



December 22, 2016

VIA HAND DELIVERY

David P. Zambito

Direct Phone 717-703-5892

Direct Fax 215-989-4216

dzambito@cozen.com

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Agreement Between The Sewer Authority of the City of Scranton, Moosic Borough, Pennsylvania, the Lackawanna River Basin Sewer Authority, and the Lower Lackawanna Valley Sanitary Authority, dated April 16, 2008, for the Conveyance, and Acceptance of the Davis Street, Greenwood Avenue, and Corey Street Sewerline from Moosic Borough to the Sewer Authority of the City of Scranton, (and related Assignment and Assumption Agreement By and Among The Sewer Authority of the City of Scranton, Moosic Borough, the Lackawanna River Basin Sewer Authority, the Lower Lackawanna Valley Sanitary Authority, Pennsylvania-American Water Company, dated November 9, 2016); Compliance Filing Under 66 Pa. C.S. § 507; Docket No. U-2016-_____

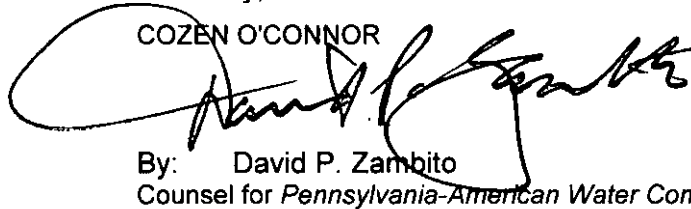
Dear Secretary Chiavetta:

Enclosed for filing on behalf of Pennsylvania-American Water Company ("PAWC") under Section 507 of the Pennsylvania Public Utility Code, 66 Pa. C.S. § 507, please find the above-referenced agreement and related assignment and assumption agreement (collectively, the "Agreements"). This filing is made in compliance with Ordering Paragraph 8 of the Commission's Final Opinion and Order, entered on October 19, 2016, at Docket No. A-2016-2537209 (related to PAWC's acquisition of The Sewer Authority of the City of Scranton). Based on this compliance filing, PAWC respectfully requests that you promptly issue a Certificate of Filing for the Agreements.

Thank you for your attention to this matter. Please do not hesitate to contact me with any question or concern.

Sincerely,

COZEN O'CONNOR



By: David P. Zambito

Counsel for Pennsylvania-American Water Company

DPZ/kmg

Enclosures

cc: Per Certificate of Service

Honorable David A. Salapa, Office of Administrative Law Judge (via Hand Delivery)

Honorable Steven K. Haas, Office of Administrative Law Judge (via Hand Delivery)

Paul T. Diskin, Director, Bureau of Technical Utility services (via Hand Delivery)

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ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement is made and entered into as of the 9th day of November 2016, by and among The Sewer Authority of the City of Scranton, a municipality authority organized and existing under the laws of Pennsylvania ("SSA"), Moosic Borough, Pennsylvania, a municipal corporation organized and existing under the laws of Pennsylvania ("Borough"), Lackawanna River Basin Sewer Authority, a municipality authority organized and existing under the laws of Pennsylvania ("LRBSA"), The Lower Lackawanna Valley Sanitary Authority, a municipality authority organized and existing under the laws of Pennsylvania ("LLVSA"), and Pennsylvania-American Water Company ("PAWC") (collectively, the "Parties").

WHEREAS, SSA, the Borough, LRBSA and LLVSA entered into an agreement as of April 16, 2008, titled, Agreement for the Transfer, Conveyance, and Acceptance of the Davis Street, Greenwood Avenue, and Corey Street Sanitary Sewer Conveyance Line from Moosic Borough to the Sewer Authority of the City of Scranton ("Sewer Line Transfer Agreement");

WHEREAS, pursuant to the Sewer Line Transfer Agreement, the Borough agreed to transfer to SSA, and SSA agreed to accept from the Borough, a certain sewer conveyance line within the Borough;

WHEREAS, pursuant to the Sewer Line Transfer Agreement, SSA agreed to receive waste from the sewer conveyance line and, following transfer, to be responsible for operation and maintenance of the line;

WHEREAS, SSA and PAWC have negotiated and entered into an Asset Purchase Agreement dated as of March 29, 2016 (the "Asset Purchase Agreement"), pursuant to which the SSA will convey its assets that constitute the SSA's sewer system, excluding the municipal separate storm water system, to PAWC and PAWC will assume certain sewer system liabilities (together, the "Transaction");

WHEREAS, SSA and PAWC have filed an Application with the Pennsylvania Public Utility Commission seeking approval of the Transaction;

WHEREAS, following closing of the Transaction and transfer of the sewer system to PAWC, SSA may decide to dissolve or otherwise cease to exist;

NOW THEREFORE, in consideration of the mutual understandings and covenants set forth in this Agreement, the sufficiency of which is hereby acknowledged, and intending to be legally bound, the Parties hereby agree, as follows:

1. SSA and PAWC shall provide written notice to the Borough, LRBSA and LLVSA promptly upon Closing (as defined in the Asset Purchase Agreement) of the Transaction.
2. Subject to and effective upon Closing of the Transaction, SSA hereby assigns, transfers and sets over unto PAWC, and PAWC hereby accepts, all of SSA's rights, title and interest in and to the Sewer Line Transfer Agreement, and the Borough, LRBSA and LLVSA each, in accordance with

Section 7.15 of the Sewer Line Transfer Agreement, acknowledges and accepts this assignment of the Sewer Line Transfer Agreement by SSA to PAWC.

3. Subject to and effective upon Closing of the Transaction, PAWC hereby assumes and agrees to perform all agreements and obligations of SSA pursuant to the Sewer Line Transfer Agreement, as amended hereby, arising on or after Closing of the Transaction, and the Borough, LRBSA and LLVSA each, in accordance with Section 7.15 of the Sewer Line Transfer Agreement, acknowledges and accepts this assumption of the Sewer Line Transfer Agreement by PAWC and releases SSA from all of its obligations under the Sewer Line Transfer Agreement arising on and after Closing of the Transaction. PAWC does not hereby and shall not assume or in any way undertake to pay, perform, satisfy or discharge any liability or obligation of SSA existing before Closing of the Transaction or arising out of any transaction entered into, or any state of facts existing, before Closing of the Transaction, and the Borough, LRBSA and LLVSA each hereby acknowledges and agrees that PAWC shall not be liable or otherwise responsible for any such liability or obligation.
4. Effective upon Closing, the Parties agree that any reference in the Sewer Line Transfer Agreement to an ordinance, sewer ordinance, rules and regulations, or standards of SSA or the City of Scranton, including those specified in Exhibit B to the Sewer Line Transfer Agreement, shall be understood to refer to, and is hereby changed to refer to, PAWC's Industrial Pretreatment Program and related tariff provisions, as approved by the Pennsylvania Public Utility Commission and the Pennsylvania Department of Environmental Protection, as applicable.
5. Effective upon Closing, the Parties agree that any reference in the Sewer Line Transfer Agreement to rates or sewer rates charged or to be charged by SSA, including those stated in Sections 4.01 and 6.03 of the Sewer Line Transfer Agreement, shall be understood to refer to, and is hereby changed to refer to, the rates approved by the Pennsylvania Public Utility Commission as part of PAWC's tariff, including as provided in PAWC's Industrial Pretreatment Program.
6. Notwithstanding Section 6.03 of the Sewer Line Transfer Agreement, effective upon Closing, the Parties agree that the billing and collection arrangements for any commercial or industrial user connected to the subject sewer line and located in Moosic Borough shall be as follows: (i) appropriate charges, as determined in accordance with PAWC's Industrial Pretreatment Program and Tariff, will be presented for payment by PAWC to LRBSA on an aggregate basis; (ii) LRBSA will pay PAWC the aggregate billed amount; and (iii) LRBSA will bill the individual users, including any administrative costs, pretreatment costs or related charges to be determined by the LRBSA, and will be responsible to enforce collection in the event of non-payment. SSA, the Borough, LRBSA, and LLVSA each acknowledges and agrees to this change in the billing and collection arrangements applicable to commercial and industrial users.

7. Effective upon Closing, the Parties agree that any reference in the Sewer Line Transfer Agreement to SSA's National Pollutant Discharge Elimination System (NPDES) Permit or other federal or state permit, including as stated in Section 7.07 of the Sewer Line Transfer Agreement, shall be understood to refer to, and is hereby changed to refer to, PAWC's NPDES Permit or other federal or state permit, as such relate to the users of the PAWC and Borough collection system and LRBSA.
8. This Assignment and Assumption Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.
9. The Parties acknowledge and agree that this Assignment and Assumption Agreement must be approved by the Pennsylvania Public Utility Commission and shall not become effective, and the Parties shall have no obligations hereunder, until such approval has been obtained and the Closing of the Transaction has occurred.

IN WITNESS WHEREOF, and intending to be legally bound, the duly authorized representatives of the Parties have caused this Agreement to be executed as of the date first written above.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

For **MOOSIC BOROUGH:**

Signature: Joseph J. Dentey
Printed Name: Joseph J. Dentey Jr
Title: Pres. Council
Address: 715 Main St
Moosic, PA 18507

For **THE LOWER LACKAWANNA VALLEY SANITARY
AUTHORITY:**

Signature: _____
Printed Name: _____
Title: _____
Address: _____

For **PENNSYLVANIA-AMERICAN WATER
COMPANY:**

Signature: _____
Printed Name: _____
Title: _____
Address: _____

For **THE SEWER AUTHORITY OF THE CITY OF
SCRANTON:**

Signature: _____
Printed Name: _____
Title: _____
Address: _____

For **LACKAWANNA RIVER BASIN SEWER
AUTHORITY:**

Signature: _____
Printed Name: _____
Title: _____
Address: _____

For MOOSIC BOROUGH:

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For THE LOWER LACKAWANNA VALLEY SANITARY
AUTHORITY:

Signature: Thomas W Scarnato

Printed Name: THOMAS W SCARNATO

Title: CHAIRMAN

Address: 398 CORTON ROAD

DURYEA PA 18612

For PENNSYLVANIA-AMERICAN WATER
COMPANY:

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For THE SEWER AUTHORITY OF THE CITY OF
SCRANTON:

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For LACKAWANNA RIVER BASIN SEWER
AUTHORITY:

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **MOOSIC BOROUGH:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **THE LOWER LACKAWANNA VALLEY SANITARY
AUTHORITY:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **PENNSYLVANIA-AMERICAN WATER
COMPANY:**

Signature: 

Printed Name: David R. Kaufman

Title: V.P. Engineering

Address: 800W. Hershey park Dr
Hershey, PA 17033

For **THE SEWER AUTHORITY OF THE CITY OF
SCRANTON:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **LACKAWANNA RIVER BASIN SEWER
AUTHORITY:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **MOOSIC BOROUGH:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **THE LOWER LACKAWANNA VALLEY SANITARY
AUTHORITY:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **PENNSYLVANIA-AMERICAN WATER
COMPANY:**

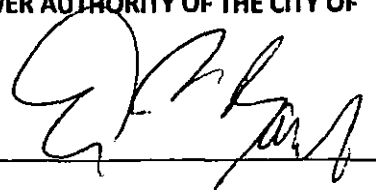
Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **THE SEWER AUTHORITY OF THE CITY OF
SCRANTON:**

Signature:  _____

Printed Name: Eugene Barrett

Title: Executive Director

Address: Scranton Sewer Authority

312 Adams Avenue

Scranton, PA 18503

For **LACKAWANNA RIVER BASIN SEWER
AUTHORITY:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **MOOSIC BOROUGH:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **THE LOWER LACKAWANNA VALLEY SANITARY
AUTHORITY:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **PENNSYLVANIA-AMERICAN WATER
COMPANY:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **THE SEWER AUTHORITY OF THE CITY OF
SCRANTON:**

Signature: _____

Printed Name: _____

Title: _____

Address: _____

For **LACKAWANNA RIVER BASIN SEWER
AUTHORITY:**

Signature: *Michael Matechak*

Printed Name: Michael Matechak

Title: Executive Director

Address: R. 145 Boulevard Avenue

Throop, PA 18512

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**AGREEMENT FOR THE TRANSFER CONVEYANCE
AND ACCEPTANCE OF THE DAVIS STREET, GREENWOOD AVENUE,
AND COREY STREET SANITARY SEWER CONVEYANCE LINE FROM
MOOSIC BOROUGH TO THE SEWER AUTHORITY OF THE CITY OF SCRANTON**

THIS AGREEMENT, made and entered into as of this 16 day of April, 2008,

by and between:

THE SEWER AUTHORITY OF THE CITY OF SCRANTON, a municipality authority organized and existing under the laws of the Commonwealth of Pennsylvania, situated in the City of Scranton, and the Borough of Dunmore, County of Lackawanna, and Commonwealth of Pennsylvania, having its office at 307 N. Washington Avenue, Scranton, Pennsylvania 18503, hereinafter referred to as "SSA";

AND

THE BOROUGH OF MOOSIC, a political subdivision, organized and existing under the laws of the Commonwealth of Pennsylvania with its principal place of business located at 715 Main Street, Moosic, Lackawanna County, Pennsylvania 18507 (hereinafter referred to as "Moosic," "the Borough of Moosic");

AND

THE LACKAWANNA RIVER BASIN SEWER AUTHORITY, a municipal authority organized and existing under the laws of the Commonwealth of Pennsylvania, situated in the Borough of Dickson City, County of Lackawanna of Pennsylvania, having its office at 145 Rear Boulevard Avenue, Dickson City, Pennsylvania 18519, hereinafter referred to as "LRBSA";

AND

THE LOWER LACKAWANNA VALLEY SANITARY AUTHORITY (LLVSA), a municipal authority organized and existing under the laws of the Commonwealth of

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Pennsylvania, situated in the Borough of Duryea, County of Luzerne, Pennsylvania having its office at 398 Coxton Road, Duryea, Pennsylvania, 18642, hereinafter referred to as LLVSA.

WHEREAS, SSA is the owner of certain waste water collection sewers and waste water treatment plant ("Scranton Sewer System") and operates such system under agreement with the City of Scranton; and,

WHEREAS, the SSA, is a municipal authority with offices located in the City of Scranton; and

WHEREAS, the Borough of Moosic is a duly authorized political subdivision; and

WHEREAS, the Borough of Moosic as a municipality operates and maintains its own sewer conveyance lines within the boundary lines of the Borough of Moosic; and

WHEREAS, the SSA operates and maintains conveyance lines and a treatment center for the City of Scranton, the Borough of Dunmore and has certain intergovernmental/jurisdictional agreements with municipalities outside of the designated SSA service territory; and

WHEREAS, Moosic has an agreement with the Lackawanna River Basin Sewer Authority (hereinafter referred to as the "LRBSA") as well as the Lower Lackawanna Valley Sewer Authority (hereinafter referred to as the "LLVSA"); and

WHEREAS, the LRBSA provides for the treatment of sewage emanating from the Borough of Moosic; and

WHEREAS, by an Agreement dated October 13, 1999, the River Basin/LRBSA and Moosic agreed that any treatment of effluent from the Moosic Borough would be treated by the Lower Lackawanna Valley Sanitary Authority, (hereinafter referred to as "LLVSA"); and

WHEREAS, the aforesaid Agreement is incorporated herein as it relates to Moosic Borough and shall remain in full force and effect unless otherwise modified; and

WHEREAS, presently within the Borough of Moosic, the Borough of Moosic maintains a sewer line that runs from the industrial facility known as the McKinney Plant on Davis Street, West on Davis Street to Greenwood Avenue, then South on Greenwood Avenue to Corey Street and then West on Corey Street; and

WHEREAS, *although this line is maintained by the Borough of Moosic, the line* encompasses approximately thirty (30) residents of the City of Scranton; and

WHEREAS, the residents of the City of Scranton are currently paying monies to the Borough of Moosic; and

WHEREAS, on Corey Street said sewer line runs in close proximity to a conveyance line of the SSA; and

WHEREAS, it is the public interest to provide for the transfer and conveyance of said sewer line from the Borough of Moosic to the SSA; and

WHEREAS, *the SSA is willing to not only accept sewage and/or waste water from said* lines and provide for waste water conveyance and treatment upon the terms and conditions more fully set forth hereinafter below, but is also desirous of taking title to and maintaining that portion of the Moosic sewer line known as the Davis Street, Greenwood Avenue, Corey Street sewer line; and

WHEREAS, the Borough of Moosic and the SSA hereby agree that Moosic Borough shall convey a portion of said conveyance line to the SSA in exchange for the SSA's continued maintenance and upkeep of the line; and

WHEREAS, this Agreement is subject to, and contingent upon, approval by the City of Scranton, (hereinafter referred to as "City") and the appropriate board of the River Basin (LRBSA) and the Lower Lackawanna (LLVSA), and Borough of Moosic, hereinafter referred to

as (Moosic).

NOW THEREFORE, in consideration of the following promises, covenants, terms and agreements and the mutuality thereof and each party, intending to be legally bound hereby, the parties agree as follows:

ARTICLE 1

SECTION 1.01. The following words, terms and phrases used in this Agreement shall have the meaning ascribed to them in this section except where the contents clearly indicates a different meaning. Words, terms and phrases are as follows:

(1) ALLOWABLE INDUSTRIAL WASTE: Any solid, liquid or gaseous substance, water-borne or form of energy ejected or escaping from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources, as distinct from sanitary sewage, which complies with all provisions of the City of Scranton Ordinance File of Council #52-1984 or amendments or revisions thereto, and which is allowed to be discharged into the sewer system by the City of Scranton and Borough of Dunmore, Lackawanna County, Pennsylvania, or allowable by the rules and regulations of the City of Scranton.

(2) BUILDING SEWER: Shall mean that part of the main building or house drain or sewer line inside the walls of the building an extending through the wall to a point five (5') feet outside the wall and connecting to the service line or house connection.

(3) CITY OF SCRANTON: The City of Scranton, Lackawanna County, Pennsylvania, or its duly authorized representatives or agents. Such agents shall include the Sewer Authority of the City of Scranton, Pennsylvania, as appropriate under applicable

Agreement(s) with the City.

- (4) DRAINAGE AREA: The area planned to be served by the Scranton sewer system as depicted on Exhibit "A" to this Agreement.
- (5) GROUND WATER: That water which is contained in or passing through the ground.
- (6) NON-RESIDENTIAL ESTABLISHMENT: Any establishment now or hereafter served by a sewer system other than a Residential Establishment.
- (7) RESIDENTIAL ESTABLISHMENT: Any establishment used wholly or in part for residential purposes.
- (8) SANITARY SEWAGE: The normal water-carried household and toilet waste from any improved property, excluding, however, the effluent from septic tanks or cesspools, rain, storm water and ground water, as well as roof or surface water, drainage or percolating or seeping waters, or accumulation thereof, whether underground or in cellars or basements.
- (9) SANITARY SEWER: A sewer which carries sewage and/or authorized industrial wastes and to which storm, surface, and ground waters are not intentionally admitted.
- (10) SCRANTON SEWER DISTRICT: A municipal sewer district currently existing and authorized by the City of Scranton, the Borough of Dunmore, and the SSA said district is currently comprised of the entire City of Scranton, the entire Borough of Dunmore, and portions of the Boroughs of Dickson City, Taylor and Moosic.
- (11) SCRANTON SEWER SYSTEM: All the facilities now or hereafter owned by the SSA and now existing or hereafter to be constructed in the City of Scranton and the Borough of Dunmore, or by contract or agreement outside these municipalities, for the collection, transportation, treatment, and disposal of sanitary sewage and acceptable industrial wastes.

(12) SEWER: A pipe or conduit for carrying sanitary sewage, or authorized industrial waste including, but not limited to, mains, trunk lines, culverts, and laterals.

(13) SEWER RATES: The residential and non-residential rates set by the City of Scranton for the entire Scranton sewer system. The City of Scranton retains control over rate making for the Scranton sewer system. The residential rate, a fixed amount, shall be an annual amount per EDU. Currently an EDU is equal to 265 gallons/unit/day. The City of Scranton reserves the right to increase the rate by and enacting a rate increase ordinance.

(14) STORM WATER: Any flow occurring during or following any form of natural precipitation and resulting there from.

(15) USER: Any person or entity who contributes, causes or permits the contribution of waste water into the sewer system, including persons or entities whose premises are connected to a sewer extension constructed by either a municipality or private developer.

(16) WASTER WATER: The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is/are contributed into or permitted to enter the sewer system.

ARTICLE II

TRANSFER OF LINE

SECTION 2.01. Moosic hereby agrees to transfer to the SSA, and the SSA agrees to accept from, and take title to, Moosic's conveyance line running from the McKinney plant on Davis Street. West on Davis Street to Greenwood Avenue, then South on Greenwood Avenue to Corey Street, then West on Corey Street to the proximate location of Manhole M-181-A.

SECTION 2.02. Moosic agrees to continuously operate and maintain the line until the SSA takes title by use and possession. The SSA shall have no obligation or responsibility with

respect to said line until it, in fact, makes use of said line by accepting its discharge for treatment and disposal at the existing point of connection indicated herein.

SECTION 2.03. The parties agree that the line shall carry, convey, and discharge waste water to the Scranton sewer system for treatment and disposal at the existing point of connection indicated on the approved plans or at such additional points of connection as are agreed upon.

SECTION 2.04. The SSA agrees that it will receive waste water from the line pursuant to provisions hereof, for conveyance, treatment and disposal with the Scranton sewer system.

SECTION 2.05. The SSA will accept into the Scranton sewer system for conveyance, treatment, and disposal, sanitary sewage meeting the standards set forth in Exhibit "B" attached hereto, also known as City of Scranton Ordinance No. _____. The SSA will treat and dispose of all such waste water in accordance with sound engineering and industry standards and in accordance with all relevant requirements with sound engineering and industry standards and in accordance with all relevant requirements of governmental agencies and judicial authorities having jurisdiction over this territory or in this matter.

SECTION 2.06. Upon connection of said line on Corey Street to the lines of the SSA, the SSA shall then be solely responsible for the maintenance, upkeep, monitoring of discharge and all repairs and replacements of the newly annexed line.

SECTION 2.07. The Borough of Moosic shall convey and deed to the SSA that portion of sewers constructed for sewer service at the Moosic/Scranton boundary line including any easements for maintenance, from Moosic Borough to the SSA, from the point of connection to the Scranton sewer system to and including the McKinney plant on Davis Street along with any and all easements that the Borough of Moosic or the LRBSA or LLVSA have in connection with said line. In short, Moosic Borough shall convey any and all right, title and interest that it may

have, regarding the Davis Street, Greenwood Avenue, Corey Street conveyance line, in Moosic Borough and in the City of Scranton, if any.

SECTION 2.08. Promptly upon execution of this Agreement, but no longer than thirty (30) days after execution, the Borough of Moosic shall: (a) Cause to be prepared and furnished to the SSA, at the expense of the Borough of Moosic, records, reports, drawings and any and all pertinent or germane information relative to the Davis Street, Greenwood Avenue, Corey Street line and its laterals as necessary, and/or as requested by the SSA; (b) Cause to be prepared, executed, extracted, abstracted, acknowledged and delivered to the SSA ready for recording, at the sole expense of the Borough of Moosic, a deed of conveyance for the said entire Davis Street, Greenwood Avenue, Corey Street line, its pipes, manholes, and all of its appurtenances, as well as all rights, liberties, easements to service, and privileges pertinent thereto including rights-of-way over the streets, roads, alleys, other thoroughfares and private land necessary for the existence and future maintenance thereof.

SECTION 2.09. Upon receipt and recording of said deed or deeds of conveyance, and upon receipt and recording of any necessary easements, the Davis Street, Greenwood Avenue, Corey Street line and all parts and appurtenances thereof, as described in Section 2.08. (b) shall be, become and remain the sole absolute, and permanent property of the SSA or its assigns free and clear of any lien, obligation, or other liability in favor of the Borough of Moosic, its successors or assigns, its contractor or contractors, its and their laborers, material men, maintenance men, and any of their creditors, or in favor of any other person or corporation, to the same end and effect as if the SSA had originally constructed and maintained the Davis Street, Greenwood Avenue, Corey Street line with its own labor and at its own expense; and thereafter the SSA shall maintain, monitor, repair, rebuild and otherwise act toward said line as its own

property and at its own cost and expense and the Borough of Moosic and LRBSA shall have no further obligation or responsibility thereto except as hereinafter provided. Upon receipt and recording of said deed or deeds of conveyance, and upon receipt and recording of any necessary easements the SSA shall, within 90 days, connect the Davis Street, Greenwood Avenue, Corey Street conveyance line to the nearest and most practicable SSA sewer line, provided that there is no lack of support, cave-in or earth disturbance issues found or encountered when the SSA opens the ground and commences digging. In that event, the SSA shall be afforded an additional, reasonable amount of time in which to complete the conveyance line connection.

ARTICLE III

TREATMENT, CHARACTER AND VOLUME OF FLOWS

SECTION 3.01. Upon connection to the lines of the SSA, the SSA agrees to be responsible for the treatment of all sewage emanating from the lines described herein.

SECTION 3.02. Upon connection to the lines of the SSA, the SSA agrees to be responsible for the treatment of effluent of those residents residing in the Borough of Moosic who are presently connected to a line on Greenwood Avenue which runs North to Corey Street. The addresses of those properties for treatment are marked as Exhibit "C", which is attached hereto and incorporated herein by reference.

SECTION 3.03. The Borough of Moosic shall continue to be responsible for the maintenance of the lines and/or laterals which collect the sewage from the properties which are listed in Exhibit "C". The SSA shall have no responsibility, legal or otherwise, for Moosic Borough lines serving Moosic Borough customers that may be, or are in fact, listed in Exhibit "C".

SECTION 3.04. The Borough of Moosic shall not permit any connection for the disposal of any waste or discharge to the line or lines that feed, convey or transport to the line beginning at the McKinney plant and continuing to Corey Street except upon prior specific written consent of the SSA and LRBSA, said consent shall not be unreasonably withheld.

ARTICLE IV

FEES/RATES

SECTION 4.01. The Parties to this Agreement covenant and agree that any fees to be charged for treatment for those properties located on the line running from Davis Street, across Greenwood Avenue to Corey Street will be dictated by the rates charged by the SSA to residents of the City of Scranton.

SECTION 4.02. The LRBSA hereby covenants and agrees that those residential properties contained within the Borough of Moosic boundary lines but connected to the Davis Street, Greenwood Avenue, Corey Street line and listed in Exhibit "C" will continue to be assessed a sewer treatment rate that is identical in all respects to the rates being charged to Moosic Borough residents by the LRBSA.

SECTION 4.03. Moosic Borough hereby covenants and agrees that Moosic Borough will pay, reimburse or renumerate the LRBSA for the difference, if any, between the SSA rates (the metered water consumption rate charged to the LRBSA by the SSA) and the rates charged by the LRBSA to all others within the Borough of Moosic within forty-five (45) days of the LRBSA's request. In the event a customer transfer occurs in the middle of a billing cycle of either the Scranton Sewer Authority or the Lackawanna River Basin, then any and all sewer user fees to either entity shall be pro-rated as of the date of the transfer.

ARTICLE V

CONTINGENCIES/APPROVALS

SECTION 5.01. The Borough of Moosic agrees to obtain approval from the LRBSA and the LLVSA for transfer of said line and its supporting easements and acknowledgment of relinquishment of the affected customers - rate payers.

SECTION 5.02. The Borough of Moosic agrees to proffer to the SSA, prior to connection, acknowledgment from the LLVSA and the LRBSA that they are willing to delete the Moosic Borough lines in question from the service area.

SECTION 5.03. The Borough of Moosic and the SSA will obtain any and all necessary approvals from the Pennsylvania Department of Environmental Protection as well as the Federal Environmental Protection Agency, if necessary, for the transfer contemplated and set forth in this Agreement.

SECTION 5.04. The Borough of Moosic and the SSA will obtain any and all necessary permits and/or approvals from the Borough of Moosic and the City of Scranton when constructing or facilitating the connection at the designated connection point.

SECTION 5.05. This Agreement is contingent upon confirmation from the SSA that said transfer will not overload the SSA's downstream facilities, including commitments of capacity to the Montage sewer district.

SECTION 5.06. This Agreement is contingent upon verification from the SSA that the Scranton sewer system from the point of connection to the treatment plant has sufficient reserve hydraulic capacity to accept the additional flow from the Davis Street, Greenwood Avenue, Corey Street sewer line.

SECTION 5.07. This Agreement is contingent upon a resolution, ordinances, or file of council in which the City approves the SSA's acceptance of the Davis Street, Greenwood Avenue, Corey Street line and the undertaking of additional residential and non-residential customers outside of the Scranton sewer system and Scranton sewer system pursuant to the City of Scranton Resolution 21 of 1990.

ARTICLE IV

COLLECTION FROM RATE PAYERS

SECTION 6.01. It is hereby agreed by and between the parties to this Agreement that any and all billing for those residents set forth and designated in Exhibit "C" as residents of the Borough of Moosic shall be conducted in the same manner as to all other residents of the Borough of Moosic. Correspondingly, the payment and collection system currently in place for Moosic Borough residents shall continue to apply to those residents set forth in Exhibit "C" and the method of collection shall be conducted in the same manner as to all other residents of the Borough of Moosic. The Borough of Moosic shall direct the LRBSA to forward the amounts invoiced by the SSA for those residents set forth in Exhibit "C" directly to the SSA. The Borough of Moosic agrees to reimburse the SSA for any administrative fee deducted by the LRBSA.

SECTION 6.02. The LRBSA will continue to bill Moosic Borough residents the LRBSA current sanitary sewer or wastewater service rate. It is understood by and between all parties to this Agreement that the SSA will bill the LRBSA for wastewater service for those customers contained in, and listed on, Exhibit "C" of this Agreement and that such billing will be based on the SSA's current metered water consumption rate attached hereto as Exhibit "D". It is further agreed by and between all parties hereto that notwithstanding receipt of funds from

Moosic Borough customers by the LRBSA, the LRBSA will forward to the SSA, upon invoice, all amounts invoiced by the SSA's service of those properties listed in Exhibit "C". Wastewater service rates and charges required to be paid to the SSA by the LRBSA under this Agreement shall be received by the SSA as gross sums.

Finally, it is understood by and between all parties to this Agreement that the SSA is neither responsible for the billing of, nor the collection from, the Moosic Borough customers utilizing the Scranton Sewer System via the Davis Street, Greenwood Avenue, Corey Street Line. In no case shall the SSA be responsible to collect fees for wastewater service from any party other than the LRBSA. All delinquent bills, from customers contained within and listed on Exhibit "C" of this Agreement, and within the LRBSA service area shall be the responsibility of the Borough of Moosic to collect. The SSA shall be paid in full within forty-five days of submitting its invoice to LRBSA regardless of the resident delinquencies, shortfalls, and/or deficiencies on behalf of, or by, the customers of the Scranton Sewer System.

SECTION 6.03. The parties agree that the SSA shall impose rates and charges ("wastewater fees") upon the Industrial Users directly for services rendered by the SSA, said rates and charges shall be established as provided in sub-section (b) herein.

(a) The parties hereby agree that the SSA will bill directly the Commercial and/or Industrial Users provided that, in the event of non-payment by a Commercial or Industrial User that is tied into the Corey Street, Greenwood Avenue, Davis Street Line, Moosic Borough will bear the responsibility to collect said delinquent accounts as per the procedure set forth in Subsection (c) herein.

It is specifically agreed and acknowledged that the SSA nor any other party will have a right of collection of fees and/or delinquencies from the LRBSA for any Industrial/Commercial Users.

(b) The rates for wastewater conveyance, treatment, and disposal services by the SSA relative to wastewater received from the Industrial and/or Commercial Users will be the same rates applicable to other Industrial and/or Commercial Users of the Scranton Sewer System, as enacted in City of Scranton Ordinance(s) or other proper legal instruments, and as may be revised from time to time. Current applicable city of Scranton Ordinances is contained in Exhibit "B" attached hereto.

(c) Moosic agrees to enforce the collection for non-payment in accordance with the attached collection procedure outlined in Exhibit "E" incorporated herein by reference.

ARTICLE VII

MISCELLANEOUS PROVISIONS

SECTION 7.01. The SSA and the Borough of Moosic agree, report and submit to the Pennsylvania Department of Environmental Protection, pursuant to Act 537, all amendments, reports or changes in sewage facility plans resulting from this Agreement. All costs associated with Act 537 compliance shall be the responsibility of the respective parties.

SECTION 7.02. The Borough of Moosic agrees to maintain property and liability insurance on the line running North on Greenwood Avenue to Corey Street in which the Borough of Moosic continues to be responsible for maintenance.

SECTION 7.03. The SSA shall be responsible to maintain property and indemnity insurance on the portion of line being transferred to the SSA.

SECTION 7.04. Except for negligent acts or omissions committed by the SSA, LRBSA and/or the LLVSA, the Borough of Moosic shall indemnify and save harmless the SSA, LRBSA, and/or the LLVSA against any claims for damages arising from parties connected to the Davis Street, Greenwood Avenue, Corey Street line occurring prior to the date of connection at the point of connection designated herein.

SECTION 7.05. The SSA and the Borough of Moosic covenant and agree that the SSA, by its duly authorized representative, at reasonable times, may inspect any part of the Moosic Borough sewage collection system which discharges, conveys or transports waste water to the Scranton sewer system, specifically to the Davis Street, Greenwood Avenue, Corey Street line.

SECTION 7.06. The SSA without written consent of the other party, may enter into agreements, from time to time, in addition to this Agreement, with any person, party, corporation, entity, municipality, or municipal authority pursuant to which the SSA shall agree to convey, treat and/or dispose of waste water of the other party to such Agreement, in connection with use and operation of the Scranton sewer system and its annexed or newly acquired Davis Street, Greenwood Avenue, Corey Street line provided that the new Agreement will not alter the terms and/or responsibility of the LRBSA.

SECTION 7.07. The SSA and the Borough of Moosic agree to comply (including furnishing necessary information to the SSA) with requirements of statutes, rules, regulations and conditions relating to the SSA's National Pollutant Discharge Elimination System (NPDES) Permit, water quality management permit, solid waste management permit, air quality permit, industrial pre-treatment program, and other federal or state permits or agreements, and the obligation of the SSA thereunder, which relate to users of the SSA and the Moosic Borough collection system and the LRBSA.

SECTION 7.08. The SSA and the Borough of Moosic, as appropriate, agree to implement and perform infiltration and inflow studies and corrective procedures necessary to limit excessive inflow and infiltration of storm water or ground water into any part of any sewer system discharging waste water to the Scranton sewer system in a manner satisfactory to the SSA in accordance with generally recognized standards of engineering practice, or, as appropriate, in any manner which complies with any grant, agreement, or any other law, rule or regulation which governs the Moosic Borough sewer system or the Scranton sewer system.

SECTION 7.09. The SSA and the Borough of Moosic agree that the Borough of Moosic will not connect and will not permit to be connected to said Davis Street, Greenwood Avenue, Corey Street line any contributions of storm water and/or ground water; and will immediately take any and all necessary action to remove or have removed sources of storm water or ground water when any such connections become known.

SECTION 7.10. The SSA and the Borough of Moosic agree that either party shall have the right to review, at any time, the volume, pollutant load and character of waste water being discharged to the Scranton sewer system from the Borough of Moosic sewer system, and to determine whether excessive flows of waste water, or waste water of excessive pollutant load, strength or character are being discharged to the Scranton sewer system via the Davis Street, Greenwood Avenue, Corey Street line which determination shall be made by application of generally accepted engineering standards and practices. The SSA shall have the right to regulate and limit any such excessive flows of waste water or waste water of excessive strength, pollutant load, strength or character to the Scranton sewer system.

SECTION 7.11. A right of recourse is reserved unto the SSA to exercise or utilize any legal remedies available at law or equity or otherwise in the event that the SSA determines the

Borough of Moosic or residents thereof is/are discharging waste water of excessive flows, pollutant or strength.

SECTION 7.12. Disputes arising hereunder shall be subject to arbitration under laws of the Commonwealth of Pennsylvania.

SECTION 7.13 Should any one or more of the provisions of this Agreement for any reasons be held illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Agreement and this Agreement shall in such circumstances be construed and enforced as if such illegal or invalid provision(s) had not been contained herein.

SECTION 7.14. The construction and affect of this Agreement or any amendment to this Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.

SECTION 7.15. This Agreement is not assignable or transferable nor is any performance of any duties delegable by either party without the prior written consent of the parties.

SECTION 7.16. This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one in the same instrument.

SECTION 7.17. This Agreement shall become effective upon satisfaction of two requirements: (1) upon execution and delivery by the parties hereto, and, (2) upon a resolution, ordinances, or file of council in which City Council for the City of Scranton approves the SSA's acceptance of the Davis Street, Greenwood Avenue, Corey Street line and the undertaking of additional residential and non-residential customers outside of the Scranton sewer district and Scranton sewer system pursuant to the City of Scranton Resolution 21 of 1990, and, subject to termination in accordance with the provisions hereof, the term hereof shall be perpetual.

ARTICLE VIII

CONSENT

SECTION 8.1. By executing the instant Agreement The Lower Lackawanna Valley Sewer Authority hereby consents to the terms and conditions contained herein.

IN WITNESS WHEREOF, the SSA has caused the within Agreement to be executed in its municipal incorporated name over the signature of its Chairman, and its corporate seal to be hereunto affixed, duly accepted by its Secretary; and the Borough of Moosic has caused same to be executed by its duly authorized representatives, President of Council; all on the day and date first above written.

**THE SEWER AUTHORITY OF THE CITY OF
SCRANTON, PENNSYLVANIA (SSA)**

BY:


THOMAS J. STONE, CHAIRMAN, SSA

ATTEST:



SECRETARY

BOROUGH OF MOOSIC (MOOSIC BOROUGH)

BY:


PRESIDENT OF COUNCIL

ATTEST:


SECRETARY

THE LOWER LACKAWANNA VALLEY
SANITARY AUTHORITY (LLVSA)

BY: Thomas A. McDermott
CHAIRMAN/DIRECTOR

ATTEST:
James Foley
SECRETARY
THE LACKAWANNA RIVER BASIN

SEWER AUTHORITY (LRBSA)

BY: Richard J. Thulard
CHAIRMAN/DIRECTOR

ATTEST:

SECRETARY

EXHIBIT B

FILE NO. __

[YEAR]

A RESOLUTION
(AS AMENDED)

ESTABLISHING REGULATIONS FOR THE DISCHARGE OF INDUSTRIAL WASTE INTO THE SEWER SYSTEM; PROVIDING FOR THE REQUIREMENT OF CERTAIN PERMITS AND FEES; PROVIDING FOR CERTAIN SAMPLING FLOW MEASUREMENT, TESTING, AND INSPECTION; DEFINING CERTAIN TERMS; AND IMPOSING PENALTIES.

THE SCRANTON SEWER AUTHORITY
HEREBY ORDAINS AND ENACTS AS FOLLOWS:

SECTION I - GENERAL PROVISIONS

1.1 Purpose and Policy

This Resolution sets forth uniform requirements for contributors to the Sewer System and enables the Scranton Sewer Authority to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this Resolution are:

- (1) To prevent the introduction of Pollutants into the Sewer System which will interfere with the operation of the system or contaminate the resulting sludge;
- (2) To prevent the introduction of Pollutants into the Sewer System which will pass through the system, inadequately treated, into the receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- (4) To provide for equitable distribution of the operating cost of the Sewer.

This Resolution defines certain terms and provides for the regulation of contributors to the Sewer System through the issuance of permits to certain non-domestic users and through enforcement of general requirements for all users, authorizes monitoring, testing, inspection and enforcement activities, requires Industrial User reporting, assumes that existing customer's capacity will not be preempted, provides for the setting of fees for the equitable distribution of costs resulting from the program established herein, and imposes penalties for Industrial User non-compliance.

This Resolution shall apply to the City of Scranton and to persons outside the City who are, by contract or agreement with the Scranton Sewer Authority or its agents, Users of the Authority's Sewer System. Except as otherwise provided herein, the Scranton Sewer Authority or its duly authorized representatives or agents shall administer, implement, and enforce the provisions of this resolution.

SECTION 2 - DEFINITIONS

2.1 Words, Terms and Phrases

The following words, terms and phrases, when used in this Resolution, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words, terms, and phrases are as follows:

- (1) Act or "the Act": The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C., 1251, et seq.
- (2) Approval Authority: The Regional Administrator of EPA.
- (3) Authorized Representative of an Industrial User: An authorized representative of an Industrial User may be:
 - (a) A responsible corporate officer, if the Industrial User is a corporation. For the purpose of this Resolution, a responsible corporate officer means:
 - (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or;
 - (ii) the manager of one or more of manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation for the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign

documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (b) By a general partner or proprietor if the Industrial User is a partnership or sole proprietorship, respectively.
 - (c) The principal executive officer or director having responsibility for the overall operation of the discharging facility if the Industrial User is a Federal, State, or local government entity, or their agents, or a charitable organization or other such unincorporated entity.
 - (d) By a duly authorized representative of the individual described in paragraph (a), (b), or (c) of this section if:
 - (i) the authorization is made in writing by the individual in paragraph (a), (b), or (c);
 - (ii) the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, operator of a well, or a well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (iii) the written authorization is submitted to the Control Authority;
 - (e) If an authorization under paragraph (d) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters of the company, a new authorization satisfying the requirements of paragraph (d) of this definition must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.
- (4) **Best Management Practices (BMPs):** Schedules of activities, prohibitions or practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 3.1(1)-(4). 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 materials storage.
- (5) **Biochemical Oxygen Demand (BOD):** The quantity of oxygen, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade.
- (6) **Building Sewer:** Shall mean that part of the main building or house drain or sewer line inside the walls of the building and extending through the wall to a point five (5) feet from the roadway right-of-way and connecting to the Service Line.

- (7) Bypass: The intentional diversion of wastestreams from any portion of an Industrial User's Treatment facility.
- (8) Categorical Standards: National Categorical Pretreatment Standard.
- (9) City: The City of Scranton, Lackawanna County, Pennsylvania, or its duly authorized representatives or agents.
- (10) Color: Color of an Industrial Waste is the color of the light transmitted by the waste solution after removing the suspended material, including the pseudo-colloidal particles.
- (11) Composite Sample: A sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample; composed of discrete sample aliquots collected in one container at constant time intervals providing representative samples irrespective of stream flow; or as a flow proportional composite sample collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.
- (12) Control Authority (Authority): The Scranton Sewer Authority, Lackawanna County, Pennsylvania or its duly authorized agents.
- (13) Cooling Water -
 - (a) Uncontaminated: Water used for cooling purposes only, which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectably higher than that of the intake water.
 - (b) Contaminated: Water used for cooling purposes only, which may become contaminated either through the use of water treatment chemicals used for corrosion inhibitors or biocides, or by direct contact with process materials and/or Wastewater.
- (14) Direct Discharge: The discharge of treated or untreated Wastewater directly to the waters of the Commonwealth of Pennsylvania.
- (15) Environmental Protection Agency, or EPA: The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- (16) Garbage: Solid waste resulting from the domestic and commercial preparation, cooking, and dispensing of food, and from handling, storage, and sale of produce.
- (17) General Permit: A control mechanism issued to more than one Industrial User. Facilities covered under a general permit must have certain similar characteristics as described in Section 4.2(3).
- (18) Grab Sample: A sample which is taken from a waste stream on a one-time basis, with no regard to the flow in the waste stream and without consideration of time.
- (19) Groundwater: That water which is contained in, or passing through, the ground.

- (20) **Holding Tank Waste:** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (21) **Indirect Discharge:** The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C., 1317) into the Sewer System (including holding tank waste discharged into the system).
- (22) **Industrial User:** A source of nondomestic waste. Any nondomestic source discharging Pollutants to a POTW.
- (23) **Industrial Waste:** Solid, liquid, or gaseous substances, water borne waste or form of energy discharged or escaping in the course of any industrial, manufacturing, commercial, trade, business, or research process, or in the course of development, recovering, or processing of natural resources, but not Sanitary Sewage.
- (24) **Interference:** A discharge which, alone or in conjunction with a discharge or discharges from other sources, both inhibits or disrupts the POTW, treatment processes or operations, or its sludge process, use, or disposal, and therefore, causes a violation of any of the POTW's NPDES permit or prevents sewage sludge use or disposal in compliance with specified applicable Federal statutes, regulations, or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act (33 U.S.C. 1345), Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA) applicable to the method of disposal or use employed by the Control Authority.
- (25) **Local Limits:** Restrictions on concentration, mass or other characteristics of a Wastewater discharge developed by the Control Authority and imposed on the Industrial Users in order to prevent Interference, Pass-through, or harm to the POTW, human health and safety, or animal or plant life.
- (26) **Middle Tier Categorical Industrial User:** A Categorical Industrial User that meets the following conditions as determined by the Authority and defined in the Authority's *Schedule 2, Site Specific Criteria for Determination of Middle Tier Categorical Industrial Users*: 1) Categorical wastewater flow does not exceed a) 0.01% of the design dry weather hydraulic capacity of the POTW, or 5,000 gpd, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches, b) 0.01% of the design dry weather organic treatment capacity of the POTW, and c) 0.01% of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved local limits were developed; 2) has not been in significant noncompliance for any time in the past two years; and 3) does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

- (27) Manhole: A structure leading from the surface of the ground to a sewer, permitting access to the sewer.
- (28) National Categorical Pretreatment Standard: Any regulation containing Pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR §403.5.
- (29) National Pollutant Discharge Elimination System or NPDES Permit: A permit issued pursuant to Section 402 of the Act (33 U.S.C.1342).
- (30) National Prohibitive Discharge Standard or Prohibitive Discharge Standard: Any regulation developed under the authority of 307(b) of the Act and 40 CFR §403.5.
- (31) New Source: Any building, structure, facility, or installation for which there is or may be a discharge of Pollutants, the construction of which commenced after the publication of proposed Categorical Standards under Section 307(c) of the Act, which Standards will be applicable to such source if they are thereafter promulgated in accordance with that Section. Determination of the applicability of New Source Standards shall be made as provided in the Act and 40 CFR § 403.3.
- (32) Non-Significant Categorical Industrial User (NSCIU): A Categorical Industrial User that meets the following conditions as determined by the Authority: 1) never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard), 2) has consistently complied with all applicable categorical Pretreatment Standards and Requirements, 3) never discharges any untreated concentrated wastewater, and 4) annually submits the certification statement in Section 4.3(4) of this resolution stating that the facility met the definition of an NSCIU together with any additional information necessary to support the certification statement.
- (33) Operator: Any person having charge, care, management or control of a tank truck(s) or Treatment system(s) used in the removal, transportation, disposal, or Treatment of Sewage and/or Industrial Wastes.
- (34) Owner: Any person vested with ownership, legal or equitable, sole or partial, of an improved property.
- (35) Pass-Through: A discharge of Pollutant which cannot be treated adequately by the POTW, and therefore exits into the Waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (36) Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender

shall include the feminine, the singular shall include the plural where indicated by the context.

- (37) pH: The logarithm of the reciprocal of the concentration of hydrogen ions, expressed in gram equivalent per liter of solution, and indicating the degrees of acidity or alkalinity of a substance. It shall be determined by one of the accepted methods described in 40 CFR Part 136.
- (38) Pollution: The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (39) Pollutant: Any substance including, but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
- (40) Pretreatment Requirement: Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.
- (41) Pretreatment Standard or Standards: Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- (42) Publicly Owned Treatment Works (POTW): A treatment works as defined by Section 212 of the Act, (33 U.S.C. 51292) which is owned in this instance by the Scranton Sewer Authority, Pennsylvania. This definition includes any Sewers that convey Wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this resolution, "POTW" shall also include any Sewers that convey Wastewaters to the POTW from persons who are, by contract or agreement with the Control Authority, users of the POTW.
- (43) POTW Treatment Plant: That portion of the POTW designed to provide treatment to Wastewater.
- (44) Pretreatment or Treatment: The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the Sewer System. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes and other means, except if prohibited by 40 CFR §§ 403.6(d).
- (45) Qualified Analyst: Any person who has demonstrated competency in Wastewater analysis by having analyzed satisfactorily a minimum of three reference Wastewater samples as supplied upon request by the Control Authority, or by submission of their generally recognized documentation of competency.
- (46) Sanitary Sewage: The normal water-carried household and toilet waste from any Improved Property, excluding, however, the effluent from septic tanks or

cesspools, rain, storm and Groundwater, as well as roof or surface water, drainage or percolating or seeping waters, or accumulation thereof, whether underground or in cellars or basements.

- (47) Sanitary Sewer: A Sewer which carries sewage and/or authorized Industrial Wastes, and to which storm, surface, and ground waters are not intentionally admitted.
- (48) Sewer: A pipe or conduit for carrying sanitary sewage, or authorized Industrial Waste alone or combined with Stormwater.
- (49) Sewer Authority: The Scranton Sewer Authority, a Pennsylvania municipal authority.
- (50) Sewer System: Publicly Owned Treatment Works (POTW) as defined herein. For the purposes of this Resolution, "Sewer System" shall also include any sewers that convey Wastewater to the Sewer System from persons who are, by contract or agreement with the Control Authority, users of the Sewer System.
- (51) Sewage Treatment Plant: POTW Treatment Plant as defined herein.
- (52) Shall is mandatory; May is permissive.
- (53) Significant Industrial User: shall be defined as
 - (a) All Users subject to the National Categorical Pretreatment Standards under 40 CFR Chapter I, Subchapter N; except in cases where the Authority determines that an Industrial User is a Non-Significant Categorical Industrial User (NSCIU); and
 - (b) All Users not subject to the National Categorical Pretreatment Standards that:
 - i) Discharges 25,000 gallons per day or more of process Wastewater ("process Wastewater" excludes sanitary, Cooling Water and boiler blowdown Wastewaters)
 - ii) Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc.) capacity of the treatment plant.
 - iii) Has a reasonable potential, in the opinion of the Control or Approval Authority, to adversely affect the POTW by Interference, Pass-through of Pollutants, sludge contamination, or endangerment of POTW workers.
- (54) Significant Noncompliance: An Industrial User is in "significant noncompliance" if its violation meets one or more of the specific criteria listed in Section 6.2 of this Resolution. If the Control Authority determines that an Industrial User is in Significant Noncompliance (SNC), that User will be included on the annual publication list.

- (55) Significant Violator: Any User that is in Significant Noncompliance during any calendar year.
- (56) Slug Load: Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the Control Authority's regulations, local limits, or Permit conditions.
- (57) State: Commonwealth of Pennsylvania.
- (58) Standard Industrial Classification (SIC): A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (59) Stormwater: Any flow occurring during or following any form of natural precipitation and resulting thereof.
- (60) Suspended Solids: Solids that either float on the surface of or are in suspension in water, Sewage or other liquids and which are removable by laboratory filtering.
- (61) Toxic Substances: Any substance or combination of substances that:
 - (a) is listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA 307(x) or other Acts, or
 - (b) is present in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any Sewage Treatment process, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in the Sewer System or in the receiving waters of the Sewage Treatment Plant.
- (62) Upset: Means an exceptional incident in which there is unintentional and temporary noncompliance of permit effluent limitations because of factors beyond reasonable control of the permittee, excluding such factors as operational error, improperly designed or inadequate treatment facilities, or improper operation and maintenance or lack thereof.
- (63) User: Any Person who contributes, causes or permits the contribution of Wastewater into the Sewer System.
- (64) Wastewater: The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the Sewer System.
- (65) Wastewater Contribution Permit: As set forth in Section 4 of this Resolution.
- (66) Water-Cooled Equipment: Any equipment using water as a cooling medium for purposes other than air conditioning or refrigeration.
- (67) Waters of the State: All streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage

systems and all other bodies or accumulations of water, surface or ground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

2.2 Abbreviations

The following abbreviations shall have the designated meanings:

o	BMP	- Best Management Practice
o	BOD	- Biochemical Oxygen Demand- (5 Day)
o	CFR	- Code of Federal Regulations
o	COD	- Chemical Oxygen Demand
o	DEP	- Pennsylvania Department of Environmental Protection
o	EPA	- Environmental Protection Agency
o	F	- Fahrenheit
o	mg	- Milligrams
o	mg/l	- Milligrams per liter
o	NPDES	- National Pollutant Discharge Elimination System
o	NSCIU	- Non-Significant Categorical Industrial User
o	POTW	- Publicly Owned Treatment Works
o	SIC	- Standard Industrial Classification
o	SIU	- Significant Industrial User
o	SNC	- Significant Noncompliance
o	SWDA	- Solid Waste Disposal Act, 42 U.S.C., 6901, et. seq.
o	USC	- United States Code
o	TRC	- Technical Review Criteria
o	TSS	- Total Suspended Solids

SECTION 3 - REGULATIONS

3.1 Use of Sewer System and Admission of Industrial Waste

- (1) All sewage and authorized Industrial Waste may be discharged to the Sewer System except those which are deemed harmful to the system or are specifically prohibited by this Resolution.
- (2) No User shall discharge or cause to be discharged any Stormwater, surface water, Groundwater, roof runoff, subsurface, drainage, non-contact Cooling Water, drainage from tile fields or unpolluted process waters to any, Sanitary Sewer.
- (3) No User shall contribute or cause to be contributed, directly or indirectly, any Pollutant or Wastewater which will interfere with the operation or performance of the Sewage Treatment Plant or pass-through unaltered by the Sewage Treatment Plant. These general prohibitions apply to all such Users of the Sewer System whether or not the Industrial User is subject to National Categorical Pretreatment Standards or any other National, State, or local pretreatment limits or requirements.
- (4) Except as otherwise provided in this Resolution, no User shall discharge or cause to be discharged to the Sewer System any sewage, Industrial Waste, or other matter or substance:
 - (a) Having a temperature which will inhibit biological activity in the Sewage Treatment Plant resulting in Interference, but in no case Wastewater with a temperature at the introduction into the Sewer System which exceeds 120°F or causes the Wastewater entering the Sewage Treatment Plant to be at or above 104°F or is less than 32°F.
 - (b) Containing any liquids, solids or gases which by reason of their nature or quantity, are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Sewer System or to the operation of the Sewage Treatment Plant. At no time shall two successive readings on any explosion hazard meter, at the point of discharge into the system (or, at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter or having a closed cup flash point of less than 140°F. Prohibited materials include, but are not limited to, gasoline, fuel oil, kerosene, naphtha, benzene, and any other substances which are a fire hazard or a hazard to the system.
 - (c) Containing unground Garbage with particles greater than one-half inch (1/2") in any dimension.
 - (d) Containing or reacting to form solid or viscous substances or which may cause obstruction to the flow in a Sewer or other Interference with the operation of the Sewage Treatment Plant such as, but not limited to: ashes, cinders, spent lime, stone, dust, sand, mud, straw, shavings, metals, glass, rags, grass clippings, feathers, tar, plastics, wood, whole blood, paunch

manure, bentonite, lye, building materials, rubber, asphalt residues, hairs, bones, leather, porcelain, china, ceramic wastes, glass grinding or polishing wastes, hydrolyzed fats, or other solid or viscous substances capable of causing obstruction or other Interference with the operation of the Sewer System.

- (e) Having a pH, stabilized, lower than 6.0 or higher than 10.0 or having any other corrosive or scale forming property capable of causing damage or hazard to structures, equipment, bacterial action or personnel of the Sewer System.
- (f) Containing Toxic Pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any Wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the Sewage Treatment Plant, or to exceed the limitation set forth in a National Categorical Pretreatment Standard. A Toxic Pollutant shall include but not be limited to any Pollutant identified pursuant to Section 307(a) of the Act.
- (g) Containing any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (h) Which imparts Color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts Color to the POTW's effluent thereby violating the Sewer Authority's NPDES permit.
- (i) Containing radioactive substances and/or isotopes of such half-life or concentration as may exceed limits in compliance with applicable State or Federal regulations.
- (j) Containing discharges that results in toxic gases, fumes, or vapors in a quantity capable of causing injury or hazard to workers or violations of any safety regulations, rules, or practices regarding workers' health or working conditions.
- (k) Prohibited by any permit issued by the Commonwealth of Pennsylvania or the Environmental Protection Agency.
- (l) Containing any substance which will cause the Sewage Treatment Plant to violate its NPDES and/or State Permit or the receiving water quality standards.
- (m) Containing any substance which may cause the Sewage Treatment Plant's effluent or any other product of the Sewage Treatment Plant such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the Sewer System cause the Sewage Treatment Plant to be in non-compliance with recognized sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria,

guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

- (n) Containing wastes which are not amenable to biological treatment or reduction in existing treatment facilities, including but not limited to non-biodegradable complex carbon compounds.
 - (o) Containing any organic compounds of endrin, lindane, methoxychlor, toxaphene, dichlorophenoxyacetic acid, trichlorophenoxypropionic acid or other herbicides, pesticides or rodenticides.
 - (p) Causing a hazard to human life, or public nuisance.
 - (q) Containing Pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or Pollutant concentration which will cause Interference to the POTW.
 - (r) Containing petroleum oils, non-biodegradable cutting oil, or mineral oil products in amounts that will Interference or Pass-Through.
- (5) If any wastes of the characteristics listed in paragraph (4) of this Section are discharged by any User, the Control Authority may take such enforcement actions as deemed appropriate, as enumerated in Section 7 of this Resolution, to cause such discharge to cease or to require pretreatment of the discharge so that it no longer has the characteristics of a Prohibited Discharge.
 - (6) Grease, oil, and sand interceptors or traps, shall be provided in restaurants, food preparation facilities, commercial kitchens, vehicle and equipment repair shops, machine shops, swimming pools, or water treatment facilities, whose discharge would exceed, in the opinion of the Control Authority, the limitations established in the Local Limits. All interceptors or traps, shall be of a type and capacity acceptable to the Control Authority, and shall be located as to be readily and easily accessible for cleaning and inspection.
 - (7) The use of mechanical Garbage grinders producing a finely divided mass, properly flushed with an ample amount of water, shall be permitted upon the condition that no such mechanical Garbage grinder to serve premises used for commercial purposes shall be installed until permission for such installation shall have been obtained from the Control Authority.
 - (8) Where preliminary Treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the Owner at his expense, and shall be accessible to the Control Authority for inspection and testing.

3.2 National Categorical Pretreatment Standards

The National Categorical Pretreatment Standards found in 40 CFR, Chapter I, Subchapter N, parts 405-471, are hereby incorporated. All Industrial Users which are Categorical Industrial

Users under provisions of one or more Categorical Standards are Significant Industrial Users and are required to obtain a Wastewater Contribution Permit as described in Section 4 of this Resolution.

3.3 Modification of National Categorical Pretreatment Standards

Where the Sewage Treatment Plant achieves consistent removal of Pollutants limited by National Pretreatment Standards, the Control Authority may apply to the Approval Authority for modification for specific limits in the National Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a Pollutant or alteration of the nature of the Pollutant by the Sewage Treatment Plant to a less toxic or harmless state in the effluent which is achieved by the system in 95 percent of the samples taken when measured according to the procedures set forth in Section 403.7(c) (2) of (Title 40 of the Code of Federal Regulations, Part 403) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The Control Authority may then modify Pollutant discharge limits in the National Pretreatment Standards if the requirements contained in 40 CFR Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained.

3.4 State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Resolution.

3.5 Control Authority's Right to Revisions

The Control Authority reserves the right to, establish more stringent limitations or requirements, including Local Limits, on discharges to the Sewer System if deemed necessary to comply with the objectives presented in Section 1.1 of this Resolution.

3.6 Compliance with Applicable Pretreatment Requirements

Compliance with this Resolution and permits or orders issued hereunder, does not relieve the Industrial User from its obligations regarding compliance with any and all applicable local, State, and Federal pretreatment standards and requirements including any such standards or requirements that may become effective during the term of a permit or order, or this Resolution.

3.7 Excessive Discharge

No Industrial User shall ever increase the use of process water or other waters, in any way attempt to dilute a discharge as a partial or complete substitute for adequate Treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other Pollutant-specific limitations developed by the Control Authority or State.

3.8 Spill Prevention and Contingency Plan

All Significant Industrial Users, and those Industrial Users identified by the Control Authority shall provide protection from any discharge that could cause a problem to the POTW, whether intentional or accidental. Facilities, equipment, and materials, to prevent these accidental

or non-routine discharges shall be provided and maintained at the Owner or Industrial User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City Emergency Management Coordinator, the County Emergency Management Coordinator and the Control Authority, for review and comment, before the implementation of this plan. The plan shall contain at least the following elements:

- A description of discharge practices, including non-routine batch discharges;
- A list and description of stored chemicals;
- Procedures for promptly notifying the Control Authority of Slug Load discharges, including any discharge that would violate a specific prohibition under 40 CFR S 403.5(b), with procedures for follow-up written notification within five days;
- Procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants (including solvents), and/or measures and equipment for emergency response; and
- If necessary, follow-up practices to limit the damage suffered by the POTW or the environment.

All existing Significant Industrial Users shall complete such a plan within six (6) months of the effective date of this Resolution. No Industrial User who commences contribution to the Sewer System after the effective date of this Resolution shall be permitted to introduce Pollutants into the system until spill prevention and contingency plans have been approved by the Control Authority. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the Industrial User's facility as necessary to meet the requirements of this Resolution.

In the case of an accidental or intentional discharge, or Slug Loading, it is the responsibility of the Industrial User to immediately notify the Control Authority of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

All Significant Industrial Users are required to immediately notify the Control Authority of any changes at its facility affecting the potential for a Slug Discharge.

3.9 Written Notice

Within five (5) days following an accidental or intentional discharge, or Slug Loading, the Industrial User shall submit to the Control Authority a detailed written report describing the cause of the discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Sewer System, fish kills, or any other damage to Person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

3.10 Notice to Employees

A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

3.11 Notification Requirement

All Industrial Users shall notify the EPA Regional Waste Management Director, the State hazardous waste authorities, and Control Authority, in writing, of any discharges into the POTW greater than 15 kilograms (33 pounds) of a substance, which, if otherwise disposed of would be a hazardous waste under 40 CFR Part 261. Discharge of more than 15 kilograms of non-acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification for each hazardous waste discharged. The Control Authority must be notified of any subsequent changes and/or additions to the hazardous waste discharges. For Industrial Users commencing discharge after July 24, 1990, this notification must be received within 180 days of commencement of discharge. Each notifying Industrial User shall also submit a statement certifying that it has a program in place to reduce the volume and toxicity of wastes generated to the extent that it is economically practical.

3.12 Drainage of Water Filtration Systems

Filter back-wash shall be discharged to the Sewer System as follows:

- (1) Sand filter back-wash may be discharged to the Sewer System.
- (2) Diatomaceous earth filter back-wash, if discharged to the Sewer System, shall be connected to the Sewer System through settling tanks with no less than three (3) months storage capacity of spent diatomaceous earth, which tanks shall be readily accessible for removing solid waste for disposal.

3.13 Removal, Transportation, and Disposal of Sewage and Industrial Wastes

- (1) Any waste to be discharged from tank trucks or rail car shall be disposed at the location designated at the Sewage Treatment Plant at the time or times, and at a rate or rates of discharge fixed by the Control Authority.
- (2) The wastes discharged by the tank trucks or rail car into the Sewer System shall not contain Industrial Waste, chemicals, or other matter, with or without Pretreatment that does not conform to the requirements of this Resolution. Conformity with this Resolution is to be determined by Control Authority.

3.14 Pretreatment Requirements

(1) General

Industrial Users shall design, construct, operate, and maintain at their own expenses Wastewater Pretreatment facilities whenever necessary to reduce or modify the Industrial User's Wastewater to achieve compliance with this Resolution, National Pretreatment Standards, any condition or limitation

contained in the Industrial User's Wastewater Contribution Permit, or any sludge limitation imposed by Federal, State, or local authorities. The review or approval of Pretreatment facility plans, specifications, and operating procedures by the Control Authority or its consulting engineer shall not excuse or mitigate any violations by the Industrial User of this Resolution or any Federal, State, or local requirements.

(2) Proper Operation and Maintenance

The Industrial User 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 Industrial User to achieve compliance with this Resolution. Proper operation and maintenance includes but is not limited to: effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process control, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary procedures only when necessary to achieve compliance with this Resolution.

(3) Duty to Halt or Reduce Activity

Upon reduction of efficiency of operation, or loss or failure of all or part of the Treatment system, the Industrial User shall, to the extent necessary to maintain compliance with this Resolution, control its production or discharges (or both) until operation of the Treatment system is restored or an alternative method of Treatment is provided. It shall not be a defense for the Industrial User in an enforcement action that it would have been necessary to halt or reduce the an activity in order to maintain compliance with this Resolution.

(4) Bypass of Treatment Facilities

- (a) Bypass of Treatment systems is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage or no feasible alternatives exist.
- (b) The Industrial User may allow Bypass to occur which does not cause the effluent limitations to be exceeded, but only if it is also for essential maintenance to assure *efficient* operation.
- (c) Notification of Bypass:
 - (i) Anticipated Bypass. If the Industrial User knows in advance of the need for Bypass, it shall submit prior written notice, at least ten (10) days before the date of the Bypass, to the Control Authority.
 - (ii) Unanticipated Bypass. The Industrial User shall immediately notify the Control Authority and submit a written notice to the Authority within five (5) days. This report shall specify:

- (a) A description of the Bypass, and its cause, including its duration;
- (b) Whether the Bypass has been corrected; and
- (c) The steps being taken or to be taken to reduce, eliminate, and prevent a reoccurrence of the Bypass.

(5) **Damage Liability**

The Person producing and/or introducing the waste shall be liable for all damages, increased costs of treatment, maintenance, or other costs directly attributable to such waste.

(6) **Disposal of Sludges**

Sludges, floats, oils, etc., generated by Industrial Users must be contained and transported in a safe manner as prescribed by the rules of Regulatory Agencies, including, but not limited to, the U. S. Department of Transportation and handled by reputable Persons who shall dispose of all such wastes in accordance with all Federal, State, and local regulations. The Owner of such sludges, floats, oils, etc., shall keep records and receipts needed to demonstrate proper disposal for review by the Control Authority upon request.

SECTION 4 - ADMINISTRATION

4.1 Wastewater Discharges

It shall be unlawful for the Owner of an improved property or any other person to discharge to the Sewer System, without first obtaining a permit from the Control Authority, any Industrial Waste except as authorized by the Control Authority in accordance with the provisions of this Resolution. Upon receipt of the permit application from the Control Authority, the Industrial User will have forty-five (45) days to return the permit application completed and signed by an Authorized Representative, or be subject to Civil Penalties as specified in Section 8.1 of this Resolution.

4.2 Wastewater Contribution Permit

(1) General

All Significant Industrial Users proposing to connect to or to contribute to the Sewer System shall obtain a Wastewater Contribution Permit before connecting to or contributing to the Sewer System. All existing Industrial Users connected to or contributing to the Sewer System who are not presently permitted but anticipate changes in process or discharge that will:

- (a) Cause that industry to be designated as a Categorical industry as defined by U.S. EPA National Categorical Pretreatment Standard Discharge Limits, or
- (b) Result in changes in discharge volume or character such that the User meets the definition of Significant Industrial User; shall apply for and obtain a Wastewater Contribution Permit prior to discharging the modified Wastewater to the Sewer System.

(2) Permit Application

Industrial Users required to obtain a Wastewater Contribution Permit shall complete and file with the Control Authority, an application in the form prescribed by the Control Authority, and accompanied by a fee in the amount specified by the current fee schedule. New Industrial Users shall apply at least ninety (90) days prior to connecting to or contributing to the Sewer System. In support of the application, the Industrial User shall submit, in units and terms appropriate for evaluation, the following information:

- (a) Name, address, and location (if different from the mailing address).
- (b) SIC number according to the Standard Industrial Classification Manual, Bureau of Budget, 1972, as amended.
- (c) Wastewater constituents and characteristics required by the Control Authority, as determined by a Qualified Analyst; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, as amended. In instances where an Industrial User has not yet begun

operation, therefore Wastewater constituents and characteristics are unknown, submission of comparable data from similar industries will be accepted for permit application purposes.

- (d) Time and duration of contribution.
- (e) Average daily and 30 minute peak Wastewater flow rates, including daily, monthly, and seasonal variations if any.
- (f) Site plans, floor plans, mechanical and plumbing plans, spill prevention and containment and details to show all Sewers, Sewer connections, and appurtenances by the size, location, and elevation.
- (g) Description of activities, facilities and plant processes on the premises including all materials which could be discharged, whether intentionally or unintentionally by spilling, overflowing, leaking, or other manner of escape.
- (h) Proposed discharge sampling location(s).
- (i) Where known, the nature and concentration of any pollutants in the discharge which are limited by any Control Authority or State regulations, National Categorical Pretreatment Standards, or National Prohibitive Standard, and a statement certified to by a qualified professional regarding whether or not the Standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional Pretreatment is required for the Industrial User to meet applicable National Categorical Pretreatment Standards or Local Limits.
- (j) If additional Pretreatment and/or operation and maintenance will be required to meet the National Categorical Pretreatment Standards or Local Limits; the shortest schedule by which the Industrial User will provide such additional Pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable National Categorical Pretreatment Standard or, in the case of Local Limits, such a date as determined by the Control Authority. The following conditions shall apply to this schedule:
 - (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the Industrial User to meet the applicable Pretreatment Standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - (2) No increment referred to in paragraph 1 shall exceed nine (9) months.

- (3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.
- (k) Each product produced by type, amount, process or processes and rate of production.
- (l) Type and amount of raw materials processed (average and maximum per day).
- (m) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of Pretreatment system.
- (n) Any other information as may be deemed by the Control Authority to be necessary to evaluate the permit application.

The Control Authority will evaluate the data furnished by the Industrial User and may require additional information. After evaluation and acceptance of the data furnished, the Control Authority may issue a Wastewater Contribution Permit subject to terms and conditions provided herein. Applicants wishing to claim confidentiality of information required in the application shall indicate on the application which information is of a confidential nature. Wastewater constituents and characteristics shall not be considered as confidential information. Confidential information shall be treated as set forth in Section 4.4 of this Resolution, and in accordance with 40 CFR Part 2.

(3) General Permits

- (a) At the discretion of the Authority, General Permits may be available for groups of Industrial Users. Upon review of an application for a new or renewal Wastewater Discharge Permit the Authority may recommend that a Industrial User be covered under a general permit. When applying for a new or renewed discharge permit, an industrial user may also request coverage under a general permit. To be eligible for coverage under a general permit the IU must meet the following criteria, as determined by the Authority, when compared with other facilities covered under the general permit. All of the facilities to be covered must:
 - (i) Involve the same or substantially similar types of operations;
 - (ii) Discharge the same types of wastes;
 - (iii) Require the same effluent limitations;

(iv) Require the same or similar monitoring; and

(v) In the opinion of the Authority, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

- (b) The Authority may not control a Industrial User through a general control mechanism where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for Industrial Users whose limits are based on the Combined Wastestream Formula or Net/Gross calculations.

(4) Permit Modification

A Wastewater Contribution Permit may be modified for good cause including, but not limited to, the following:

- (a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- (b) Material or substantial alterations or additions to the Significant Industrial User's operation processes, or discharge volume or character which were not considered in drafting the effective permit;
- (c) A change in any condition in either the Industrial User or the Sewer System that requires either a temporary or permanent reduction or elimination;
- (d) Information indicating that the permitted discharge poses a threat to the Sewer Authority's collection and treatment system, personnel, or the receiving stream;
- (e) Violation of any terms or conditions of the permit;
- (f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;
- (g) Revision of or a grant of variance from such Categorical Standards pursuant to 40 CFR § 403.13; or
- (h) To correct typographical or other errors in the permit;
- (i) To reflect transfer of the facility ownership and/or operation to a new owner/operator;
- (j) Upon request of the permittee, provided such a request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification does not stay any permit condition.

(5) Application Signatories and Certification

All Wastewater Contribution Permit applications and subsequent industrial User reports must be signed by an Authorized Representative of the Industrial User and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(6) Permit Conditions

Wastewater Contribution Permits shall be expressly subject to all provisions of this Resolution and all other applicable regulations, Industrial User charges and fees established by the Control Authority. Permits may contain the following:

- (a) The unit charge or schedule of Industrial User charges and fees for the Wastewater to be discharged to the Sewer System.
- (b) Limits on the average and maximum Wastewater constituents and characteristics.
- (c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- (d) Requirements for installation and maintenance of inspection and sampling facilities.
- (e) Specifications for monitoring programs which may include sampling locations, frequency of sampling (twice per year at minimum), number, types, and standards for tests and reporting schedule.
- (f) Compliance schedule.
- (g) Requirements for submission of technical reports, discharge reports or baseline monitoring reports.
- (h) Requirements for maintaining and retaining plant records relating to Wastewater discharge as specified by the Control Authority, and affording Control Authority access thereto.

- (i) Requirements for notification of the Control Authority for any new introduction of Wastewater constituents or any substantial change in the volume or character of the Wastewater constituents being introduced into the Sewer System.
 - (j) Requirements to develop and implement Spill Prevention and Control Plans or Slug Control Plans.
 - (k) Requirements for notification of Slug Load discharges.
 - (l) Requirements for notification of facility changes that affect the potential for Slug Load Discharges.
 - (m) A statement of duration, as set forth in Section 4.2.b. of this Resolution.
 - (n) A statement of nontransferability, as set forth in Section 4.2.7 of this Resolution.
 - (o) A statement of the applicable civil and criminal penalties as set forth in Section 8 of this Resolution.
 - (p) Requirements to establish and implement Best Management Practices.
 - (q) Other conditions, as deemed appropriate by the Control Authority to ensure compliance with this Resolution.
- (7) Equivalent Concentration Limits
- (a) Facilities subject to the flow-based mass Categorical Pretreatment Standards of the Organic Chemicals, Plastics, and Synthetic Fibers; Petroleum Refining, and Pesticide Chemicals categories may request the Authority calculate equivalent concentration limits and include them in their discharge permits instead of flow-based mass limits. Prior to being regulated by equivalent concentration limits, dischargers in these categories must demonstrate that dilution will not be substituted for treatment. Industries regulated by equivalent concentration limits must continue to demonstrate that dilution is not being substituted for treatment.
 - (b) When converting such limits to concentration limits, the Authority will:
 - (i) Use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455,
 - (ii) Document how the equivalent limits were derived and make this information publicly available, and

(iii) Document that dilution is not being substituted for treatment.

(8) Mass Limits

When the limits in a Categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, the Authority may implement the limits as equivalent mass limits. An Industrial User may request equivalent mass limits from the Authority in writing. Upon receiving such a request the Authority will determine if the Industrial User meets the eligibility criteria for mass limits as listed in Sections 8(a) through 8(b) below. The Authority may determine that an Industrial User meets the criteria, but choose not to implement the limits as equivalent mass requirements based on other considerations.

(a) To be eligible for equivalent mass limits, the Industrial User must:

(i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

(ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

(iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;

(iv) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

(v) Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(b) An Industrial User subject to equivalent mass limits must:

(i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(iii) Continue to record the facility's production rates and notify the Control Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (1)(c) of this section. Upon notification of a revised production rate, the Control Authority must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (1)(a) of this section so long as it discharges under an equivalent mass limit.

(c) When establishing equivalent mass limits, the Authority:

(i) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;

(ii) Will, upon notification of a revised production rate, reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(iii) May retain the same equivalent mass limit in subsequent control mechanism terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 3.7. The Industrial User must also be in compliance with Section 3.14 (4) (regarding the prohibition of bypass).

(iv) Will not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

(9) Permit Duration

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The Industrial User shall apply for permit reissuance a minimum of 90 days prior to the expiration of the-Significant Industrial User's existing permit.

The terms and conditions of the permit may be subject to modification by the Control Authority during the term of the permit as limitations or requirements as identified in Section. 2 are modified or other just cause exists. The Significant Industrial User shall be informed of any proposed changes in his permit at least

thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(10) Permit Transfer

Wastewater Contribution Permits are issued to a specific Significant Industrial User for a specific operation. A Wastewater Contribution Permit shall not be reassigned or transferred or sold to a new owner, new Industrial User, different premises, or a new or changed operation without the approval of the Control Authority. Any succeeding Owner or Industrial User shall also comply with the terms and conditions of the existing permit.

(11) Permit Appeals

The permittee may petition to appeal the terms of a permit within thirty (30) days of issuance. This petition must be in writing; failure to submit a petition for review shall be deemed to be a waiver of the right of appeal. In its petition, the permittee must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to be placed in the permit.

The effectiveness of the permit shall not be stayed pending a reconsideration by the Control Authority. The Control Authority, or its appointed agent other than the permit writer, shall review the petition and any pertinent information provided by the permit writer, and determine if a reconsideration of any permit condition or requirement is proper. If so decided, the Control Authority shall remand the permit to the permit writer for reconsideration of the enumerated conditions or requirements. Upon being so directed the permit writer shall re-examine the relevant portions of the permit and re-issue the permit with any revisions he determines to be proper and allowable. After remand to the permit writer and prior to permit reissuance, those permit conditions or requirements under reconsideration shall not be enforced and prior enforcement actions regarding those conditions or requirements shall be held in abeyance until reissuance of the permit.

The Control Authority's decision not to reconsider a final permit, or the reissuance of a reconsidered permit, shall be considered final administrative action for purposes of judicial review. The permittee seeking judicial review of the Control Authority's final action must do so by filing a complaint with the Court of Common Pleas for Lackawanna County within the prescribed statute of limitations.

(12) Waste Characteristic Change

Any Owner of an improved property who is discharging Industrial Waste into the Sewer System and who contemplates a change in materials, processes or method of the industrial operation producing the waste, or in the Pretreatment facilities, which change will result in a change in the nature of the Industrial Waste then being discharged into the Sewer System shall apply for a new Wastewater

Contribution Permit at least thirty (30) days prior to such change. The revised Wastewater Contribution Permit will be subject to a fee. Approval or disapproval of a modified permit shall be regulated by the procedures established hereunder for the issuance of an original permit.

(13) Separation of Wastes

In the case of complete separation of Sanitary Sewage from Industrial Wastes within an establishment, with only the sanitary wastes discharged to the Sanitary Sewer, no Wastewater Contribution Permit shall be required. The Control Authority retains the right to verify discharge characteristics and inspect the establishment.

(14) Files

- (a) The Control Authority and all Industrial Users shall maintain a permanent file in which copies of all monitoring activities and results, reports, permits, revisions thereto, records of compliance with Best Management Practices and supporting data are filed for a minimum of three (3) years.
- (b) The Authority shall keep and maintain documentation to support a determination that a significant industrial user meets the criteria to be permitted under a general permit, a copy of the user's general permit, and a copy of the user's request for coverage under a general permit, for a minimum of three years after expiration of a general permit.
- (c) The Authority shall keep and maintain documentation to support a determination that a facility qualifies as a Middle Tier CIU, for a minimum of three years after expiration of the permit establishing requirements based on the Middle Tier determination.
- (d) In cases of unresolved litigation all such files shall be retained as long as necessary, or as required by the Approval Authority.

(15) Continuation of Expired Permits

An expired Wastewater Contribution Permit will continue to be effective and enforceable until the permit is reissued if:

- (a) The permittee has submitted a completed permit application at least ninety (90) days prior to the expiration date of the Significant Industrial User's existing permit.
- (b) The failure to reissue the permit, prior to the expiration of the previous permit, is not due to any act or failure to act on the part of the permittee.

(16) Duty to Comply

The permittee must comply with all conditions of a Wastewater Contribution Permit. Failure to comply with the requirements of a permit may be grounds for

administrative action, or enforcement proceedings including civil or criminal penalties, injunctive relief, and summary abatements.

4.3 Reporting Requirements for Permittee

(1) Baseline Monitoring Reports

- (a) Upon the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit of the Significant Industrial User subject to such Standards shall be revised as soon as possible to comply with such standard within the time frame prescribed by such standard.
- (b) Where the User, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Contribution Permit as required by Section 4.2, the User shall, within 180 days after the promulgation of the applicable National Pretreatment Standard:
 - (i) Apply for a Wastewater Contribution Permit; and
 - (ii) Provide the baseline monitoring information required by 40 CFR § 403.12(b). This information may be incorporated into the application for a Wastewater Contribution Permit.
 - (iii) Submit with the baseline monitoring report a compliance schedule which contains, at minimum, the following:
 - (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the Industrial User to meet the applicable , Pretreatment Standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - (2) No increment referred to in paragraph 1 shall exceed nine (9) months.
 - (3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

- (c) A Significant Industrial User with an existing Wastewater Contribution Permit shall submit to the Control Authority, within 180 days after the promulgation of an applicable National Categorical Pretreatment Standard, the information required by 40 CFR § 403.12(b).
- (d) A New Source, or a User that becomes a Significant Industrial User subject to a National Categorical Pretreatment Standard shall submit a report containing the information required by 40 CFR §403.12(b) at least 90 days prior to commencement of discharge from the regulated process or facility.
- (e) A baseline monitoring report, provided under paragraphs (b)(ii), (c), or (d) of this part, must,
 - (i) Include information to demonstrate compliance with applicable Best Management Practices or pollution prevention alternatives.
 - (ii) Be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. Appropriate sampling and analysis includes the following practices:
 - (a) All analyses must be performed by a DEP Accredited Laboratory
 - (b) All samples that are to be split must be divided in the presence of the Control Authority or a third party laboratory that is approved by the Control Authority.
 - (c) A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; where historical sampling data are available, the Control Authority may authorize a lower minimum.
 - (d) For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composite in the laboratory.

Composite samples for other parameters unaffected by the composite procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(iii) Be signed by an Authorized Representative of the Industrial User and certified to by a qualified professional, using the certification statement in Section 4.2(5), as to the correctness of the information contained therein.

(2) Pretreatment Standard Compliance Reporting

(a) Within ninety (90) days following the date for final compliance with applicable National Categorical Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of Wastewater into the Sewer System, any Industrial User subject to National Categorical Pretreatment Standards and/or requirements shall submit to the Control Authority a report indicating the nature and concentration of all Pollutants in the discharge from the regulated process which are limited by National Categorical Pretreatment Standards and/or requirements and the average and maximum daily flow for these process units in the Industrial User's facility which are limited by such National Categorical Pretreatment Standards or, requirements. The report shall state whether the applicable National Categorical Pretreatment Standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or Pretreatment is necessary to bring the Industrial User into compliance with the applicable National Categorical Pretreatment Standards or requirements.

(b) A report provided under paragraph (2)(a) of this part must,

(i) Include information to demonstrate compliance with applicable Best Management Practices or pollution prevention alternatives.

(ii) Be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. Appropriate sampling and analysis includes the following practices:

(a) All analyses must be performed by a DEP Accredited Laboratory

(b) All samples that are to be split must be divided in the presence of the Control Authority or a third party laboratory that is approved by the Control Authority.

(c) A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; where historical sampling data are available, the Control Authority may authorize a lower minimum.

(d) For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composite in the laboratory. Composite samples for other parameters unaffected by the composite procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(iii) Be signed by an Authorized Representative of an Industrial User, and certified to by a qualified professional, using the certification statement in Section 4.2(5).

(3) **Industrial Waste Contribution Report**

(a) All Significant Industrial Users shall submit to the Control Authority reports indicating the nature and concentration of Pollutants in the discharge which are limited by Pretreatment Standards or Pretreatment Regulations.

(i) Industrial Users subject to National Categorical Pretreatment Standards (except those users classified as Non-Significant Categorical Industrial Users (NSCIUs) or as Middle Tier Categorical Industrial Users (Middle Tier CIUs)), after the Compliance date of the Standard, or in the case of a New Source after the commencement of discharge into the Sewer System, shall submit these reports ten (10) days prior to the first day of June and December unless different dates or more frequent reports are required by the National Categorical Pretreatment Standard or the Control Authority.

(ii) Significant Industrial Users not subject to National Categorical Pretreatment Standards shall submit these reports at least once every six (6) months as specified by the SIU's Wastewater Contribution Permit.

(iii) Each report shall provide the required information for the period since the previous report (e.g., May through October).

- (iv) The report must include information to demonstrate compliance with applicable Best Management Practices or pollution prevention alternatives.
- (v) This report shall specifically contain, but not necessarily be limited to, concentration levels of those Pollutants which are limited by the Industrial User's National Categorical Pretreatment Standard or the Local Limits. If requested by the Industrial User, the Control Authority will perform the required analyses and will bill the Industrial User accordingly.
- (vi) The report must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. Appropriate sampling and analysis includes the following practices:
 - (a) All analyses must be performed by a DEP Accredited Laboratory
 - (b) All samples that are to be split must be divided in the presence of the Control Authority or a third party laboratory that is approved by the Control Authority.
 - (c) The Control Authority will establish the minimum number of grab samples to be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities.
 - (d) For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composite in the laboratory. Composite samples for other parameters unaffected by the composite procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.
- (vii) In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily

flow reported in Section 4.2.(2)(e) of this Resolution. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are to be submitted.

- (viii) If, the Industrial User monitors any Pollutant more frequently than required by the Control Authority, using the procedures prescribed in Section 4.33(c) of this Resolution, the results of this monitoring shall be included in the report.
 - (ix) Reports submitted by Significant Industrial Users must be signed by an Authorized Representative of an Industrial User, and contain the certification statement in Section 4.2(5).
- (b) The Control Authority may impose mass limitations on Significant Industrial Users regulated by concentration based National Categorical Pretreatment Standards or Local Limits or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by paragraph (a) of this Subsection shall indicate the mass of Pollutants regulated by National Categorical Pretreatment Standards or the Local Limits in the effluent of the Significant Industrial User. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Control Authority, of Pollutants contained therein which are limited by the applicable National Categorical Pretreatment Standard or Local Limits.
- (c) All sampling and analysis shall be performed in accordance with procedures established by the Environmental Protection Agency pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto.
- Where 40 CFR, Part 136 does not include a sampling or analytical technique for the Pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto.
- (4) Users designated by the Authority as Non-Significant Categorical Industrial Users (NSCIUs) must submit the following certification statement to the Authority, signed by an Authorized Representative of the User, once each year along with documentation supporting their classification as a NSCIU:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify, that to the best of my knowledge and belief that during the period from ____, ____ to ____, ____ [months, days, year]: (a) The facility described as ____ [facility name] met the

definition of a non-significant categorical Industrial User as described in §403.3(v)(2); (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information:_____”

(5) Users designated by the Authority as Middle Tier Categorical Industrial Users (Middle Tier CIUs) shall:

- (a) Submit to the Control Authority reports indicating the nature and concentration of Pollutants in the discharge which are limited by Pretreatment Standards or Pretreatment Regulations. These reports shall be submitted at least once each year and shall contain the information specified in Section 4.3 (3) (a) (iv-viii).
- (b) Notify the Control Authority immediately of any changes at its facility causing it to no longer meet Middle Tier eligibility criteria. Upon notification, the Industrial User must immediately begin complying with the minimum reporting as described in Section 4.3 (3).
- (c) Reports submitted must be signed by an Authorized Representative of an User and contain the certification statement in Section 4.2(5).

(6) Violation and Sampling Reports

If a Significant Industrial User, as a result of valid sampling and analysis, becomes aware of a violation of any National Categorical Pretreatment Standard, any discharge standard imposed by this Resolution or contained in a Wastewater Contribution Permit, the SIU shall notify the Control Authority of this fact within twenty-four (24) hours of becoming aware of it. Additionally, the SIU shall provide for additional sampling and analysis and submit a report of the results of this sampling and analysis to the Control Authority with 30 days of becoming aware of the violation.

4.4 Sampling, Flow Measurement, Testing, and Inspection

- (1) Every Significant Industrial User whose property is serviced by a Building Sewer carrying Industrial Waste shall install at his expense a suitable control manhole together with such necessary meters and other appurtenances in the building or lateral Sewer to facilitate observation sampling, and measurement of the waste. The monitoring facility should normally be situated on the Industrial User's premises, but the Control Authority may, when such a location would be impractical or cause undue hardship on the Industrial User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring

equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Industrial User. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Control Authority's requirements and all applicable local construction standards and specifications.

- (2) Persons or occupants of premises that are connected to the sewage collection system and/or where Wastewater is created or discharged to the Sewer System shall provide the Control Authority and its representatives and agents bearing proper credentials and I.D. the opportunity of access at any time to any part of any property served by the Sewer System as shall be required for purposes of inspection, measurement, sampling, testing, records examination and records copying, for ascertainment of whether the purpose of this Resolution is being met and all requirements are being complied with, and for performance of other functions relating to service rendered by the Control Authority. The Control Authority, the Pennsylvania Department of Environmental Protection and the U.S. EPA shall have the right to set up on the Industrial User's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a Industrial User has security measures in force which would require proper identification and clearance before entry into their premises, the Industrial User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Control Authority, the Department of Environmental Protection and the U.S. EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
- (3) All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this Resolution shall be determined using methodologies found in 40 CFR Part 136 and shall be under the direct supervision of a Qualified Analyst at the control manhole provided, or upon suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public Sewer to the point at which the Building Sewer is connected. The control manhole shall contain only the Wastewater of the industry being monitoring and no flows from other sources. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a Composite or Grab Sample of all outfalls of a premise is appropriate.
- (4) The costs of all sampling, testing, inspection, and other monitoring activities shall be borne by the respective Industrial User. The Control Authority will sample and analyze the discharge of each Significant Industrial User holding an Wastewater Contribution Permit at least once per year. The fees for such sampling and analysis will be billed to and shall be paid by the Significant Industrial User.

- (5) The Control Authority shall annually prepare and make available to the public upon request a report listing those Significant Industrial Users which were found to be in violation of one or more provisions of this Resolution, or any Order or permit issued by the Control Authority at least once during the previous calendar year. The report shall also summarize any enforcement actions taken against a Significant Industrial User(s) during the same 12 months.
- (6) Both the Significant Industrial Users and the Control Authority shall maintain all records relating sampling and testing and all other information obtained relating to compliance with National Categorical Pretreatment Standards, this Resolution or the SIU's Wastewater Contribution Permit for a period of three (3) years, and all such records shall be made available to officials of the EPA or Approval Authority upon request.
- (7) Information and data on a Industrial User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other government agency without restriction unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the Control Authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Industrial User. The Control Authority will maintain a list of all persons, groups, or governmental agencies requesting information, the information supplied, and date supplied. When requested the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Resolution, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

SECTION 5 - FEES

5.1 Purpose

It is the purpose of this chapter to provide for the recovery of costs from Industrial Users of the Control Authority's Sewer System for the implementation of the program established herein. The applicable charges or fees shall be set forth in the Control Authority's schedule of charges and fees.

5.2 Charges and Fees

The Control Authority may from time to time collect charges and fees to include:

- (1) Fees for reimbursement of costs of setting up and operating the Control Authority's Pretreatment Program.
- (2) Fees for monitoring, inspections, and surveillance procedures.
- (3) Fees for yearly sampling and analyses of Industrial User's discharge.
- (4) Fees for reviewing accidental discharge procedures and construction.
- (5) Fees for permit and modified permit applications.
- (6) Fees for filing appeals.
- (7) Other fees as the Control Authority may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this Resolution and are separate from all other fees chargeable by the Control Authority. These fees shall be payable by the Industrial User within forty-five (45) days of notification, or the Industrial User will be subject to such enforcement action deemed appropriate by the Control Authority, including but not limited to, Revocation of Permit.

SECTION 6 - COMPLIANCE

(1) Definition of Noncompliance

Any violation of Pretreatment requirements (including, but not limited to, limits, sampling, analysis, best management practices, reporting and meeting compliance schedules, and regulatory deadlines) is an instance of noncompliance for which the Industrial User is liable for enforcement, including penalties. Instances of SNC are Industrial User noncompliance which meet one or more of the following criteria:

(a) Violations of Wastewater discharge limits.

- (i) Chronic violation - Sixty-six (66) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits;
- (ii) Technical Review Criteria (TRC) violations - Thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric Pretreatment Standard or Requirement

including instantaneous limits, multiplied by the applicable TRC (TRC – 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

- (iii) Any other violation(s) of a Pretreatment Standard of Requirement as defined in Section 2.1 (daily maximum, long-term average, instantaneous limits, or narrative standard) that the Control Authority believes has caused, alone or in combination with, other discharges, Interference or Pass-Through, or endangered the health of treatment plant personnel or the public.
 - (iv) Any discharge of a Pollutant that has caused imminent endangerment to human health or welfare, or to the environment and has resulted in the Control Authority exercising its emergency authority to halt or prevent such a discharge.
 - (b) Violations of Compliance Schedule Milestones, contained in the permit or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the scheduled date.
 - (c) Failure to provide reports for compliance schedules, self-monitoring data, or National Categorical Pretreatment Standard standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within thirty (30) days from the due date.
 - (d) Failure to accurately report noncompliance.
 - (e) Any other violation or group of violations, which may include a violation of Best Management Practices, that the Control Authority considers to be significant.
- (2) An Industrial User in Significant Noncompliance, is a Significant Violator. For all Significant Violators during any calendar year, the Control Authority shall:
- (a) Report this information to the Approval Authority as part of the Pretreatment Performance Summary of Industrial User noncompliance.
 - (b) Annually publish in a newspaper of general circulation within the municipalities served by the Sewage Collection System that provides meaningful public notice a list of all Significant Violators, the nature of the violation(s) leading to a finding of Significant Noncompliance, and a summary of actions taken to resolve the Significant Noncompliance.
 - (c) Address the SNC through appropriate enforcement action or, document the reasons for withholding enforcement.

SECTION 7 - ENFORCEMENT

When making determinations regarding the level of the enforcement, the Control Authority will consider the severity of the violation, degree of variance from the Pretreatment standards or Local Limits, the duration of the violation, and the fairness, equity, consistency, and integrity of the Pretreatment program.

7.1 Enforcement Response Criteria

(1) Emergency Authority to Suspend or Terminate Service

- (a) The Control Authority may suspend the Wastewater treatment service and/or the Wastewater Contribution Permit of any Industrial User, when such suspension is necessary, in the opinion of the Control Authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes Interference to the Sewer System or causes the Control Authority to violate any condition of the POTW NPDES Permit.
- (b) Any Person notified of a suspension of the Wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the discharge. In the event of a failure of the Person to comply voluntarily with suspension order, the Control Authority shall take such steps as deemed necessary including immediately severance of the Sewer connection, to prevent or minimize damage to the Sewer System or endangerment to any individuals.

The Control Authority shall reinstate the Wastewater Contribution Permit and/or the Wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the Industrial User describing the causes of the harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the Control Authority within five (5) days of the date of the occurrence.

(2) Enforcement Response Guide

For violations not requiring the Control Authority to invoke its emergency authority, certain guidelines shall be developed by the Control Authority and used to determine the appropriate enforcement action to be taken. In instances of continuing violations, enforcement actions, increasing in severity, shall be used until compliance is attained. These guidelines shall be made available for inspection upon request and may contain the following enforcement actions:

(a) Notice of Violation

Whenever the Control Authority finds that any Industrial User has violated or is violating this Resolution, a Wastewater Contribution Permit or order issued hereunder or any prohibition, limitation of requirements contained herein, the Control Authority may serve upon said Industrial User a written notice stating the nature of the violation(s). Within ten (10) days of the date

of the receipt, a plan for the satisfactory correction and prevention thereof shall be submitted to the Control Authority by the Industrial User. Submission of this plan in no way relieves the Industrial User of liability for any violation occurring before or after receipt of the Notice of Violation.

(b) Consent Orders

The Control Authority is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or similar documents establishing an agreement with the Industrial User responsible for the noncompliance. Such orders will include specific action to be taken by the Industrial User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as compliance orders issued pursuant to Section 7.1.2(d) below.

(c) Show Cause Hearing

The Control Authority may order any Industrial User which causes or contributes to violation of this Resolution or a Wastewater Contribution Permit or orders issued hereunder, to show cause why a proposed enforcement action should not be taken. A notice shall be served on the Industrial User specifying the time and place of a hearing to be held by the Control Authority regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the Industrial User to show cause before the Control Authority why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Such notice may be served on any principal executive officer, general partner, corporate officer, or duly authorized agent thereof. Whether or not a duly notified Industrial User appears as noticed, immediate enforcement action may be pursued.

(i) The Control Authority may itself conduct the hearing and take the evidence, or may designate any of its members or any officer, employee, or agent of the City to:

- (a) Issue in the name of the Control Authority notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (b) Take the evidence;
- (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Control Authority for action thereon.

(ii) At any hearing held pursuant to this Resolution, testimony taken must be under oath and recorded stenographically. The transcript, so

recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

- (iii) After the Control Authority has reviewed the evidence, it may issue an order to the Industrial User responsible for the discharge directing that, following a specified time period, the Sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed on existing treatment facilities, or that existing devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(d) **Compliance Order**

When the Control Authority finds that a Industrial User has violated or continues to violate this Resolution or a Wastewater Contribution Permit or orders issued thereunder, an order may be issued to the Industrial User responsible for the discharge directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) **Injunctive Relief**

Whenever an Person has violated or continues to violate the provisions of this Resolution or a Wastewater Contribution Permit or orders issued hereunder, the Control Authority, through the Solicitor, may petition the Court for issuance of preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of that Person. Civil Proceedings

If any User violates the provisions of this Resolution, any Wastewater Contribution Permit, any Order issued to that User by the Control Authority, or any other applicable State or National law, regulation or rule, the Control Authority Solicitor may commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas of Lackawanna County.

(g) **Criminal Proceedings**

Any Person who willfully or negligently violates any provision of this Resolution, a Wastewater Contribution Permit, or orders thereunder, or who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Resolution, or Wastewater Contribution Permit, or who falsifies, tampers with, or

knowingly renders inaccurate any monitoring device or method required under this Resolution, the Control Authority Solicitor may request the District Attorney of Lackawanna County to commence appropriate legal action.

(h) **Revocation of Permit**

Any Industrial User who violates the following conditions of this Resolution, a Wastewater Contribution Permit, orders thereunder, or applicable State and Federal regulations, is subject to having its permit revoked:

- (i) Failure of a Industrial User to factually report the Wastewater constituents and characteristics of his discharge.
- (ii) Failure of the Industrial User to report significant changes in operations, or Wastewater constituents and characteristics.
- (iii) Refusal of reasonable access to the Industrial User's premises for the purpose of inspection or monitoring; or
- (iv) Violation of conditions of the permit.
- (v) Non-payment of charges and/or fees stated in Section 5 and Section 8 of this Resolution.

If a permit is revoked, the Control Authority may take steps it deems advisable, including severance of the Sewer connection, to promote compliance with this Resolution.

SECTION 8 - PENALTIES - COSTS

8.1 Civil Penalties

Any User who is found to have violated an Order of the Control Authority or fails to comply with any provision of this Resolution, or any orders, rules, regulations and permits issued hereunder, shall be fined not more than \$10,000 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Control Authority may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the Person found to have violated this Resolution or the orders, rules, regulations, and permits issued hereunder.

8.2 Criminal Penalties

Any individual who knowingly, willfully, or intentionally makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Resolution, or Wastewater Contribution Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method

required under this Resolution, shall, upon conviction, be punished by a fine of not less than \$1,000 or more than \$100,000 and/or by imprisonment for not more than one year.

8.3 Recovery of Costs Incurred

In addition to Civil and Criminal Penalties, the Industrial User violating any of the provisions of this Resolution or the Industrial User's Wastewater Contribution Permit that causes damage to or otherwise inhibits the Control Authority's Sewer System and/or Sewage Treatment Plant, shall be liable to the Control Authority for any expenses, loss, or damage caused by such violation or discharge. The Control Authority shall bill the Industrial User for costs incurred by the Control Authority for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a separate violation of this Resolution and subject the Industrial User to Revocation of Permit as specified in Section 7.1, 2(i) of this Resolution.

8.4 Enhanced Penalty Authority

In addition to the remedies stated in Section 7 of this Resolution, and, Penalties as specified in this Section, Act 90, House Bill No. 795, enacted March 17, 1992, is incorporated herein by reference, in order to enhance the ability to enforce industrial pretreatment standards against industrial users of POTW's.

SECTION 9 - SEVERABILITY

If any provision, paragraph, word, section or article of this Resolution is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapter shall not be affected and shall continue in full force and effect.

SECTION 10 - CITY OF SCRANTON - SCRANTON SEWER AUTHORITY INTERRELATIONSHIP

The Relationship between the City of Scranton and the Sewer Authority is governed by the provision of the 1968 Trust Indenture & Lease and the Operating Agreement of 1990 & other applicable ordinances.

SECTION 11 - CONFLICT AND HEADINGS

All other resolutions and parts of other resolutions inconsistent or conflicting with any part of this Resolution are hereby repealed to the extent of such inconsistency or conflict.

The headings in this Resolution are solely for convenience and shall have no effect in the legal interpretation of any provision hereof.

SECTION 12 - EFFECTIVE DATE

The Control Authority reserves the right to make changes from time to time as, in its opinion, may be desirable or beneficial and to amend this Resolution in such manner and at such times as, in its opinion, may be advisable. This Resolution becomes effective immediately upon approval by the Scranton Sewer Authority.

Sewer Authority of the City of Scranton

Schedule 1 of 2008
Local Limits for Industrial Users

Pollutants of Concern	Total Maximum Allowable Daily Industrial Load	Maximum Daily
	lbs/day	mg/L
<i>Conventional</i>		
Biochemical Oxygen Demand	20,500	---
Ammonia Nitrogen	1,350	---
Fats, Oil, and Grease (Total)	---	1,500
Total Petroleum Hydrocarbons	---	100
pH	---	6.0 - 10.0 s.u.
<i>Inorganics</i>		
Arsenic, Total	0.8	---
Cadmium, Total	0.1	---
Chromium, Total	22.6	---
Chromium, Hexavalent	1.6	---
Copper, Total	1.3	---
Cyanide, Total	3.2	---
Lead, Total	2.7	---
Mercury, Total	0.08	---
Nickel, Total	13.1	---
Silver, Total	2.2	---
Zinc, Total	4.0	---
<i>Organics</i>		
Toluene	---	2.1

Sewer Authority of the City of Scranton

Schedule 2 of 2008
Site Specific Criteria for Determination of
Middle Tier Categorical Industrial Users

Definition Part	Criteria	
1a	2,000 gpd	
1b	4.455 lb/day	
1c		
	Pollutant	Discharge, lb/day
	BOD	2.05
	Ammonia Nitrogen	0.135
	Arsenic, Total	0.000080
	Cadmium, Total	0.000010
	Chromium, Total	0.002280
	Chromium, Hexavalent	0.000160
	Copper	0.000130
	Cyanide, Total	0.000320
	Lead, Total	0.000270
	Mercury, Total	0.000008
	Nickel, Total	0.001310
	Silver, Total	0.000220
	Zinc, Total	0.000400

ENFORCEMENT RESPONSE GUIDE

INTRODUCTION

The following guide has been developed and adopted by the Sewer Authority of the City of Scranton under authority granted in the Industrial Pretreatment Ordinance, File of Council Number 8-1992. This Guide is a matrix which describes violations and indicates the range of appropriate enforcements options.

The Enforcement Response Guide serves two main functions:

- Defines the range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors
- Promotes consistent and timely use of enforcement remedies

This Guide designates alternative enforcement options for each type (or pattern) of noncompliance. Several factors will be considered when selecting a response for a particular violation. They are:

- Good faith of the user
- Compliance history of the user
- Violation's effect on the receiving stream
- Violation's effect on the POTW

I. INVESTIGATION AND RESPONSE TO NONCOMPLIANCE

The Scranton Sewer Authority has developed procedures which ensure that all compliance data, whether generated by the self-monitoring reports or by Authority field personnel, are screened in a timely- fashion to identify violations. The pretreatment inspectors are to identify, in conjunction with the pretreatment coordinator, all violations, including nondischarge violations.

Initially, the procedure calls for the tracking of when reporting requirements are due and what enforcement action will be taken for late reports. Secondly, all analytical data is screened by comparing it to categorical limits, local limits, or additional prohibited discharge standards, whichever may apply. All violations are identified and recorded. The inspector then alerts the pretreatment coordinator of the noncompliance and appropriate enforcement actions are initiated.

II. DESCRIPTION OF TERMS

The terms and abbreviations used in the Enforcement Response Guide are defined below. Additional information can be found in Appendix I of this document defining the enforcement responses.

AO	Administrative Order (For the purposes of this Guide, Administrative Orders shall consist of Consent Orders or Compliance Orders as defined in Appendix I of this document)
CAS	Control Authority Solicitor
ED	Executive Director
IU	Industrial User
NOV	Notice of Violation
PC	Pretreatment Coordinator
POTW	Publicly Owned Treatment Works
SNC	Significant Noncompliance

III. ENFORCEMENT RESPONSE GUIDE

UNAUTHORIZED DISCHARGE (No permit)

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
1. Unpermitted discharge	IU unaware of requirement; no harm to POTW/receiving stream	Phone Call; NOV with application form	PC
	IU unaware of requirement; harm to POTW	- AO - Civil Action	PC & ED CAS
	Failure to apply continues after notice by the POTW	- Civil Action - Criminal Action - Terminate service	CAS CAS CAS
2. Nonpermitted discharge (failure to renew)	IU has not submitted application within 10 days of due date	Phone Call; NOV	PC

DISCHARGE LIMIT VIOLATIONS

1. Exceedance of Local Limit or Federal Std. (permit limit)	Isolated; not significant	Phone Call; NOV	PC
	Isolated; significant (no harm)	AO	PC & ED
	Isolated; harm to POTW and/or environment	-Show Cause Hearing -Civil Action	CAS CAS
	Recurring; no harm to POTW or environment	AO	PC & ED
	Recurring; significant	-AO -Show Cause Hearing -Civil Action -Terminate Service	PC & ED CAS CAS ED & CAS

MONITORING AND REPORTING VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>
1. Reporting violation	Report is improperly signed or certified	Phone Call or NOV	PC
	Report is improperly signed or certified after notice	- AO - Show Cause Hearing	PC & ED CAS
	Failure to submit chain of custody forms with monitoring report; isolated	Phone Call or NOV	PC
	Failure to submit chain of custody forms with monitoring report; recurring	AO	PC & ED
	Isolated; not significant (not more than 10 days late)	Phone Call or NOV	PC
	Significant (report 30 days or more late)	AO	PC & ED
	Reports are always late or no reports at all	- AO - Show Cause Hearing - Civil Action	PC & ED CAS CAS
	Failure to report spill or changed discharge (no harm)	NOV	PC
	Failure to report spill or changed discharge (results in harm to POTW or environment)	- AO - Civil Action	PC & ED CAS
	Repeated failure to report spills	- Show Cause Hearing - Terminate Service	CAS ED & CAS
2. Failure to monitor correctly	Falsification	- Criminal Action - Terminate Service	CAS ED & CAS
	Failure to monitor all pollutants as required by permit	- NOV - AO	PC PC & ED
	Recurring failure to monitor	- AO - Civil Action	PC & ED CAS
3. Improper sampling	Evidence of intent	- Criminal Action - Terminate Service	CAS ED & CAS

MONITORING AND REPORTING VIOLATION (Continued)

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
4. Failure to install monitoring equipment	Delay of less than 30 days	NOV	PC
	Delay of 30 days or more	AO	PC & ED
	Recurring; violation of AO	- Civil Action - Criminal Action - Terminate Service	CAS CAS ED & CAS
5. Compliance Schedules (in permit)	Missed milestone by less than 30 days or will not affect final milestone	NOV	PC
	Missed milestone by more than 30 days or will affect final milestone (good cause for delay)	AO	PC & ED
	Missed milestone by more than 30 days or will affect final milestone (no good cause for delay)	- Show Cause Hearing - Civil Action - Terminate Service	CAS CAS ED & CAS
	Recurring violation or violation of compliance schedule in AO	- Civil Action - Criminal Action - Terminate Service	CAS CAS ED & CAS

OTHER PERMIT VIOLATIONS

1. Wastestreams are diluted in lieu of treatment	Initial violation	AO	PC & ED
	Recurring	- Show Cause Hearing - Terminate Service	CAS ED & CAS
2. Failure to mitigate noncompliance or halt production	Does not result in harm	NOV	PC
	Does result in harm	- AO - Civil Action	PC & ED CAS
3. Failure to properly operate and maintain pretreatment equipment or facility	Does not result in harm	NOV	PC
	Does result in harm	- AO - Civil Action	PC & ED CAS

VIOLATIONS DETECTED DURING SITE INSPECTIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>PERSONNEL</u>
1. Entry Denial	Entry denied or consent withdrawn; Copies of records denied	Obtain warrant and return to IU	PC & CAS
2. Illegal Discharge	No harm to POTW or environment	AO	PC & ED
	Causes harm or evidence of intent/negligence	- Civil Action - Criminal Action	CAS CAS
	Recurring; violation of AO	Terminate Service	ED & CAS
3. Improper Sampling	Unintentional sampling at incorrect location	NOV	PC
	Unintentionally using incorrect sample type	NOV	PC
	Unintentionally using incorrect sampling techniques	NOV	PC
4. Inadequate recordkeeping	Files incomplete or missing (no evidence of intent)	NOV	PC
	Recurring	AO	PC & ED
5. Failure to report additional monitoring	Inspection finds additional files	NOV	PC
	Recurring	AO	PC & ED

BEST MANAGEMENT PRACTICE VIOLATIONS

1. Reporting incorrect information regarding BMP compliance.	Files incomplete or missing (no evidence of intent)	NOV	PC
	Recurring	AO	PC & ED
	Falsification	- Criminal Action - Terminate Service	CAS ED & CAS
2. Failure to report on compliance with BMP's	Files incomplete or missing (no evidence of intent)	NOV	PC
	Recurring	AO	PC & ED
3. Failure to develop plan for implementing BMPs.	Delay of less than 30 days	NOV	PC

4. Failure to implement BMPs	Delay of 30 days or more	AO	PC & ED
		- Civil Action - Criminal Action - Terminate Service	CAS CAS ED & CAS
	Recurring violation of AO		
	Missed milestone by less than 30 days or will not affect final milestone	NOV	PC
	Missed milestone by more than 30 days or will affect final milestone (good cause for delay)	AO	PC & ED
	Missed milestone by more than 30 days or will affect final milestone (no good cause for delay)	- Show Cause Hearing - Civil Action - Terminate Service	CAS CAS ED & CAS
	Recurring violation or violation of compliance schedule in AO	- Civil Action - Criminal Action - Terminate Service	CAS CAS ED & CAS

TIMEFRAME FOR RESPONSES

- A. All violations will be identified and documented within 15 days of receiving compliance information.
- B. Initial enforcement responses [involving contact with the industrial user and requesting information on corrective or preventative action(s)] will occur within 90 days of violation detection.
- C. Follow up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- D. Violations which threaten the health, property, or safety of the public or Authority personnel, or the environmental quality, are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.

APPENDIX I

ENFORCEMENT RESPONSE CRITERIA

(Taken from the Industrial Pretreatment Resolution, No. XXX)

SECTION 7 - ENFORCEMENT

When making determinations regarding the level of the enforcement, the Control Authority will consider the severity of the violation, degree of variance from the Pretreatment standards or Local Limits, the duration of the violation, and the fairness, equity, consistency, and integrity of the Pretreatment program.

7.1 Enforcement Response Criteria

(1) Emergency Authority to Suspend or Terminate Service

- (a) The Control Authority may suspend the Wastewater treatment service and/or the Wastewater Contribution Permit of any Industrial User, when such suspension is necessary, in the opinion of the Control Authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes Interference to the Sewer System or causes the Control Authority to violate any condition of the POTW NPDES Permit.
- (b) Any Person notified of a suspension of the Wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the discharge. In the event of a failure of the Person to comply voluntarily with suspension order, the Control Authority shall take such steps as deemed necessary including immediately severance of the Sewer connection, to prevent or minimize damage to the Sewer System or endangerment to any individuals.

The Control Authority shall reinstate the Wastewater Contribution Permit and/or the Wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the Industrial User describing the causes of the harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the Control Authority within five (5) days of the date of the occurrence.

(2) Enforcement Response Guide

For violations not requiring the Control Authority to invoke its emergency authority, certain guidelines shall be developed by the Control Authority and used to determine the appropriate enforcement action to be taken. In instances of continuing violations, enforcement actions, increasing in severity, shall be used until compliance is attained. These guidelines shall be made available for inspection upon request and may contain the following enforcement actions:

(a) Notice of Violation

Whenever the Control Authority finds that any Industrial User has violated or is violating this Resolution, a Wastewater Contribution Permit or order issued hereunder or any prohibition, limitation of requirements contained herein, the Control Authority may serve upon said Industrial User a written notice stating the nature of the violation(s). Within ten (10) days of the date

of the receipt, a plan for the satisfactory correction and prevention thereof shall be submitted to the Control Authority by the Industrial User. Submission of this plan in no way relieves the Industrial User of liability for any violation occurring before or after receipt of the Notice of Violation.

(b) Consent Orders

The Control Authority is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or similar documents establishing an agreement with the Industrial User responsible for the noncompliance. Such orders will include specific action to be taken by the Industrial User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as compliance orders issued pursuant to Section 7.1.2(d) below.

(c) Show Cause Hearing

The Control Authority may order any Industrial User which causes or contributes to violation of this Resolution or a Wastewater Contribution Permit or orders issued hereunder, to show cause why a proposed enforcement action should not be taken. A notice shall be served on the Industrial User specifying the time and place of a hearing to be held by the Control Authority regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the Industrial User to show cause before the Control Authority why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Such notice may be served on any principal executive officer, general partner, corporate officer, or duly authorized agent thereof. Whether or not a duly notified Industrial User appears as noticed, immediate enforcement action may be pursued.

(i) The Control Authority may itself conduct the hearing and take the evidence, or may designate any of its members or any officer, employee, or agent of the City to:

- (a) Issue in the name of the Control Authority notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (b) Take the evidence;
- (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Control Authority for action thereon.

(ii) At any hearing held pursuant to this Resolution, testimony taken must be under oath and recorded stenographically. The transcript, so

recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

- (iii) After the Control Authority has reviewed the evidence, it may issue an order to the Industrial User responsible for the discharge directing that, following a specified time period, the Sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed on existing treatment facilities, or that existing devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(d) **Compliance Order**

When the Control Authority finds that a Industrial User has violated or continues to violate this Resolution or a Wastewater Contribution Permit or orders issued thereunder, an order may be issued to the Industrial User responsible for the discharge directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) **Injunctive Relief**

Whenever an Person has violated or continues to violate the provisions of this Resolution or a Wastewater Contribution Permit or orders issued hereunder, the Control Authority, through the Solicitor, may petition the Court for issuance of preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of that Person. Civil Proceedings

If any User violates the provisions of this Resolution, any Wastewater Contribution Permit, any Order issued to that User by the Control Authority, or any other applicable State or National law, regulation or rule, the Control Authority Solicitor may commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas of Lackawanna County.

(g) **Criminal Proceedings**

Any Person who willfully or negligently violates any provision of this Resolution, a Wastewater Contribution Permit, or orders thereunder, or who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Resolution, or Wastewater Contribution Permit, or who falsifies, tampers with, or

knowingly renders inaccurate any monitoring device or method required under this Resolution, the Control Authority Solicitor may request the District Attorney of Lackawanna County to commence appropriate legal action.

(h) **Revocation of Permit**

Any Industrial User who violates the following conditions of this Resolution, a Wastewater Contribution Permit, orders thereunder, or applicable State and Federal regulations, is subject to having its permit revoked:

- (i) Failure of a Industrial User to factually report the Wastewater constituents and characteristics of his discharge.
- (ii) Failure of the Industrial User to report significant changes in operations, or Wastewater constituents and characteristics.
- (iii) Refusal of reasonable access to the Industrial User's premises for the purpose of inspection or monitoring; or
- (iv) Violation of conditions of the permit.
- (v) Non-payment of charges and/or fees stated in Section 5 and Section 8 of this Resolution.

If a permit is revoked, the Control Authority may take steps it deems advisable, including severance of the Sewer connection, to promote compliance with this Resolution.

SECTION 8 - PENALTIES - COSTS

8.1 Civil Penalties

Any User who is found to have violated an Order of the Control Authority or fails to comply with any provision of this Resolution, or any orders, rules, regulations and permits issued hereunder, shall be fined not more than \$10,000 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Control Authority may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the Person found to have violated this Resolution or the orders, rules, regulations, and permits issued hereunder.

8.2 Criminal Penalties

Any individual who knowingly, willfully, or intentionally makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Resolution, or Wastewater Contribution Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method

required under this Resolution, shall, upon conviction, be punished by a fine of not less than \$1,000 or more than \$100,000 and/or by imprisonment for not more than one year.

8.3 Recovery of Costs Incurred

In addition to Civil and Criminal Penalties, the Industrial User violating any of the provisions of this Resolution or the Industrial User's Wastewater Contribution Permit that causes damage to or otherwise inhibits the Control Authority's Sewer System and/or Sewage Treatment Plant, shall be liable to the Control Authority for any expenses, loss, or damage caused by such violation or discharge. The Control Authority shall bill the Industrial User for costs incurred by the Control Authority for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a separate violation of this Resolution and subject the Industrial User to Revocation of Permit as specified in Section 7.1, 2(i) of this Resolution.

8.4 Enhanced Penalty Authority

In addition to the remedies stated in Section 7 of this Resolution, and, Penalties as specified in this Section, Act 90, House Bill No. 795, enacted March 17, 1992, is incorporated herein by reference, in order to enhance the ability to enforce industrial pretreatment standards against industrial users of POTW's.

—

APPENDIX II

DEFINITION OF NONCOMPLIANCE

Definition of Noncompliance

(1) Definition of Noncompliance

Any violation of Pretreatment requirements (including, but not limited to, limits, sampling, analysis, best management practices, reporting and meeting compliance schedules, and regulatory deadlines) is an instance of noncompliance for which the Industrial User is liable for enforcement, including penalties. Instances of SNC are Industrial User noncompliance which meet one or more of the following criteria:

- (a) Violations of Wastewater discharge limits.
 - (i) Chronic violation - Sixty-six (66) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits;
 - (ii) Technical Review Criteria (TRC) violations - Thirty-three (33) percent or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, multiplied by the applicable TRC (TRC – 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
 - (iii) Any other violation(s) of a Pretreatment Standard of Requirement as defined in Section 2.1 (daily maximum, long-term average, instantaneous limits, or narrative standard) that the Control Authority believes has caused, alone or in combination with, other discharges, Interference or Pass-Through, or endangered the health of treatment plant personnel or the public.
 - (iv) Any discharge of a Pollutant that has caused imminent endangerment to human health or welfare, or to the environment and has resulted: in the Control Authority exercising its emergency authority to halt or prevent such a discharge.
- (b) Violations of Compliance Schedule Milestones, contained in the permit or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the scheduled date.
- (c) Failure to provide reports for compliance schedules, self-monitoring data, or National Categorical Pretreatment Standard standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within thirty (30) days from the due date.
- (d) Failure to accurately report noncompliance.

- (e) Any other violation or group of violations, which may include a violation of Best Management Practices, that the Control Authority considers to be significant.
- (2) An Industrial User in Significant Noncompliance, is a Significant Violator. For all Significant Violators during any calendar year, the Control Authority shall:
 - (a) Report this information to the Approval Authority as part of the Pretreatment Performance Summary of Industrial User noncompliance.
 - (b) Annually publish in a newspaper of general circulation within the municipalities served by the Sewage Collection System that provides meaningful public notice a list of all Significant Violators, the nature of the violation(s) leading to a finding of Significant Noncompliance, and a summary of actions taken to resolve the Significant Noncompliance.
 - (c) Address the SNC through appropriate enforcement action or, document the reasons for withholding enforcement.

EXHIBIT C

MOOSIC RESIDENTS

GREENWOOD AVE (MOOSIC)

3303 Connolly, Robert
3304 Karwaski, Walter
3305 Martz, Edward
3306 Castaldi, Robert
3308 Stalica, JB
3309 Polinski Henry
3313 Muhl Denise
3316 Olsofsky Michael
3317 Poplowski Joseph
3320 Tempaugh John
3321 Dehaba Stephen
3324 Moore Sl.
3325 Kkareka joseph
3327 Klepadlo E.
3328 Kryeski Anthony
3329 Chamogurry George
3330 DeFazio, Jeffery
 Woody Elizabeth
3333 Harris S.
 Urban Lisa
3334 Soep John
3335 Oldfield Albert
 St. Marys Church

COREY STREET

710 Pisauro Frank
712 Karbowski Arthur

MAY STREET

Young Kevin
Kasuba Thomas
Jones William

MOOSIC BUSINESS

COREY STREET

711 Pipefitters Bldg
801 Compression Polymers
Vycom
Mac Tac

SCRANTON RESIDENTS

GREENWOOD AVENUE

Sandrowicz Leo
Oboyle James
Thomas Raymond
Smith Floyd
Gajkowski M.
Kelly Maureen
Nidoh William
Kowalchik Robert
Guzior Stephen
Maros Stanley
Polinski Stanley
Stahurski Joseph
Smith William
Mecca Kevin
Colin J F
Klos Michael
Gruszevski Edward
Molenda John
Conway Ronald
Prislupski Ron
Borovitz H.D.
* Laskowski Vincent
Moroski, Mark
Piazza Judy
McLane William
Urban John
Potosky Peter

DAVIS STREET (SCRANTON)

700 Bauer Charles
Marsico
Chairo Anthony
Donavan Joseph
McDonnell Jim
Donavan Robert
McDonnell John

SCRANTON BUSINESS

DAVIS STREET

*800 McKinney

EXHIBIT D



www.scrantonssewer.org

Phone: 570-348-5330

Scranton Sewer Authority

P.O. Box 1068, Scranton, PA 18501

Fax: 570-348-5359

June, 2007

Dear Scranton Sewer Authority Customer,

Due to governmental mandates and increased operating costs, the Scranton Sewer Authority must raise its sewer billing rates. The new rates will go into effect in July 2007. Included below for your information are the new billing rates. Thank you for your understanding and continued support of the Scranton Sewer Authority.

BILLING CLASSIFICATIONS:	CURRENT RATES	NEW RATES
Residential – Bimonthly		
Minimum – Bimonthly	\$21.84	\$34.20
Consumption (per 1,000 gallons)	\$3.64	\$5.70
Commercial – Monthly		
Minimum – per month	\$10.92	\$17.10
Consumption Based:		
First 25,000 gallons (per 1,000 gallons)	\$3.64	\$5.70
Next 225,000 gallons (per 1,000 gallons)	\$3.53	\$5.50
Next 2,250,000 gallons (per 1,000 gallons)	\$3.36	\$5.30
Over 2,500,000 gallons (per 1,000 gallons)	\$2.49	\$5.30
Permit Holding Industrial Users Only		
Strength of Waste Surcharge:		
BOD > 330	\$0.0029	\$0.0045
SS > 250	\$0.0018	\$0.0028
NH > 23	\$0.0040	\$0.0063

EXHIBIT E

COLLECTION POLICY FOR INDUSTRIAL AND
COMMERCIAL USERS LOCATED IN THE BOROUGH
OF MOOSIC

1. Upon Notice from the Scranton Sewer Authority of any sewer delinquency of any Non Residential Commercial or Industrial Users located in the Borough of Moosic and serviced by the Scranton Sewer Authority, the Borough will file a Municipal Lien and forward to the User an Act 12 Notice.
2. If payment or arrangements are not made by the User after filing a Lien and sending an Act 12 Notice then the Borough shall file appropriate legal documents to reduce the Lien to a judgment within 45 days of sending the Act 12 Notice.
3. Upon obtaining a judgment the Borough shall request in writing from the Scranton Sewer Authority, who will respond in writing, whether the Scranton Sewer Authority wishes the Borough to enforce said judgment.
4. Upon Notice by the Scranton Sewer Authority of its desire to enforce judgment the Borough will use all appropriate legal means to collect on said judgment.
5. Upon receipt of any delinquent sewer fees the Borough will remit all delinquencies plus interest and penalties collected within 14 days of receipt to the Scranton Sewer Authority. The Borough will

retain any costs and attorney fees if such are collected from the User.

6. The Scranton Sewer Authority authorizes the Borough to act as Agent for the collection of any delinquent sewer users' fees.

7. The Borough agrees to indemnify and hold Scranton Sewer

Authority harmless for any act or failure to act by the Borough in the collection of delinquent sewer users' fees.

8. That the Scranton Sewer Authority agrees to indemnify and hold the Borough of Moosic harmless for any liability incurred by the Borough as a result of incorrect financial information being submitted by the Scranton Sewer Authority to the Borough of Moosic..

9. The parties agree that the Borough shall not be responsible to pursue any collections, other than filing a Municipal Lien, if it reasonably appears, after diligent investigation and proof of said investigation being provided to the Scranton Sewer Authority that there are no funds or assets to satisfy said debt.

10. The Borough agrees to comply with any and all laws and regulations applied to the collections of debts.

11. The Scranton Sewer Authority shall have sole responsibility to compromise any delinquency, penalty or interest and the Borough shall have no authority to compromise except upon written direction

from the Scranton Sewer Authority.

12. This collection procedure applies only to the Non Residential Commercial and Industrial Users covered by this Agreement.

13. The Scranton Sewer Authority agrees to reasonably cooperate with the Borough in the collection of any Sewer Users' Fees including and providing any and all documentation needed and if necessary providing personnel to testify.

CERTIFICATE OF SERVICE

Agreement Between The Sewer Authority of the City of Scranton, Moosic Borough, Pennsylvania, the Lackawanna River Basin Sewer Authority, and the Lower Lackawanna Valley Sanitary Authority, dated April 16, 2008, for the Conveyance, and Acceptance of the Davis Street, Greenwood Avenue, and Corey Street Sewerline from Moosic Borough to the Sewer Authority of the City of Scranton, (and related Assignment and Assumption Agreement By and Among The Sewer Authority of the City of Scranton, Moosic Borough, the Lackawanna River Basin Sewer Authority, the Lower Lackawanna Valley Sanitary Authority, Pennsylvania-American Water Company, dated November 9, 2016); Compliance Filing Under 66 Pa. C.S. § 507

Docket No. U-2016-_____

I hereby certify that I have this day served a true copy of the filing of the above-referenced agreements, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA FIRST CLASS MAIL:

Allison C. Kaster, Esquire
Gina L. Miller, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265

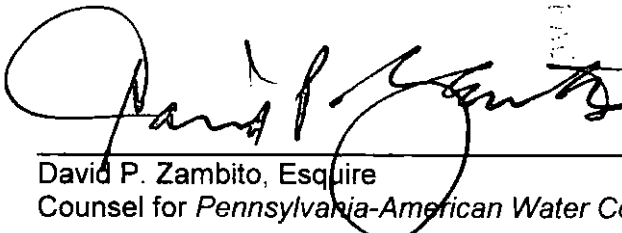
Christine Maloni Hoover, Esquire
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Harrisburg, PA 17101-1923

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Alan Michael Seltzer, Esquire
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Harrisburg, PA 17101

R. Timothy Weston, Esquire
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DATED: December 22, 2016



David P. Zambito, Esquire
Counsel for Pennsylvania-American Water Company

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