or their consulting engineers on the design of the alternatives during the preparation of the draft plan or the final design of the recommended alternative.

Use of Digital G.I.S. Mapping furnished by BASA:

East Butler Borough and its consultant are to be commended for utilizing the digital G.I.S. information that BASA provided to each municipality on May 17, 2006. Many of the maps that illustrate tax parcels, topography, zoning, etc. also illustrate the existing sanitary sewer system. This is extremely useful while reading the text and reviewing the corresponding maps.

Extensions of Sewers into all Municipalities

The studies being prepared by each municipality may determine that main line sewer extensions would be required to reach some of the outlying growth areas. Although tapping fees from future development within these areas would help fund these sewer extensions, restrictions on tapping fees imposed by state law preclude the recovery of all costs through tapping fees. More importantly, the municipal residents or customer base that benefits from the sewer extensions MUST finance the construction costs for those extensions. BASA will assess the cost effectiveness and estimated user costs to extend sewers into these growth areas based on the existing customer base in those areas. Alternatively, the construction costs would fall on developers or parties other than BASA.

Municipal Responsibilities for Storm Water Management:

It is important that municipalities recognize the importance of preventing potential infiltration and inflow (I & I) problems when reviewing and approving future land development and subdivision plans and conducting UCC inspections. Municipalities must acknowledge the effects and implications that the removal of I & I from the sanitary sewers will have on municipal storm sewer systems and the municipality's responsibility for storm water management planning. If municipalities do not cooperate with BASA or make any effort to control potential I & I from new development, it will ultimately cost the municipalities and your taxpayers when storm sewers systems must be constructed or enlarged to handle the I & I that will have to be removed in the future.

BASA will wait for an appropriate number of copies of the DEP-approved Special Study from East Butler Borough. If you should have any questions regarding our review comments or wish to meet to discuss these comments, please call me at (724) 282-1978.

Very truly yours,

BUTLER AREA SEWER AUTHORITY



M. John Schon, P. E.
Manager

cc: Compliance & Monitoring Manager, PA DEP Meadville
City of Butler, Mayor
Butler Township, Chairman of the Board of Commissioners
Center Township, Chairman of the Board of Supervisors
Summit Township, Chairman of the Board of Supervisors
Oakland Township, Chairman of the Board of Supervisors
Connoquenessing Township, Chairman of the Board of Supervisors
David Johnston, Butler County Planning Commission
Mr. Jeremy Olsen, Olsen & Associates, L.L.C.

Appendix I: Proof of Publication

Amended Appendix A--22-b Proof of Publication of Notice in Butler Eagle

Under Act No. 587, Approved May 16, 1929

State of Pennsylvania,
County of Butler.

Lisa Patricelli Of the Eagle Printing Company, Inc., of the County and State aforesaid, being duly sworn, deposes and says that the BUTLER EAGLE, a newspaper of general circulation published at 114 West Diamond Street, City of Butler, County and State aforesaid, was established 1869, since which date the BUTLER EAGLE has been regularly issued in said County, and that the printed notice or publication attached hereto is exactly the same as was printed and published in the regular editions and issues of the said BUTLER EAGLE on the following dates, viz.

_____ and the
_____ 29th Day of January _____ A.D. 2007

Affiant further deposes that the Ad Taker is duly authorized by the EAGLE PRINTING COMPANY, a corporation, publisher of said BUTLER EAGLE, a newspaper of general circulation, to verify the foregoing statement under oath, and Affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statements as to time, place and character of publication are true.

Lisa Patricelli

Butler Eagle

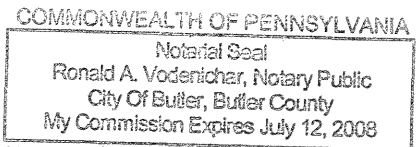
Sworn to and subscribed before me this 29th

Day of January 2007

[Signature]

Notary Public

My Commission Expires:



Statement of Advertising Costs

Olsen & Associates LLC

126 South Main Street

Butler, PA 16001

TO BUTLER EAGLE, Dr.

For publishing the notice or publication attached
Hereto on the above stated dates \$56.00

Probating same \$2.00

Total \$58.00

Publisher's Receipt for Advertising Costs

I, EAGLE PRINTING COMPANY, publisher of the BUTLER EAGLE, a newspaper of general circulation, hereby acknowledge receipt of the aforesaid notice and publication costs and certifies that the same have been duly paid.

EAGLE PRINTING CO., a Corporation, Publisher
Of BUTLER EAGLE, a Newspaper of General Circulation.

Appendix J: Comments to Proof of Publication

Public Comments Summary

East Butler Borough displayed its draft SPECIAL SEWAGE STUDY (with comments from the Borough Council, the Butler County Planning Commission, and from the Butler Area Sewer Authority) from January 30, 2007 until February 28, 2007 in accordance with PaDEP requirements. No public comments were made during this time nor were public comments received prior to, or after, the public comment period.

The comment form prepared for written public comments appears on the next page.

PUBLIC NOTICE – SPECIAL SEWAGE STUDY

In accordance with the PaDEP’s Consent Order and Agreement of October 13, 2006, East Butler Borough will make its Special Sewage Study, a preliminary step in the revision of the Butler Area Sewer Authority’s Act 537 plan, available for public comment. The document, as initially prepared, with appended comments from the Butler County Planning Commission and the Butler Area Sewer Authority will be available for public viewing and (written) comments for a 30-day period at the offices of Olsen & Associates, LLC, located at 126 South Main Street, Butler, PA 16001. The 30-day (written) comment period will be held from January 30, 2007 to February 28, 2007, M-F 8 AM to 5 PM. The Special Sewage Study may be subject to further revision as a result of the comments of BASA and PaDEP.

Name: _____

I am a resident of East Butler Borough (circle one): **YES** **NO**

Address: _____

Comments: _____

Appendix K: Borough Responses to Comments

Municipal Responses to Public Comments

East Butler Borough displayed its draft SPECIAL SEWAGE STUDY (with comments from the Borough Council, the Butler County Planning Commission, and from the Butler Area Sewer Authority) from January 30, 2007 until February 28, 2007 in accordance with PaDEP requirements. No public comments were made during this time nor were public comments received prior to, or after, the public comment period. Therefore East Butler Borough had no responses.

Appendix L: DEP Comments to FINAL SPECIAL SEWAGE STUDY



Pennsylvania Department of Environmental Protection

230 Chestnut Street
Meadville, PA 16335-3481
May 11, 2007

Northwest Regional Office

814-332-6942
Fax: 814-332-6121

East Butler Borough
Lois J. Fennell
Secretary
P.O. Box 87
East Butler, PA 16029

Gentlemen:

The Department of Environmental Protection has reviewed the document entitled "Act 537 Official Plan Revision: Special Sewage Study for East Butler Borough" submitted on your behalf by Olsen & Associates, LLC. This Special Study as submitted will require additional information to enable the Department to complete their review. The following items must be addressed with any resubmission:

1. The Adoption Resolution for this project does not clearly indicate that this Special Study is being adopted as a Revision to the East Butler Borough Official Sewage Plan. In order for this Special Study to be considered complete, a resolution similar to the enclosed model resolution must be submitted by the Borough.
2. The study illustrates a population decline in East Butler Borough. It also states that industry has been declining as well. The fate of abandoned buildings in the industrial area would likely have an impact on planning done by BASA. The impact of these potential additional EDU with respect to existing wet weather conditions should be addressed. An estimate of available EDU, under these vacant pre-planned, existing connection conditions, would be useful to BASA to plan for capacity in their collection, conveyance and treatment facilities. These properties are marketed as having an existing connection, an approved EDU threshold, and not "counted" in the connections allotted to BASA in the CO & A. Although this will not add a "new" connection, this "new" replacement flow will be exacerbating the existing wet weather problems BASA is experiencing on this date.
3. Existing development not currently served by BASA has not been addressed in the Special Study. There appears to be areas of un-sewered residential development within the Borough limits. It was not clear if these existing structures were counted as potential customers. Development of vacant land was predicted only if developer driven extensions were proposed. If needs exist within existing developed areas, waiting for a developer to extend that line may not be adequate. Have any provisions been made to provide capacity for these potential customers if they are determined to be in needs areas?



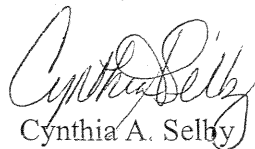
East Butler Borough

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May 11, 2007

Department representatives will be available at the Butler Township building on Wednesday May 30, 2007, to meet with you or your consultant to discuss any additional information that is required in this letter. We will be meeting with each municipality separately and ask that you contact us to schedule an appointment time between 8:30 a.m. and 3:00 p.m. We recommend that you hold any questions and bring them with you to the meeting. Please contact the reviewer of your special study at the above listed number. This meeting is not mandatory, however, it would be beneficial to each municipality to help expedite any necessary revisions and reduce any potential delays.

Sincerely,



Cynthia A. Selby
Water Quality Supervisor
Water Management

Enclosure

cc: Olsen & Associates
Butler Area Sewer Authority
Butler County Planning Commission
T. Schmeider
Gilson/Zimmerman/Selby/Hall/File

CAS:lsl

Appendix M: EDU Analysis for Developable Land

EDU Analysis for Developable Land

For the 20+ year (ultimate buildout) growth projections, the areas of developable, currently unsewered areas were calculated as follows:

Tax Parcel ID# 380S17 - North of Anderson Road ⁽¹⁾

Total Acreage	=	22.929 ac.
- Acreage Slope above 20%	=	8.895 ac.
- Acreage in Floodplain	=	1.224 ac.
Developable Acreage	=	12.810 ac.

Assuming 2 EDU per acre:

$$12.81 \text{ ac.} \times 2 \text{ (EDU/ac.)} = 25.6 \text{ EDU}$$

TOTAL = 25.6 EDU

Tax Parcel ID# 380S11 – Kovalchick Property (South of Brandon Rd.)

Total Acreage	=	44.315 ac.
- Acreage Slope above 20%	=	21.934 ac.
- Acreage in Floodplain	=	0.000 ac.
Developable Acreage	=	22.381 ac.

Assuming 2 EDU per acre:

$$22.381 \text{ ac.} \times 2 \text{ (EDU/ac.)} = 44.8 \text{ EDU}$$

TOTAL = 44.8 EDU

Tax Parcel ID# 380S1BA – Mellish Property (East of Kovalchick Property)

Total Acreage	=	29.233 ac.
- Acreage Slope above 20%	=	13.322 ac.
- Acreage in Floodplain	=	0.000 ac.
Developable Acreage	=	15.911 ac.

Assuming 2 EDU per acre:

$$15.911 \text{ ac.} \times 2 \text{ (EDU/ac.)} = 31.8 \text{ EDU}$$

TOTAL = 31.8 EDU

(1): Tax Parcel ID# 380S11 is currently zoned Industrial. For the purposes of the EDU calculations, it is assumed this property will be re-zoned Residential. No plans are currently known to exist to re-zone this area, however.

Appendix N: Comparison of Historical and Current Industrial Sewage Flow

Comparison of Historical and Current Industrial Sewage Flow

Many industries in East Butler Borough went out of business in the early part of this decade and were later sold. The new businesses were assumed to produce less sewage based on the idea that new industry is generally more high-tech oriented and less labor intensive than in previous decades. To verify this assumption, historical flow totals were obtained from BASA and analyzed.

MG = Million Gallons

1. Penn Champ (bought by Rail Line, LLC)

Penn Champ

October 2000 to October 2002 (730 days): 1.056 MG

$$\frac{1,056,000}{730} = 1,447 \text{ gal / day}$$

$$\frac{1,447}{400} = 3.6 \text{ EDU}$$

Rail Line

January 2006 – June 2007 (516 days): 0.4211 MG

$$\frac{421,100}{516} = 816 \text{ gal / day}$$

$$\frac{816}{400} = 2.0 \text{ EDU}$$

2. Servicestar (bought by Matthews Intl. Corp.)

Servicestar

October 2000 to October 2002 (730 days): 3.972 MG

$$\frac{3,972,000}{730} = 5,441 \text{ gal / day}$$

$$\frac{5,441}{400} = 13.6 \text{ EDU}$$

Matthews Intl. Corp.

January 2006 to June 2007 (516 days): 5.544 MG

$$\frac{5,544,000}{516} = 10,744 \text{ gal / day}$$

$$\frac{10,744}{400} = 26.9 \text{ EDU}$$

3. Castle Rubber (bought by Day of the Lord Real Estate, LLC)

Castle Rubber

October 2000 to October 2002 (730 days): 1.488 MG

$$\frac{1,488,000}{730} = 2,038 \text{ gal / day}$$

$$\frac{2,038}{400} = 5.1 \text{ EDU}$$

Day of the Lord Real Estate, LLC

April 2006 to June 2007 (426 days): 0.196 MG

$$\frac{196,000}{426} = 460 \text{ gal / day}$$

$$\frac{460}{400} = 1.2 \text{ EDU}$$

4. Magnetics (not bought/sold)

October 2000 to October 2002 (730 days): 5.736 MG

$$\frac{5,736,000}{730} = 7,858 \text{ gal / day}$$

$$\frac{7,858}{400} = 19.6 \text{ EDU}$$

January 2005 to June 2007 (881 days): 2.688 MG

$$\frac{2,688,000}{881} = 3,051 \text{ gal / day}$$

$$\frac{3,051}{881} = 7.6EDU$$

5. Metalized Ceramics (not bought/sold)

October 2000 to October 2002 (731 days): 0.108 MG

$$\frac{108,000}{731} = 148gal / day$$

$$\frac{148}{400} = 0.4EDU$$

January 2005 to June 2007 (881 days): 0.180 MG

$$\frac{180,000}{881} = 204gal / day$$

$$\frac{204}{400} = 0.5EDU$$

6. Marmon/Keystone (not bought/sold)

October 2000 to October 2002 (730 days): 0.8512 MG

$$\frac{851,200}{730} = 1,166gal / day$$

$$\frac{1,166}{400} = 2.9EDU$$

October 2005 to June 2007 (608 days): 0.5411 MG

$$\frac{541,100}{608} = 890gal / day$$

$$\frac{890}{400} = 2.2EDU$$

7. Standard Bent Glass (not bought/sold)

October 2000 to October 2002 (730 days): 1.48 MG

$$\frac{1,480,000}{730} = 2,027 \text{ gal / day}$$

$$\frac{2,027}{400} = 5.1 \text{ EDU}$$

January 2005 to June 2007 (881 days): 1.39 MG

$$\frac{1,390,000}{881} = 1,578 \text{ gal / day}$$

$$\frac{1,578}{400} = 3.9 \text{ EDU}$$

8. Ken-Fab & Weld (not bought/sold)

January 2002 to January 2003 (365 days): 0.06 MG

$$\frac{60,000}{365} = 164 \text{ gal / day}$$

$$\frac{164}{400} = 0.4 \text{ EDU}$$

January 2005 to June 2007 (881 days): 0.07 MG

$$\frac{70,000}{881} = 79 \text{ gal / day}$$

$$\frac{79}{400} = 0.2 \text{ EDU}$$

9. Butler Forge & Metal Works (not bought/sold)

October 2000 to October 2002 (730 days): 0.204 MG

$$\frac{204,000}{730} = 279 \text{ gal / day}$$

$$\frac{279}{400} = 0.7 \text{ EDU}$$

January 2005 to June 2007 (881 days): 0.264 MG

$$\frac{264,000}{881} = 300 \text{ gal / day}$$

$$\frac{300}{400} = 0.7 \text{ EDU}$$

10. R. J. Pierce (not bought/sold)

October 2000 to July 2002 (638 days): 0.456 MG

$$\frac{456,000}{638} = 715 \text{ gal / day}$$

$$\frac{715}{400} = 1.8 \text{ EDU}$$

August 2003 to June 2007 (1400 days): 0.192 MG

$$\frac{192,000}{1400} = 137 \text{ gal / day}$$

$$\frac{137}{400} = 0.3 \text{ EDU}$$

11. Lezzer Cash & Carry (not bought/sold)

October 2000 to October 2002 (730 days): 0.228 MG

$$\frac{228,000}{730} = 312 \text{ gal / day}$$

$$\frac{312}{400} = 0.6 \text{ EDU}$$

January 2005 to June 2007 (881 days): 0.208 MG

$$\frac{208,000}{881} = 236 \text{ gal / day}$$

$$\frac{236}{400} = 0.6 \text{ EDU}$$

12. Spang (Industrial Waste)

October 2000 to September 2001 (335 days): 4.65 MG

$$\frac{4,650,000}{335} = 13,880 \text{ gal / day}$$

$$\frac{13,880}{400} = 34.7 \text{ EDU}$$

October 2006 to April 2007 (182 days): 1.50 MG

$$\frac{1,500,000}{182} = 8,242 \text{ gal / day}$$

$$\frac{8,242}{400} = 20.6 \text{ EDU}$$

The following table summarizes the past and present flow (in EDU) for each business, lists the total flows, and the net change in flow between the historical data and the present data.

	CURRENT BUSINESS NAME	Historical Flow (in EDU)	Present Flow (in EDU)
1	Rail Line, LLC	3.6	2.0
2	Matthews Intl. Corp.	13.6	26.9
3	Day of the Lord Real Estate, LLC	5.1	1.2
4	Magnetics	19.6	7.6
5	Metalized Ceramics	0.4	0.5
6	Marmon/Keystone	2.9	2.2
7	Standard Bent Glass	5.1	3.9
8	Ken-Fab & Weld	0.4	0.2
9	Butler Forge & Metal Works	0.7	0.7
10	R. J. Pierce	1.8	0.3
11	Lezzer Cash & Carry	0.8	0.6
12	Spang	34.7	20.6
	TOTAL	88.7	66.7
		(34,480 gpd)	(26,680 gpd)

The net change in sewage flow is -22 EDU, or approximately 8,800 gallons per day less flow.