

AT A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE JAMES CITY SERVICE AUTHORITY, JAMES CITY COUNTY, VIRGINIA, HELD ON THE 26TH DAY OF MAY, 1998, AT 9:21 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

M. Anderson Bradshaw
John J. McGlennon
Ronald A. Nervitt
Jack D. Edwards
David L. Sisk

Sanford B. Wanner, Secretary
Robert H. Smith, Treasurer
Frank M. Morton, III, County Attorney
Larry M. Foster, General Manager

B. CONSENT CALENDAR

Mr. Bradshaw asked if any Board member wished to remove an item from the Consent Calendar.

Mr. McGlennon made a motion to approve the Consent Calendar.

The motion passed by unanimous voice vote.

1. Virginia Department of Health - Local Review Program

RESOLUTION

VIRGINIA DEPARTMENT OF HEALTH - LOCAL REVIEW PROGRAM

WHEREAS, the James City Service Authority executed a Memorandum of Understanding with the Virginia Department of Health in 1982 that permitted local review and approval of plans for extensions of water distribution lines; and

WHEREAS, local review and approval of water distribution line construction plans ensure compliance with local standards and specifications that exceed the Virginia Department of Health Waterworks Regulations; and

WHEREAS, local review and approval of water distribution line construction plans reduce the time required for approval of site and subdivision plans that involve the extension of the water distribution system; and

WHEREAS, the Virginia Department of Health must issue a General Permit for Distribution Mains for the James City Service Authority to continue to review and approve construction plans for the extension of water distribution mains in their service area; and

WHEREAS, one of the conditions for the issuance of a General Permit for Distribution Mains is the execution of a Memorandum of Understanding between the Virginia Department of Health, Division of Water Supply Engineering, and the James City Service Authority.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, does approve the execution of the Memorandum of Understanding with the Virginia Department of Health, Division of Water Supply Engineering for a General Permit for Distribution Mains replacing the previous agreement.

2. Newport News Waterlines - Water Extension - Printpack

RESOLUTION

NEWPORT NEWS WATER EXTENSION AGREEMENT -PRINTPACK

WHEREAS, Printpack located in Busch Corporate Center proposes to expand its manufacturing facility making a waterline extension necessary; and

WHEREAS, Printpack receives water service from Newport News Waterworks, therefore, a water extension agreement is necessary; and

WHEREAS, Printpack has agreed to pay \$17,400 to Newport News Waterworks for the associated costs of providing the service.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of James City Service Authority, James City County, Virginia, hereby authorizes its Chair to sign the agreement on behalf of the James City Service Authority.

3. Approval of Minutes, April 28, 1998

C. BOARD CONSIDERATIONS

1. Agreement - National Park Service - Waterline Extension Agreement, Jamestown Road

Mr. Foster stated that the National Park Service has requested James City Service Authority to administer the design and construction of an extension of an existing twelve-inch waterline from Jamestown Settlement to the Colonial Parkway following the Parkway to the Island, approximately 8,200 feet, in support of its planning and preparation for the 2007 Celebration.

Staff recommended approval of the resolution.

Mr. Edwards made a motion to approve the resolution.

The motion passed by unanimous voice vote.

RESOLUTION**AGREEMENT - NATIONAL PARK SERVICE - WATERLINE EXTENSION****JAMESTOWN ISLAND**

WHEREAS, the National Park Service has asked the James City Service Authority (JCSA) to administer the design and construction of a waterline to serve Jamestown Island; and

WHEREAS, the Agreement provides the terms for the extension of the waterline, assigns responsibility to the parties, and defines the terms for reimbursement.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, hereby authorizes its General Manager to sign the Agreement for the extension of a twelve-inch waterline from Jamestown Settlement to Jamestown Island with the National Park Service.

2. **Amendments: Regulations Governing Utility Service - Section 33 - Water Conservation of Drought Management Plan**

Mr. Foster stated that the JCSA Water Conservation and Drought Management Plan was approved in September, 1996, to provide guidance and parameters for managing the County's water supply under drought conditions. He explained the various stages of implementation and number of days needed for revocation.

Staff recommended approval of the resolution.

Board and staff discussed a shorter time period and more flexibility for revocation of the water conservation emergency.

Mr. Nervitt asked that water conservation information be provided to the public via local government television channel and other appropriate media.

Mr. Edwards asked that staff develop a provision in Drought Maintenance ordinance amendment to allow for the declaration of a cancellation of the water conservation emergency when less than 30 days of conditions for the emergency exist.

Mr. Edwards made a motion to approve the resolution.

The motion passed by unanimous voice vote.

RESOLUTION**AMENDMENT - REGULATIONS GOVERNING UTILITY SERVICE****SECTION 33 - WATER CONSERVATION AND DROUGHT MANAGEMENT PLAN**

WHEREAS, the James City Service Authority (JCSA) desires to amend Section 33 - Water Conservation and Drought Management Plan to better address its ability to manage water demands and supply during drought conditions.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, hereby amends the Regulations Governing Utilities Service per the attached.

3. Amendments: Regulations Governing Utility Service, Section 34 - Withdrawal Impact Mitigation Plan

Mr. Foster stated that the JCSA Groundwater Withdrawal Permit required that JCSA have a plan to address claims made by owners of private wells for impacts covered by permitted wells owned by JCSA. He further stated that the Department of Environmental Quality required the amendments prior to its approval of the JCSA Groundwater Withdrawal Permit application under consideration.

Staff recommended approval of the amendments.

Board and staff discussed the process of determining the cause, and County's response time, if found to be at fault when private wells fail.

Mr. Nervitt made a motion to approve the resolution.

The motion passed by unanimous voice vote.

RESOLUTION

AMENDMENTS: REGULATIONS GOVERNING UTILITY SERVICE

SECTION 34 - WITHDRAWAL IMPACT MITIGATION PLAN

WHEREAS, The Department of Environmental Quality has asked the James City Service Authority (JCSA) to make minor amendments to Section 34 - Withdrawal Impact Mitigation Plan as part of the JCSA's new Groundwater Withdrawal Permit.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, hereby amends Section 34 of the Regulations Governing Utility Services per the attached.

4. Water and Sewer Master Plan

Mr. Foster stated that the Master Water and Sewer Plans were updated after completion of the County's Comprehensive Plan for infrastructure improvement needed to meet the County's future water and sewer needs.

Staff recommended approval of the resolution.

Board and staff discussed alternatives to King William Reservoir, a time chart for decision making on water sources, and changing the name of this plan to Water and Sewer Infrastructure Plan.

Mr. Nervitt asked for a Water Supply Resource Plan that incorporated King William Reservoir, reverse osmosis, and groundwater development.

Mr. Nervitt made a motion to approve the resolution with amended title, Water and Sewer Infrastructure Plan.

The motion passed by unanimous voice vote.

RESOLUTION

WATER AND SEWER INFRASTRUCTURE PLAN

WHEREAS, the James City Service Authority (JCSA), with assistance from Camp, Dresser and McKee - Engineers, has updated the JCSA's Master Water and Sewer Plan to incorporate the provisions of the new James City County Comprehensive Plan; and

WHEREAS, the Board of Directors received an overview of the prepared plan at a work session held on May 28, 1998.

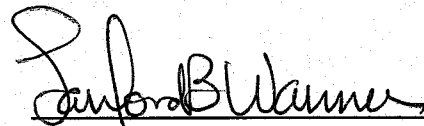
NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, hereby accepts the updated Water and Sewer Infrastructure Plan dated March 1998, as a tool to be used as a guide in planning for the water and sewer needs of the County.

D. BOARD REQUESTS AND DIRECTIVES - None

Mr. Nervitt made a motion to adjourn.

The motion passed by unanimous voice vote.

The Board adjourned at 9:40 p.m.



Sanford B. Wanner
Secretary to the Board

MEMORANDUM OF UNDERSTANDING

between

James City Service Authority
101-E Mounts Bay Road
Williamsburg, Virginia

and

Virginia Department of Health
Richmond, Virginia

for

General Permit for Distribution Mains

In accordance with 12 VAC 5-590-300 of the Commonwealth of Virginia, State Board of Health and *Waterworks Regulations*, a waterworks owner may apply for a General Permit for Distribution Main if they have on record with the Department of Health and the Division of Water Supply Engineering, approved general specifications and standard details covering distribution waterline design and construction. This permit delegates the health Department's review and approval authority for distribution mains to the waterworks owner. In order to receive and maintain this General Permit for Distribution mains, the James City Service Authority must establish a program consisting of the following items set forth in this MEMORANDUM OF UNDERSTANDING.

1. The General permit is limited to the review and approval prior to any construction of distribution main extension projects only. The maximum pipe diameter to be reviewed under this program shall be 12 inches.
2. Any modifications of the James City Service Authority's general specifications and standard details must be approved by the Commissioner, and any such modifications shall be at least as stringent as the latest edition of the *Waterworks Regulations*.
3. A review staff satisfactory to the appropriate Field Director, including at least one Professional Engineer licensed to practice in Virginia, shall be maintained by James City Service Authority. Any change of the licensed Professional Engineer shall be reported immediately to the appropriate Field Director.
4. All individual projects shall have specific engineering plans and reference to the applicable general specifications.
5. James City Service Authority shall maintain an up-to-date distribution-system map and keep on file copies of all approved project plans.
6. A project approval report for each project reviewed and approved under the General Permit shall be completed with a copy forwarded to the District Engineer at the Virginia Beach Field Office. This report shall include project location, pipe material, diameter, length, hydraulic

capacity, design population (or number of connections), and minimum and maximum pressures after the project. Fire flow capability must also be addressed.

- 7. On an annual basis, submit the following information to the District Engineer at the Southeast Virginia Engineering Field Office of the Office of Water Programs:
 - a. an overall distribution map showing the overall system layout with pipe diameters and hydraulic capacities;
 - b. the number of connections, by category, currently connected to the system;
 - c. the average daily demand and peak daily demand for each of the preceding 12 months, unless this data has been previously reported; and
 - d. the design capacities of major lines.
- 8. The Field Director may, at any time, require the submittal of any set of project plans and specifications submitted to or prepared by James City Service Authority under the General Permit.
- 9. The conditions contained in this MEMORANDUM OF UNDERSTANDING shall be adhered to throughout the duration that James City Service Authority holds a valid General Permit.
- 10. This MEMORANDUM OF UNDERSTANDING may be revoked by either party at any time. Revocation of the General Permit by the Commissioner automatically revokes the MEMORANDUM OF UNDERSTANDING.

James City Service Authority

by: *M. Anders-Brock* 5/26/98
 Chairman of Board of Directors Date

Virginia Department of Health

by: *Daniel B. Rouse* 18 June 98
 Field Director Date
 Office of Water Programs
 Southeast Engineering Field Office

These conditions as outlined above are satisfactory to allow the James City Service Authority to be issued a General Permit for Distribution Systems.

JUNE 29 1998 *Oliver Hamm*
 Date Director, Division of Water Supply Engineering

The annual average-day demand for the Roberts District in 1990 was 6.73 mgd. The annual average-day demand for the Roberts District in 1996 was 5.95 mgd of which approximately 4.41 mgd was provided to Anheuser Busch.

Fire flow at any point in the distribution system was determined to be at least 1,400 gallons per minute (gpm) by Camp Dresser and McKee during the 1992 update of the Master Water Plan.

There is limited data for maximum day and maximum hour demands in the JCSA water systems. During the most recent droughts in 1986 and 1987 the systems met demands without major inconvenience to the customers. The extended dry weather during the summers of 1993 and 1995 stressed the systems' capabilities to maintain storage but met customer demands.

3. Water Emergency Ordinance

A Drought Management ordinance has been adopted to give the County standby emergency powers. The ordinance provides for the following:

- Declaration of a water emergency, each stage.
- Enforcement authority with penalties for above-normal, and incentives for below-normal, water consumption as defined in each stage of the ordinance.
- Stiffer penalties for noncompliance with conservation directives as listed above after due public notice. Similar restrictions, penalties, and incentives will also be imposed upon all County industrial and commercial users.

4. Proposed Emergency Water Sources

During a drought situation, the JCSA General Manager will designate certain Central System wells as emergency water sources, if necessary, to provide domestic water for groundwater users whose wells have failed.

5. Parameters for Drought Declaration

(a) Stage I: A drought declaration will be issued when:

- the average daily demand for the Central System exceeds 80% of the VDH operating permit capacity for 15 consecutive days or;
- by mutual agreement among the water purveyors in James City County or;
- a water emergency is declared by the Executive Director of the Department of Environmental Quality in accordance with the Groundwater Management Act.

Amended May 26, 1998

The declaration is described in Paragraph 6, Drought Declaration. The Stage I emergency plan will then be initiated as outlined in Paragraph 7, Emergency Actions.

(b) Stage II: Emergency actions will start when:

- the average daily demand for the Central System exceeds 85% of the VDH operating permit capacity for 30 consecutive days, or;
- by mutual agreement among the water purveyors in James City County, or;
- a water emergency is declared by the Executive Director of the Department of Environmental Quality in accordance with the Groundwater Management Act.

The declaration is described in Paragraph 6, Drought Declaration, and will be carried out in accordance with that section. The Stage II emergency plan will then be initiated as outlined in Paragraph 7, Emergency Actions.

(c) Stage III: Emergency actions will start when:

- the average daily demand for the Central System exceeds 90% of the VDH operating permit capacity for 45 consecutive days, or;
- Stage II has been in effect for 15 days and demand has not stabilized at the Stage II trigger level or has not declined, or;
- by mutual agreement among the water purveyors in James City County, or;
- a water emergency is declared by the Executive Director of the Department of Environmental Quality in accordance with the Groundwater Management Act.

The declaration is described in Paragraph 6, Drought Declaration, and will be carried out in accordance with that section. The Stage III emergency plan will then be initiated as outlined in Paragraph 7, Emergency Actions.

6. Drought Declaration

Once the parameters for drought determination are met, as listed in Paragraph 5 above, the County will issue an emergency declaration that will initiate conservation measures as defined in Paragraph 7 below. The declaration will be issued to the public, and to commercial and industrial customers through local newspapers and cable television public access Channels 36 and 38. The declaration will state specific conservation efforts to be taken.

7. Emergency Actions

(a) Stage 1

Once a drought declaration is issued the following emergency actions for Stage I will be put into effect.

- Voluntary water conservation measures will be encouraged.
- A public awareness and information process will be implemented to distribute additional water-conservation information and other special notices to JCSA customers. Industrial and commercial users will be asked to initiate internal conservation plans for their respective firms.
- An incentive plan will be established to reward water saving customers. The plan will be based on normal consumption records and will offer financial incentives related to the amount of water saved.

(b) Stage II

If Stage I fails to bring about necessary water savings, or when a parameter described in Paragraph 5 for Stage II is reached, Stage II will be put into effect. The following emergency actions will occur in Stage II:

- Mandatory water conservation of at least 15% for each household and industrial and commercial users is required unless exempted by the General Manager or his designee. Increased water costs of 100% will be charged for water used in excess of the conservation goals.
- The watering of shrubbery, trees, lawns, grass, plants, or any other vegetation is not permitted, except indoor planting, greenhouse, or nursery stocks, or from a bucket or other container not exceeding three (3) gallons in capacity and except watering by commercial nurseries of plants freshly planted and once a week for five weeks following planting or until the drought emergency declaration is revoked.
- Washing of automobiles, trucks, trailers, boats, airplanes, or other types of mobile equipment is not permitted except in facilities operating with a water recycling system approved by the General Manager of the JCSA, or except from a bucket or other container not exceeding three (3) gallons in capacity; provided, however, that any facility operating with an approved water recycling system shall prominently display in public view a notice stating that such system is in operation. In lieu of the provision hereof the County Administrator may curtail the hours of operation of commercial enterprises offering such services or washing their own equipment.
- Washing of streets, driveways, parking lots, service station aprons, office buildings, the exterior of homes or apartments, or other outdoor surfaces by

commercial washing/cleaning services is not permitted except from a bucket or other container not exceeding three (3) gallons of capacity.

- The operation of any ornamental fountain or other structure making similar use of water is not permitted.
- The filling of swimming and/or wading pools, or the refilling of swimming and/or wading pools that were drained after the effective date of the declaration is not permitted.
- The use of water from fire hydrants for any purpose other than fire suppression or other emergency is not permitted except as authorized by the General Manager of the JCSA.
- Serving of water in restaurants, except upon request of customers, will not be permitted.

(c) Stage III

If Stage II fails to bring about necessary water savings, Stage III will be put into effect. The following emergency actions will occur in Stage III:

- The General Manager of the JCSA shall allocate water to customers based on a reduction of either the average consumption of their last twelve months billing or water consumption data available from similar activities of equal intensity.
 - a. Residential, Industrial, commercial, and school use of water shall be reduced to 25% of normal consumption.
 - b. The amount of water allocated shall not be less than fifty (50) gallons per person per day per household.
- Increased water rates of 300% will be charged for water use in excess of the conservation goal.
- Installation of new water service connections will be suspended.
- Application for appropriate state or federal drought emergency grants will be submitted.
- No new water service connections will be sold, and permits for the installation of new wells will not be issued, except for replacement of failed private domestic wells where public water service is not available.

8. Revocation of Drought Declaration

When the average daily demand for the Central System has fallen below the trigger levels for each increased stage of water conservation and has remained below that level for 30 consecutive days, or by mutual agreement of the water purveyors in James City County, or when the declaration of a water emergency is lifted by the Executive Director of the Department of Environmental Quality in accordance with the Groundwater Management Act, the drought management requirements for that stage will be lifted. All customers will be notified in accordance with Paragraph 6. It should be emphasized that personal conservation efforts shall be maintained to avert other emergency situations.

sect33.wp6

SECTION 34. WITHDRAWAL IMPACT MITIGATION PLAN

Preamble

The purpose of this mitigation plan (Plan) is to establish a dispute-resolution mechanism that existing and "grandfathered" groundwater users can use to resolve claims that may arise because of groundwater withdrawals from the James City Service Authority's (JCSA) wells in James City County, Virginia (the Project), specifically withdrawals from the wells of the Central System covered by this permit application.

Pursuant to the Groundwater Act of 1992 and the regulations adopted under it, the Department of Environmental Quality (DEQ) issued JCSA permit Number GW0041000. The permit increases the requested withdrawals to allow for projected growth in the County over a ten-year period (2008).

Modeling predictions, developed by JCSA and accepted by the DEQ as part of the record of permit proceedings, project the expected zones of influence of withdrawals from the permitted wells and indicate that the withdrawals are expected to have impacts on existing groundwater users. There may be nonpermitted groundwater users within the area where simulated drawdown exceeds one foot. To safeguard existing groundwater users, JCSA developed this mitigation plan.

The hope is that claims can be resolved through informal discussions and negotiations between the claimant and JCSA. The procedures of the Plan are designed to be used in addition to such informal discussions and negotiations or other procedures already provided by law. The plan is intended to provide a speedy, nonexclusive, low-cost means of fairly resolving specific claims relating to withdrawals from the permitted wells.

The Plan has six sections. Section I contains definitions of certain terms used in the Plan. Section II establishes procedures for the filing and initial review of claims. Section III establishes a committee for reviewing disputed claims that withdrawals from the permitted wells within the Project have adversely affected a well or wells outside the Project. Section IV establishes procedures for resolving disputed claims. Section V establishes standards that the committee will apply to resolve disputed claims. Section VI addresses administrative matters.

MITIGATION PLAN

Section I: Definitions

Presented below are definitions of terms used in the mitigation plan:

“Adverse Impact” means (a) for Historical Yield, a significant diminution in Historical Yield, or (b) for Historical Beneficial Use, a change in groundwater that renders it unsuitable for the Historical Beneficial Use.

“Claimant” means an Eligible Owner who wants to take advantage of the procedures in the Plan.

“Committee” means the committee established under Section III of the Plan.

“Date of the Plan” means the date on which the DEQ approves the Plan.

“Eligible Owner” means (a) any owner of a well that (i) was lawfully operating as of the Date of the Plan or, in the case of seasonal or intermittent operation, was lawfully operating within six months before or after that date (or, with respect to agricultural or drought-relief wells, such other date determined by the Committee as necessary to prevent abrogation of documented lawful groundwater rights); and, (ii) is lawfully operating as of the date of making a claim under the Plan (unless, when the claim is made, the well is inoperable as a result of conditions that are the subject of the claim) or (b) any person having a permit or certificate to withdraw groundwater that has satisfied all conditions of that permit or certificate and is otherwise required by law to withdraw water as of the Date of the Plan.

“Historical Beneficial Use” means the actual lawful uses of groundwater from the Well (before the Date of the Plan), such as domestic, agricultural, recreational, commercial, or industrial uses, that can be established to the satisfaction of the Committee.

“Historical Yield” means the actual, sustained, lawful average daily yield of the Well before the Date of the Plan that can be established to the satisfaction of the Committee. For certified or permitted wells, the average daily yield shall be based on withdrawals for any consecutive 12-month period during the previous three years.

“Rebuttable Presumption” means that the Committee shall assume that Withdrawals are (or are not, as the case may be; see Section V, Paragraph 1) the cause of the claimed Adverse Impact on the Well of the Eligible Owner unless and until evidence tending to disapprove the assumption is presented to the Committee.

“Repairs” means an appropriate process that will restore to the Claimant a supply of water equal to the Historical Yield and Historical Beneficial Use of the water from the Well, including, but not limited to, lowering the existing pump in the Well, installing a larger pump in the Well, drilling a new well, or connecting the user to the County’s public water supply system.

“Well” means a well that is the subject of a claim.

“Withdrawals” means withdrawals from any well(s) subject to the Permit.

Section II: Filing and Initial Review of Claims

1. Any Eligible Owner who believes that Withdrawals may have caused an Adverse Impact on his or her Well may become a Claimant by submitting to JCSA a written request for mitigation of the Adverse Impact or for reimbursement for the costs of Repairs, or both (the “claim”). For ensuring accurate assessments of such a claim, it must be filed within 90 days of the time that the Claimant determines that Withdrawals may have caused an Adverse Impact on the Well. If the Claimant wants a temporary water supply or other interim relief, the claim shall indicate that desire. The Claimant shall allow JCSA, their employees, and their agents reasonable access to the property and the allegedly affected Well as necessary to determine the merits of the claim, including tests and inspections of the well.
2. A timely claim may be filed only after JCSA initiates groundwater withdrawals from the permitted wells.
3. If the Claimant requests, JCSA may, at JCSA’s sole discretion, enter into an agreement with the Claimant under which JCSA will provide or pay for a temporary water supply or an investigation of the cause of the alleged Adverse Impact on the Well, or both. The costs incurred by JCSA shall be subject to reimbursement as provided in an agreement between the Claimant and JCSA and in Section V, Paragraph 4, of the Plan.
4. Within five business days after receiving a claim, JCSA will notify the Claimant in writing that JCSA:
 - (a) agrees to mitigate the claimed Adverse Impact or reimburse the Claimant, or both;
 - (b) denies the claim; or
 - (c) needs additional documentation from the Claimant to respond to the claim. If JCSA denies the claim or any part of it, the notice will
 - (1) state the reasons the claim, or any part of it, was denied;
 - (2) include a copy of the Plan; and
 - (3) advise the Claimant that he or she may seek resolution of the claim by invoking the procedures in Section III and Section IV of the Plan.

5. Pursuant to Paragraph 4 (c) of this Section, JCSA may request documentation showing
 - (a) that the Claimant is the owner of the Well;
 - (b) that the Well:
 - (1) was lawfully operating as of the Date of the Plan or, in the case of seasonal or intermittent operation, was lawfully operating within six months before or after that date; or, with respect to agricultural or drought-relief wells, such other date determined by the Committee as necessary to prevent abrogation of documented lawful groundwater rights; and
 - (2) was lawfully operating as of the date the claim was made under the Plan (unless when the claim was made, the Well was inoperable as a result of the claimed Adverse Impact).
 - (c) that the Claimant has a certificate or a permit for withdrawing groundwater from the Well (if applicable) and has satisfied all conditions imposed by the certificate, the permit, or the applicable law;
 - (d) the depths of the Well, the pump, and the screens (if available);
 - (e) the location of the Well with enough specificity to locate and identify it in the field;
 - (f) the Historical Yield of the Well (if applicable);
 - (g) the Historical Beneficial Use of the Well;
 - (h) the quality of the water in the Well (if applicable); and
 - (i) the reasons the Claimant believes Withdrawals have caused an Adverse Impact on the Well.
6. Within 15 business days of receiving all documentation requested pursuant to Paragraph 5 of this Section, JCSA will notify the Claimant in writing that it:
 - (a) agrees to mitigate the claimed Adverse Impact or reimburse the Claimant, or both; or
 - (b) denies the claim. If JCSA denies the claim or any part of it, the notice will:
 - (1) state the reasons that the claim or any part of it was denied;
 - (2) include a copy of the Plan; and
 - (3) advise the Claimant that he or she may seek resolution of the claim by invoking the procedures in Section III and Section IV of the Plan.

Amended May 26, 1998

7. A Claimant whose claim, or any part of the claim, has been denied may seek resolution of the claim by invoking the procedures in Section III and Section IV of the Plan.

Section III. The Committee

1. Resolution of disputed claims under the Plan will be administered by a committee of three (the Committee) constituted and empowered as stated below.
2. The membership of the Committee will consist of:
 - (a) one representative selected by the Claimant,
 - (b) one representative selected by JCSA, and
 - (c) one representative selected by mutual agreement of the members of the Committee described in items (a) and (b). If the representatives of the Claimant and JCSA are unable to select a third representative, such representative shall be selected by the Dispute Resolution Center, 701 E. Franklin Street, Suite 712, Richmond, Virginia 23219, after consultation with the representatives of Claimant and JCSA and the Department of Geology at the College of William and Mary, Williamsburg, Virginia 23187. Each member of the Committee shall have technical expertise in groundwater supply issues and shall have a baccalaureate or graduate degree in geology or hydrogeology or an equivalent professional certification in geology or hydrogeology or, solely for the member described in item (c), a degree or certification in any other technical or scientific discipline deemed adequate either by the selecting members or by the Dispute Resolution Center.
3. JCSA shall reimburse the members of the Committee and the Dispute Resolution Center for reasonable time spent at a rate prevailing in the area for experts in the above-listed fields and for direct costs incurred in administering the Plan. The Claimant may, at his or her option, choose to provide the reimbursement for the member of the Committee selected by the Claimant.

Section IV. Claim Resolution Procedures

1. If after the filing and initial review of his or her claim pursuant to Section II of the Plan, the Claimant finds JCSA's offer of mitigation or reimbursement inadequate or JCSA informs the Claimant that JCSA will not mitigate the claimed Adverse Impact or reimburse the claimant, the Claimant may accept JCSA's decision or may elect to pursue the claim under the claim resolution procedures set out in this Section of the Plan ("claim Resolution Procedures"). To pursue the claim, the Claimant shall notify JCSA that he or she is initiating the disputed claim Resolution Procedures of the Plan by referring his or her claim to the Committee. At the same time, the Claimant shall identify a person qualified under Section II, Paragraph 2, to serve as the Claimant's representative on the Committee.

2. Within five business days after receiving such notice from the Claimant, JCSA shall identify its representative on the Committee, shall notify the Claimant and the Claimant's representative of the identity of the JCSA representative, and shall instruct the two representatives to select a third member within ten business days.
3. Within ten business days of the selection of its third representative, the Committee shall establish a reasonable deadline for submittal of all documentation it needs to evaluate the claim. Both the Claimant and JCSA must abide by this deadline. The Committee shall reach a decision on the claim by majority vote within 15 business days after the Claimant and JCSA have submitted all documentation the Committee needs to evaluate the claim. The Committee shall take whatever steps it deems necessary to reach a decision, but the decision must be based on the standards in Section V of the Plan.
4. If the Committee decides that the claim qualifies for mitigation or reimbursement to any extent under the Plan, it shall approve the claim to that extent and shall, within five business days, notify the Claimant and JCSA of the approval, specifying in writing the reasons for its decision. JCSA shall, as directed by the Committee, mitigate the claimed Adverse Impact as soon as practicable, or shall reimburse the Claimant within ten business days for the amount awarded by the Committee, or both.
5. If the Committee decides that the claim does not qualify for mitigation or reimbursement under the Plan, it shall notify the Claimant and JCSA of that decision, specifying in writing the reasons for the decision.
6. JCSA reserves the right, under circumstances that it believes constitute intentional abuse of the process established by the Plan, to refuse to convene the Committee. Such circumstances include the filing of a frivolous or fraudulent claim. If JCSA exercises its right to refuse to convene the Committee, JCSA shall notify the Claimant in writing, specifying the reason(s) for the refusal. The Claimant may then, at his or her own risk, convene the Committee. A Claimant convening the Committee pursuant to this paragraph shall be responsible for all costs of convening the Committee, including reimbursement of the members of the Committee for reasonable time spent (at the prevailing rate for experts in the field) and all direct costs incurred by the Committee in evaluating the claim. If the Committee convened pursuant to this paragraph finds in favor of the Claimant, JCSA shall reimburse the Claimant for the costs of convening the Committee and, in addition, shall be liable to the Claimant for a penalty that shall be established by the Committee. The penalty shall not exceed 100 percent of all costs incurred by the Claimant in convening the Committee.

Section V: Standards for Resolving Disputed Claims

1. To qualify for mitigation of the claimed Adverse Impact or reimbursement of the cost of repairing the claimed Adverse Impact, the Claimant must provide evidence satisfactory to the Committee:
 - (a) that the Claimant is the owner of the Well;

Amended May 26, 1998

- (b) that the Well (i) was legally in existence and lawfully operating as of the Date of the Plan; or, in the case of seasonal or intermittent operation, was lawfully operating within six months before or after the Date of the Plan; or, with respect to agricultural or drought-relief wells, such other date determined by the Committee as necessary to prevent abrogation of documented lawful groundwater rights, and (ii) was lawfully operating as of the date of the making of the claim under the Plan (unless when the claim was made the Well was inoperable as a result of the claimed Adverse Impact); or (iii) the well and withdrawals were permitted or certificated and all conditions in such certificate or permit or otherwise imposed by law to establish groundwater rights have been satisfied before the Date of the Plan;
- (c) that, on the basis of information compiled pursuant to Section I, other information presented by the Claimant or JCSA, and other inquiries the Committee, the Claimant, or JCSA chooses to undertake, the claimed Adverse Impact was more likely than not caused by Withdrawals; and
- (d) that the costs of repairs undertaken before initiation of the disputed claim resolution procedures described in Section IV of the Plan were necessary and reasonable.

As to Item (c) above, and only as to a claimed Adverse Impact on Historical Yield, there shall be a rebuttable presumption that Withdrawals are more likely than not the cause of the claimed Adverse Impact if the Claimant demonstrates that (i) the well is screened in the Aquia Aquifer Chickahominy-Piney Point Aquifer, Upper, Middle and Lower Potomac Aquifers and (ii) the Well is located in the area of impact for the aquifer(s) in which it is screened.

There shall be a rebuttable presumption that Withdrawals are not the cause of the claimed Adverse Impact on Historical Yield or Historical Beneficial Uses if (i) the Well is not screened in the Chickahominy-Piney Point Aquifer or (ii) the Well is located outside the area of impact for the aquifer(s) in which the Well is screened.

2. Costs beyond those necessary to restore Historical Yield and Historical Beneficial Uses shall be at the Claimant's expense.
3. Any Claimant who has previously been reimbursed by JCSA for repairs as a result of an earlier negotiation or a claim filed under the Plan will not be reimbursed or compensated for correction of faulty or otherwise incorrect repairs related to the earlier negotiations or claim unless such previous repairs were performed under JCSA's supervision.
4. If and to the extent permitted wells owned by third parties and operating under a mitigation plan similar to the Plan are shown to the Committee's satisfaction to have contributed to the Adverse Impact on the Well, JCSA's share of the costs of mitigation or well repair under the Plan shall be allocated in proportion to its share of the damage. Such a determination shall be made by the Committee, but only after the Committee notifies the third-party permittee and provides the permittee an opportunity to participate in the Committee's proceeding.

Section VI: Administration of the Plan; Notice

1. The Committee may, at its discretion, request that JCSA assist it in administrative, accounting, and clerical actions required under the Plan.
2. Notices required under the Plan may be served by hand or certified mail. Notice to JCSA shall be addressed to:

General Manager
James City Service Authority
P.O. Box 8784
Williamsburg, VA 23187

3. Notices of the Plan shall be published in the Richmond Times-Dispatch, the Virginia Gazette, and the Daily Press by JCSA within 30 days of issuance of a permit for the permitted wells by the DEQ. The notice shall specify how interested persons may obtain a copy of the Plan and shall, at a minimum, state that under the Plan, a claim may be filed within 90 days of the time the Claimant determines that Withdrawals may have caused an Adverse Impact on his or her Well.
4. The Plan is intended to provide a relatively speedy and low-cost means of fairly resolving claims of Adverse Impact attributed to Withdrawals. All remedies and procedures under the Plan are in addition to those otherwise provided by law. Use of the process established by the Plan shall not be a prerequisite to filing the claim of alleged damage from Withdrawals in a court of competent jurisdiction. Costs incurred by either party in implementing the Plan, including without limit the cost of interim water supplies, the costs of investigation, and the costs of well repair or remediation, may be included in claims brought before a court of competent jurisdiction.
5. The DEQ and its staff have no responsibility for the case-by-case administration of the Plan, but nothing in the Plan shall prevent DEQ staff from providing information needed for resolving specific matters before the Committee, at the request and discretion of the Committee.