



**MINUTES
REGULAR MEETING
JUNE 5, 2012**

1. The Vice-Chairman called the Meeting to order at 7:50 p.m.
2. The Vice-Chairman read the statement in compliance with C.231, PL 1975.
3. Roll Call: the following Commissioners were present: Chewcaskie, Dachnowicz, DaPuzzo, DePhillips, Gabbert, Kasparian, Kelaher, Plumley, Salazer.
4. Salute to the Flag. The salute to the Flag was led by the Vice-Chairman.
5. Vice-Chairman's remarks. Thanked Bill Dator for his service to the Authority over the past twenty years. As a consequence of his leaving, the Nominating Committee was asked to meet and pursue a new Chairman to replace him.
6. Approval of Minutes.

Special Meeting for Connection Fees – May 1, 2012. Commissioner Chewcaskie made a motion to approve the minutes as presented, seconded by Commissioner Gabbert. All Commissioners present voted in favor of approving the minutes as presented except Commissioners DaPuzzo and DePhillips who abstained.

Regular Meeting – May 1, 2012. Commissioner Chewcaskie made a motion to approve the minutes as presented, seconded by Commissioner Kasparian. All Commissioners present voted in favor of approving the minutes as presented except Commissioners DaPuzzo and DePhillips who abstained.

7. Election of Chairman.
 - a) Report of Nominating Committee. Commissioner Kelaher reported that the committee met and that they would like to nominate Commissioner Chewcaskie for the office of Chairman.
 - b) Election of Chairman. There were no other nominations for Chairman. Commissioner Kelaher moved the nomination of Chairman, seconded by Commissioner Dachnowicz. All Commissioners voted in favor of Commissioner Chewcaskie for Chairman.

Commissioner Chewcaskie noted that Mr. Dator served as the Operating

Committee Chairman for a number of years before serving as Authority Chairman and wanted to point out that he knows more about this Authority than any of the Commissioners and has assisted in a measured manner. Hopefully we can finish out the rest of the year without a lot of controversy.

- 8. Authorization to go into Closed Session to discuss pending and/or anticipated litigation.**

Counsel Zenn stated that we have had pending litigation and would like a motion to go into closed session to review and discuss: (i) the Authority's appeal to the Local Finance Board from an order dated March 19, 2012 issued by the Director of the Division of Local Government Services; (ii) the First Amended Verified Complaint filed by the Authority against the County Executive; (iii) the lawsuit filed by the County Executive against the Authority and seven of its commissioners individually and (iv) lawsuit filed against the Authority by a former employee.

Commissioner Gabbert moved to go into closed session which was seconded by Commissioner Salazer. All Commissioners present voted in favor of going into closed session at 8:00 p.m.

The Commissioners went back into the Public Meeting at 8:40 p.m.

- 9. Consideration for approval list of Resolutions attached dated June 5, 2012. Chairman Chewcaskie stated that Resolution #42-2012 commending former Chairman William Dator should be voted on separately.**

All Resolutions had been discussed during the work session.

Commissioner Kasparian moved Resolutions #41-2012 and #43-2012 thru #45-2012 (as amended). Seconded by Commissioner DaPuzzo. All Commissioners present voted in favor of the Resolutions.

Resolution #42-2012 Commendation of William F. Dator. This Resolution was moved and read by Commissioner Kasparian, seconded by Commissioner Gabbert. All Commissioners present voted in favor of the Resolution.

Resolution #41-2012. Approval of Vouchers, Payroll Transfers, Payroll Tax Deposits and Pensions and Benefits Transfers for the month of May 2012 and Health and Dental Benefits for June 2012. Payroll Account \$194,575.92; Tax Deposit Account, \$75,685.28; PERS and Contributory Insurance \$26,245.52; Health Benefits Contribution Employer \$91,848.31; Health Benefits Contribution Employee \$1,364.41; Dental Benefits \$4,414.82; DCRP Employee Contribution \$27.09; DCRP Employer Contribution \$12.50; Operating Account \$421,480.65; 2009A Project Account, \$6,238.36; 2010 WWT Project Account, \$1,444.40.

Resolution #42-2012 Resolution Commending Commissioner William F. Dator. This resolution is to commend Commissioner Dator for all his time, effort and devotion to the performance of his duties as Commissioner of the NBCUA since February 1992.


Resolution #43-2012 2011 Audit Corrective Action Plan Certification. This resolution is to certify the 2011 Corrective Action Plan with respect to Comments and Recommendations made in the audit, which will be filed with the Division of Local Government Services.

Resolution #44-2012 Authorization to settle litigation and enter into easement agreement for Franklin Lakes Sanitary Sewer Project for Lot 1.01, Block 14300; Lot 1, Block 1410 and Lot 2, Block 1513 in the Borough of Franklin Lakes. This resolution authorizes the Executive Director to execute a Stipulation of Settlement providing for the aforesaid easement agreement with First Real Estate Investment Trust and to execute all documents in furtherance thereof.

Resolution #45-2012 Authorization of additional Inflow & Infiltration (I&I) Studies for Allendale and Waldwick. This is to accept the proposal of Boswell Engineering to move forward with additional I&I studies for the Boroughs of Allendale and Waldwick in the amount not to exceed \$69,000.

10. **Reports of Committees**
 - A. **Finance Committee – Nothing further to report.**
 - B. **Personnel Committee – Nothing to report.**
 - C. **Insurance Committee – Nothing to report.**
 - D. **Operating Committee – attached written report.**
 - E. **Buildings & Grounds – Nothing to report.**
11. **Report of Treasurer – We have \$12 million invested in short term investments of which approximately \$1.6 million at TD Bank receiving no interest in lieu of fees. \$2.5 million at Bank of New Jersey earning 1.25%, \$7.5 million at TD Bank at .10% and ½ million at TD Bank @.07%.**
11. **Report of Counsel – A written report was distributed to the Commissioners (copy attached).**
12. **Report of Engineer – A written report was distributed to the Commissioners (copy attached).**
13. **Report of Executive Director – Nothing further to report.**
14. **Report of Superintendent – No further to report.**

15. **Old Business. No old business.**
16. **New Business. No new business.**
17. **Public comments (on subjects 8 through 17). No public comments.**
18. **Adjournment. Motion to adjourn was made by Commissioner Kasparian, seconded by Commissioner Kelaher. All Commissioners present voted to adjourn at 8:45 p.m.**


Madeline Thumudo, Secretary

Northwest Bergen County Utilities Authority
Operating Report May 2012

1) Plant Operations – Average plant flows for the month of May has averaged 8.9 mgd, up slightly from the April flow of 8.7 mgd. The past 30 days of operation show very little variation in flow, whether rain or shine (Attachment). Plant operation continues to be satisfactory.

2) Franklin Lakes Interceptor

- a. A groundbreaking ceremony was held in Franklin Lakes on May 14. In attendance were several Commissioners, representatives from the municipality and the County Executive. The event received some press coverage and is highlighted on our website.
- b. An Easement Agreement has been reached with the owner of the Franklin Crossing Shopping Center. A resolution will be on the Regular Meeting Agenda to authorize the settlement of litigation and to enter into Easement Agreement for Franklin Lakes Sanitary Sewer Project for Lot 1.01, Block 1400; Lot 1, Block 1410 and Lot 2, Block 1513 in the Borough of Franklin Lakes.
- c. We have been working toward an Agreement with the Borough of Franklin Lakes specific to this project for some time. With the change in Borough Attorney, we have a request for changes to the draft agreement (see Attachment 2). Further, he has stated *"In the absence of an Agreement, I cannot guarantee that the Borough of Franklin Lakes will allow the proposed construction."*

Attorney Doug Bern has prepared information on the outstanding issue.

d. T&M Engineering to report on status of:

- 1. Insurance rider for the Borough
- 2. Test pit excavations
- 3. Change Order Status
- 4. Additional Engineering Activities
- 5. Project Schedule

e. Boswell Engineering has requested a meeting to discuss implications of engineering changes and potential municipal programs.

3) I&I Collection System Investigations

- a. Waldwick – Boswell Engineering has completed Phase I of the I&I investigations, specifically Data Collection and Meetings and has prepared an implementation plan consistent with the requests of the Borough Administration. The Plan features an investigation of unmetered areas in an attempt to identify excessive inflow. The areas are identified in a proposal.
- b. Allendale – Boswell Engineering has completed Phase I of the I&I investigations, specifically Data Collection and Meetings and has prepared an implementation plan consistent with the requests of the Borough Administration. The Plan features an investigation of low lying areas subject to inflow from sump pumps, etc. The areas are identified in a proposal.

Additional funding required for the projects is the subject of an authorizing resolution on the Agenda for the Regular Meeting. By combining the two metering programs, the subcontract cost. The proposed cost is \$69,000.

4) Sludge Incineration

- a) Emission testing of the rebuilt Niro Incinerator was performed May 8-10, 2012. The results (consultant's report) will be submitted to the NJDEP for review. This is the final step in rebuilding contract.
- b) IDI Incinerator Evaluation – Chevond-Barry has conducted an engineering investigation and prepared preliminary recommendations concerning the rehabilitation of the IDI incinerator. Although additional inspections are still required, recommended repairs thus far are:
 - Replace the windbox floor expansion joints
 - Remove and reseal all of the tuyeres
 - Repair 2 areas of castable refractory in the incinerator bed
 - Repair the freeboard spray nozzles and damaged spray gun
 - Rebuild or replace the bed nozzles and replace the bed instrumentation
 - Replace the incinerator exhaust crossover duct
 - Replace the primary heat exchanger upper plenum
 - Patch and externally insulate the primary heat exchanger lower plenum and the secondary heat exchanger upper plenum
 - Replace the secondary heat exchanger lower plenum
 - Replace the venturi plumb bob actuator
 - Replace the venturi inlet expansion joint
 - Begin discussion about what to do with the dome

The next step, following completion of the final onsite inspection, is to proceed with a repair cost estimate.

5) Alternate Electric Energy Supply – The Authority has entered into fixed price long term contracts for the purchase of electrical power for our plant and collection system pump stations. The contract arrangements are:

- a) Affordable Power Gas & Electric will provide power to our plant and to three of our pump stations (PSEG) at a fixed price of \$0.0617/kWh. The contract is for 18 months, through November 30, 2013. The cost is considerably less than we had been paying (2011 average price of \$0.074/kWh) for the plant, which is our primary user of power, and considerably less than we pay for power for our pump stations.
- b) Suez Energy Resources will provide power to the Darlington Pump Station at a fixed price of \$0.078/kWh. The contract is for 24 months. The price compares with a price for last month of \$0.0986/kWh for last month and an average of \$0.1062/kWh for last year.

6) Authority Improvement Projects

- a) UV Treatment System – Equipment installation is complete. Startup, training and testing scheduled for early to mid April is still on hold due to some required control modifications. Waiting on schedule from manufacturer.

b) Additional Projects – Potential Authority upgrade projects include:

- Site paving, slope stabilization and lighting improvements
- Pump station emergency upgrade

c) Authority Meter Electric Supply – Meter 3 is without a permanent power supply and is being operated on portable battery packs. This is a legal issue that needs to be resolved.

7) Strategic Plan – As a part of our Rate Stabilization program we have decided it is in our best interest to formalize a Strategic Plan for the future. The Authority has performed a number of studies during the past several years evaluating build-out opportunities to improve plant capacity. These plans should be consolidated into a single plan to help the Authority to make decisions in the future. We are anticipating a proposal from a consultant to coordinate the preparation of such a plan.

8) Trap Grease Pilot Test Program – NJ DEP has approved a 6 month test program. Manufacturer reports funding for the project is in place, but potential problem with equipment supply. A meeting with the supplier is scheduled for June 4.

9) Personnel

a) Potential Litigation – A former employee has initiated an action to recover past wages. Our labor attorney has met with the Personnel Committee and discussed the issue. This will be discussed in closed session at the June meeting.

b) Retirement – Leonard Tilstra, Electrician, has retired effective May 31, 2012.

10) Miscellaneous

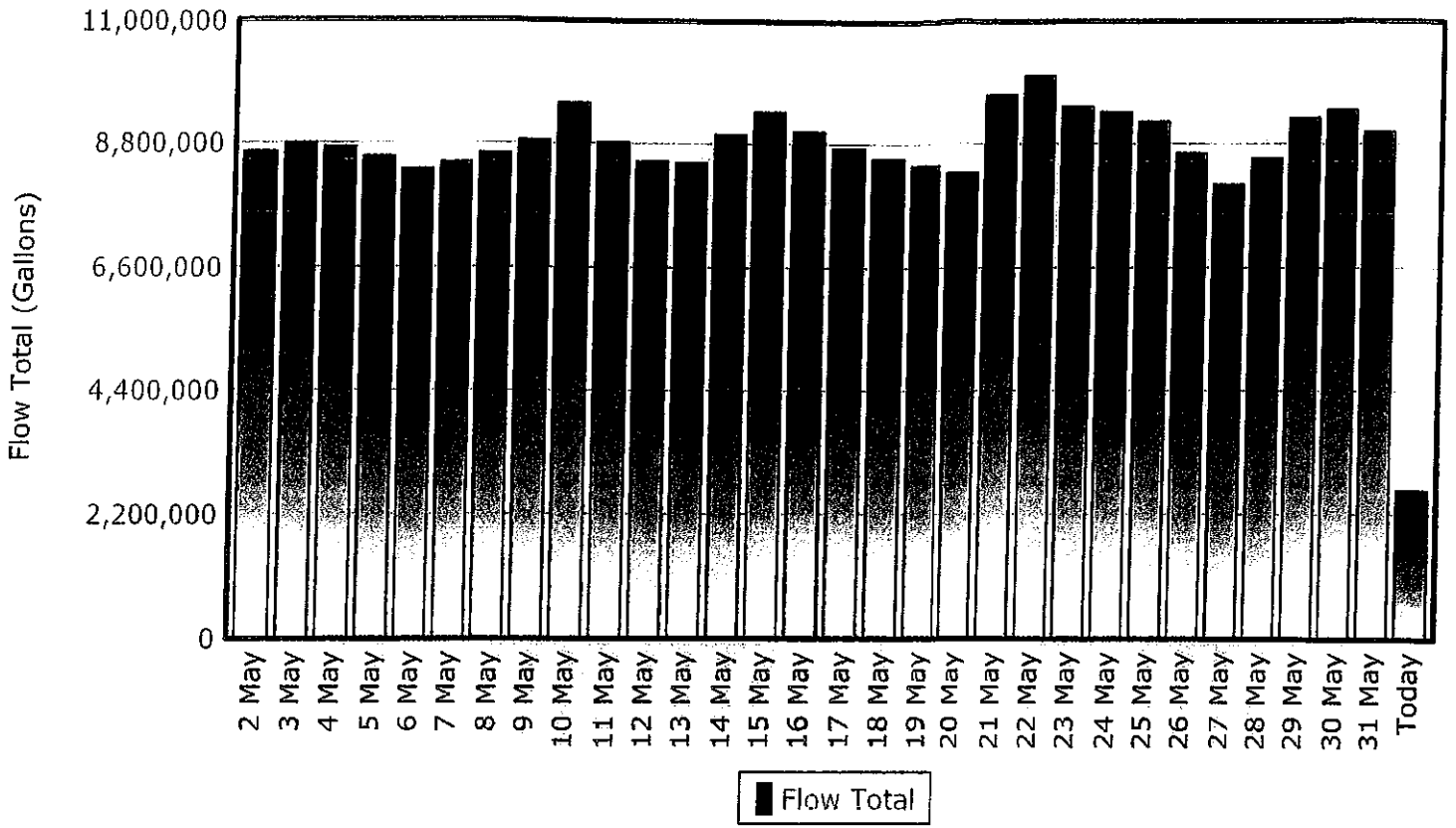
a) Annual Audit – The Audit was approved. A Corrective Action Plan is on the agenda for next meeting.

b) Oakland Sewer Update – Awaiting update from Oakland.

c) Professional Services – MELJIF Risk Manager to be discussed.

Daily Flow Total Data

New Meter 14



Attachment 2

HOOK, SMITH & MEYER

ATTORNEYS AT LAW

A. EDWARD HOOK (Ret.)
WILLIAM T. SMITH (N.J. & N.Y. BARS)
GORDON D. MEYER

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May 17, 2012

Via e-mail to dmbern@kbdesq.com

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Fort Lee Executive Park
Two Executive Drive, Suite 705
Fort Lee, NJ 07024

**Re: Agreement between the Borough of Franklin Lakes and
Northwest Bergen County Utilities Authority
Our File No. F.L. 100266**

Dear Mr. Bern:

There remains an unresolved issue with the proposed Agreement between the Northwest Bergen County Utilities Authority and the Borough of Franklin Lakes. As you know, there was a prior Agreement dated February 8, 2006. That prior Agreement contemplated a completely different set of facts. Most relevant were those obligations contained in Article IV entitled "Initial Sewerage Construction by the Municipality". This Article contains numerous obligations which are no longer applicable, and which the Borough is not willing to accept. There is no doubt in my mind that both Northwest Bergen and Franklin Lakes understand this, and the Borough simply requests that this be clarified.

As I pointed out to you, page 10, paragraph B, of the 2006 Agreement states,

"Notwithstanding other provisions or language contained in this Contract, or in any other agreements, contracts, or documents incorporated herein, it is the understanding of both parties hereto that **this Agreement does not obligate either party, in the absence of future agreements**, to a specific project, to the installation of trunk lines, or other sewer facilities within the Borough of Franklin Lakes."

My concern is that we now have a proposed "future Agreement", and in paragraph 2 that Agreement states, "All terms and conditions of the Agreement dated February 8, 2006, not inconsistent herewith, shall remain in full force and effect, and are hereby incorporated by reference as though recited verbatim and at length." This creates the obvious issue of what obligations of the Borough set forth in the 2006 Agreement are incorporated into this Agreement. It is my understanding, and I believe the authority agrees, that none of the obligations of the Borough set forth in 2006 Agreement remain viable except those obligations described in this new Agreement, and I request that the proposed Agreement reflect this.

Please confirm your client's position in regard to this issue.

Very truly yours,

HOOK, SMITH & MEYER

William T. Smith

William T. Smith

WTS/pr

cc: Mayor Bivona and Council Members *via e-mail*
Greg Hart *via e-mail*
Kevin Boswell *via e-mail*

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jazenn@sbflawfirm.com

TO: Northwest Bergen County Utilities Authority Commissioners
FROM: Jeffrey A. Zenn
DATE: May 31, 2012
RE: Monthly Counsel Report
CC: Howard Hurwitz, Executive Director
Madeline Thumudo, Administrative Assistant/Board Secretary

The following is a summary of our firm's activities on behalf of the Authority for the previous month.

1. Appearance in Trenton for oral argument of appeal to Local Finance Board from the Order of the Division of Local Government Services. Numerous communication, both written and telephonic, with DAG and Local Finance Board. Receipt and review of sur-reply brief in opposition from County Counsel to Local Finance Board. Preparation of response to Bergen County's sur-reply brief to Local Finance Board. Prepare for hearing before Local Finance Board. Communication, both written and telephonic, with County Counsel concerning appeal to Local Finance Board.
2. Preparation of notice and agenda for regular meeting.
3. Preparation of Resolutions to go into closed session and authorize litigation.
4. Review Order and Opinion of Judge Carver. Preparation of and filing of First Amended Verified Complaint seeking injunctive relief against County

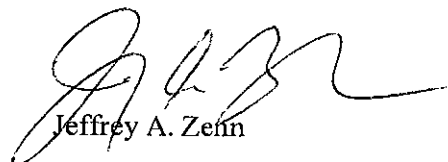
SOKOL, BEHOT & FIORENZO

Executive's termination of Commissioners, veto of appeal authorization and veto of budget. Receipt and review of County Executive's Motion for Reconsideration and brief in support. Prepare brief in opposition to County Executive's Motion for Reconsideration. Legal research concerning issued raised by County Executive. Attendance at Judge Carver for oral argument on Motion for Reconsideration. Receipt and review of County Executive's Motion to Dismiss and brief in support thereof. Start working on cross-motion for summary judgment.

5. Telephonic and written communication with counsel for Freeholders regarding service of Amended Verified Complaint and request to dismiss.
6. Telephonic and written communication with JIF and carrier regarding coverage for Authority and commissioners individually named in County Executive's lawsuit. Prepare coverage memo. Legal research regarding commissioner liability..
7. Receipt and review of County Executive's veto letters.
8. Attend the Work Session, Public and Operating Committee meetings.
9. Review bylaws for appointment of new chairman.
10. Correspondence with County Counsel regarding rescinding veto of audit resolution.
11. Communication with bond counsel regarding several issues related to Franklin Lakes bond closing.
12. Review and finalize proposed sanitary sewer easement for Inserra Supermarket project in Wyckoff.
13. Correspondence and communication with the Chairman and Executive Director concerning all of the foregoing.

If you have any questions, please contact me.

Respectfully submitted,



Jeffrey A. Zehn

NBUA-G1202

June 1, 2012

Mr. Howard Hurwitz, Executive Director
Northwest Bergen County Utilities Authority
30 Wyckoff Avenue at Authority Drive
P.O. Box 255
Waldwick, New Jersey 07463

Re: Monthly Report – May 2012

Dear Mr. Hurwitz:

The following is a brief summary of T&M's activities during the month of May.

Franklin Lakes Sewer Project – On Monday, May 14th, 2012, a ground breaking ceremony was held for the Franklin Lake sewer project. During that week the contractor initiated test pit excavation on various areas of the project. At this time, test pit work continues.

During test pit work on Franklin Avenue, the contractor identified the top of the 60" water main near the railroad to be approximately 10' below grade. This water main depth would cause the sewer downstream of the railroad and the pump station to have to be dropped approximately 5'. This was discussed with the Authority and changes are being made to the construction plans to reflect a crossing over the water main so downstream sewers are not impacted. Change Order #2, which covers the pump station relocation and various revisions, has been provided to the contractor and the contractor is preparing its revised costs for the pump station construction item.

In addition, the contractor and T&M are coordinating with the Franklin Crossing property owner and manager on markout of utilities within the shopping center area, arranging for test pits and initiation of construction.

Lastly, in the early stages of the Franklin Lake sewer project, significant effort has been expended prior to the actual construction being underway. While approximately 60% of the budget still remains, there have been several items of work performed that are outside the present agreement that T&M has with the Authority. Accordingly, a meeting was held during the week of May 28th with Authority staff to discuss amending the budget for the engineering services provided during construction. Funding of this updated budget has been discussed with the NJDEP and they have advised that the additional engineering can be funded and an amended engineering agreement needs to be provided. T&M will prepare the agreement and will forward same to the Authority for review and execution.

Annual Report – T&M is coordinating with Authority staff on inspection of manholes on the next interceptor to be inspected for the 2013 Annual Report.

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*Le: Mr. Howard Hurwitz, Chairman
Northwest Bergen County Utilities Authority*

Re: Monthly Report -- May 2012

Wastewater Management Plan Amendment – Comments from affected public and agencies have been addressed and T&M prepared the final Wastewater Management Plan Amendment document. The final complete document will be forwarded to the DEP on June 1, 2012 for final approval.

Oakland Sewer Service – During the month of May, there was no action required of T&M regarding the Borough's efforts to investigate sewer service by NBCUA.

Ultraviolet Disinfection System Improvements – The new equipment in Channel #1 has been started up with sewage in the channel and has checked out satisfactorily. During the month, communication problems with one of the gates on Channel #4 and the programming to integrate the new channel into the existing control panel were holding up final startup and training. The Authority coordinated with its gate operator technician and the problems were investigated, but have not yet been fully resolved. During the week of May 28th, Cothery Construction also had representatives of HACH onsite to startup and calibrate the new flow meter and to check and recalibrate the existing flow meter. Once the gate issues are resolved, final startup and training and final performance testing can be completed.

Grease Separation Facility Pilot Test – NJDEP has approved the Authority request to proceed with the pilot test of the proposed grease separation facility.

Site Improvements (Paving and Slope Stabilization) – T&M has provided a construction estimate and engineering fee for the following work:

- Milling and overlay of all roadways within the wastewater treatment plant area.
- Stabilization of slope area northwest of upper roadway between offices and plant headworks.
- Replacement of foundations and light poles along the driveway.

T&M awaits further direction before proceeding with this project.

Goffle Road Pump Station Upgrades – As requested by the Authority, T&M has provided under separate cover a construction estimate and engineering fee for the following work:

- Installation of an emergency bypass connection on the force main.
- Installation of remote electric actuators for the suction pipe gate valves and the dry well.
- Installation of a dry well flood alarm.



NBUA-G1102
June 1, 2012
Page 3

**Le: Mr. Howard Hurwitz, Chairman
Northwest Bergen County Utilities Authority**

Re: Monthly Report – May 2012

If you have any questions or require additional information, please advise.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Keith W. Henderson'. The signature is written in a cursive style and is positioned above a horizontal line.

**KEITH W. HENDERSON, P.E.
SR. VICE PRESIDENT**

KWH:JJM:lfm

cc: Authority Commissioners
Robert Genetelli, Superintendent
Jeffrey Zenn, Esq.

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