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How Can Small Systems Prepare for Emergency Situations? Think Safety!

By: Lisa Bailey-Technical Analyst
PSC Engineering Division

It has been said that people are creatures of habit. Have you ever driven to work and wondered how you got there? Many people have jobs that require very routine tasks to be completed every day. Over time, these tasks seem to occur without even thinking about them. These very same routine tasks are the ones that end up resulting in a shortcut being taken and an unsafe act being committed. Accidents and Near-Miss Incidents occur every day and many people wonder, “Why didn’t someone think about the consequences before committing the unsafe act?” Sometimes you wonder if common sense went out the window. The fact is that for whatever the reason may be, people take chances with their health or life when they work. Although you may not be able to control others’ actions, you can control your own, and you may be able to increase other workers’ awareness of dangers, how to avoid them, and how to respond in an emergency situation.

There are three basic steps to help reduce incidents and prepare for an emergency:

Training
Are you conducting a daily safety meeting? Talk every day about hazards associated with the specific jobs you’ll be doing that day and how to avoid them. Since a lot of work involves the completion of repetitive, routine tasks, it’s a good idea to have a third party review the task and look for any hazards that may be present. A routine day at a water or sewer treatment facility comes with safety hazards, and the workers should know how to respond to each one. Discussing a simple safety task, such as wearing the proper type of gloves for a job, wearing proper eye protection, chemical spill procedures, clean work surfaces, tripping hazards, weather hazards, or proper housekeeping will be time well spent and may avoid an injury.

Planning
You may have done an action all of your life and escaped injury, but that doesn’t make it a safe action. How many people have used a knife in the kitchen or workshop without incident? Then, one day you lose your concentration or get in a hurry resulting in a minor, or possi-
bly a major injury. Take the time to think about every injury that can happen: a wrench slipping when loosening a bolt causing your knuckles to hit a protruding edge or opening a container of chemicals and some spilling out causing you to be splashed by a hazardous material. Form a plan to address each instance. Jobs that have the highest rate of serious injury for water and wastewater treatment system operators are those with the hazards of electrocution, falls from elevations, and trenching or excavation collapse. Small utilities often have situations that require personnel to work alone. Think through these job tasks and plan for emergency situations. What are the potentials for injury on these job tasks and how will that person communicate if they need help while working alone? Identifying the potential for injury and preventing its occurrence through proper planning and use of safety procedures and equipment is vitally important.

Practice

Having safety discussions and planning for safe work is necessary, but everyone needs to practice safety. Practicing includes performing the actual job tasks or walking through the job task, and rehearsing proper rescue procedures for a variety of situations. These activities help identify flaws in written plans that may have been invisible to the plan developers, but were glaring errors to the people following the plans. For example, imagine you are performing equipment checks and you see your co-worker lying on the ground next to a pump. You have no idea how long he has been there or what caused him to lose consciousness. Did he slip and hit his head? Did he have a heart attack? Was he electrocuted? What do you do? During your safety meeting perform a mock emergency for this situation and answer all of these questions by reviewing the proper rescue and emergency response techniques. Did you know that approximately one half of confined space fatalities occur when rescuers see a friend fall in an oxygen deficient atmosphere and they rush in to save them? It’s human nature, isn’t it? Assisting a friend in need takes a lot of practice in order to shift from a reflex action to one that is proper and safe. Utility operators enter confined space areas, such as manholes, on a routine basis so proper safety procedures including hole watch, gas testing, and proper protective equipment are important in preventing serious injury.

No written plan can cover every contingency; however, a combination of training, planning, and practice, along with some individual forethought, can go a long way in carrying out the most simple and routine tasks safely, in addition to learning how to properly respond to situations that call for rescue.

**TERMINATION NOTICES**

*Please make sure that the utility phone number is shown prominently on termination notices, in font of a similar size to the Public Service Commission’s phone number. During shut-off week, we refer numerous customers to the utility (and provide a phone number, because in some instances the utility number is incorrect). Please check your termination notice and make sure customers are able to quickly and easily identify the utility phone number. Our Consumer Affairs Technicians appreciate your effort.*
Water Quality Trading for Nutrient Management in WV

West Virginia has been addressing federal water quality requirements in the Potomac watershed related to the Chesapeake Bay for more than six years now, but has only recently begun addressing the issue through NPDES permits. The WV Potomac Water Quality Trading Program was initiated to help the state take advantage of the new requirements in a manner that will provide for future economic development while enhancing environmental benefits in the Potomac watershed that residents and businesses will enjoy for decades. This article describes some background information about what trading is and how it can help the state achieve environmental and economic goals. Future articles will keep readers informed of the trading program development and implementation progress, specific Potomac Trading Program issues, and detail how to take advantage of the program.

Background

West Virginia’s nutrient and sediment loads to the Potomac combine with loads flowing from other jurisdictions within the Bay watershed creating significant downstream water quality problems in the Chesapeake Bay. Under the Clean Water Act (CWA), West Virginia is mandated to protect the water quality of downstream states and is therefore required to address the water quality of the Potomac watershed - a tributary of the Chesapeake Bay. West Virginia signed on to the Chesapeake Bay Memorandum of Understanding in 2002 as a way to voluntarily begin to reduce our downstream nutrient and sediment loads, moving the state toward CWA compliance. Load reductions are needed and must be maintained by point sources and non-point sources. Currently, the State retains control over how CWA compliance will be achieved. If the state-selected actions fail to reduce pollutant loads leaving West Virginia, the EPA will issue a Bay-wide (West Virginia included) TMDL that will include implementation requirements for the states.

Water quality trading is one tool being developed by the state, under the direction of the EPA, to help dischargers meet water quality obligations in a manner that is economically and environmentally advantageous to the region and financially feasible for facilities. A principle goal of the WV Potomac Water Quality Trading Program (http://wvwri.nrcce.wvu.edu/programs/pwqb/index.cfm) is to establish a trading program that facilitates the greatest level of economic and environmental benefits for West Virginia in compliance with federal requirements.

Currently, a steering committee meets regularly to discuss the design of draft trading guidance for nutrient discharge management. This guidance document is anticipated to be available for public comment by fall 2008.

Questions about Water Quality Trading

What is water quality trading? According to the EPA, water quality trading is “an innovative approach to achieve water quality goals more efficiently. Trading is based on the fact that sources in a watershed can face very different costs to control the same pollutant. Trading programs allow facilities facing higher pollution control costs to meet their regulatory obligations by purchasing environmentally equivalent (or superior) pollution reductions from another source at lower cost, thus achieving the same water quality improvement at lower overall cost.”

The estimated capital cost to “clean up the Bay” was estimated to be $28 Billion with the West Virginia portion at about $900 million. The traditional approach to such cleanups has been to invest billions of public dollars into treatment facility upgrades and voluntary Farm Bill type nutrient management programs. In an era of competing social and environmental priorities, water quality trading can help improve the environmental value received for funds spent while generating important economic activity in the private sector as well.
Trading encourages innovation allowing public money to be spent more wisely. Rather than subsidizing a small number of federally defined pollution reduction efforts, trading allows innovators to compete for public funds by developing new practices at lower costs. Ideas and pilot projects that can inexpensively prevent pollution and eliminate waste streams are already cropping up throughout the Bay as companies gear up for the anticipated TMDL. Updating development and building ordinances, like those for managing urban stormwater, have the potential to lower development costs and stormwater facility maintenance costs for private companies and residents. Some privately developed technologies, like the Algal Turf Scrubber, have the potential even to turn waste streams into revenue streams.

In this way, public investments not only clean up the Bay at lower costs, but that money also invigorates the private sector, growing a labor force increasingly referred to as “green-collar” jobs. The clean-up costs become a stream of environmental and economic benefits.

Water quality trading can also generate an important stream of ancillary local environmental benefits, such as the air quality improvement, recreation and aesthetic benefits resulting from establishment of forested riparian buffers and wetlands, improved habitat, and source water protection. Because the entire Bay watershed must be addressed to protect the Bay, it benefits wildlife, water and land resources. This additionally provides financial benefits from smarter planning and management approaches and practices.

And lastly, a well designed trading program moves the regulatory paradigm from an adversarial command and control approach to a market- and performance-based approach that engages community members to assist one another in achieving economic and environmental goals. It rewards those who invest time, thought, and funds into managing their land and water responsibly. This encourages others to consider changing their practices as well.

What is the alternative to water quality trading? While some people would like to believe we can eternally ignore our waste streams and their environmental and economic impacts downstream, this is not realistic. Significant streams of pollutants are already leaving the state. If the region’s population and agricultural productivity continue to grow, using current technology and practices, the waste streams will also continue to grow. Nutrient-induced algal blooms that drain water bodies’ dissolved oxygen and block light, sedimentation, loss of water clarity, and other pollution related effects in the Chesapeake Bay, are estimated to cause damages totaling several million dollars and lost revenues annually to riparian states from damaged commercial fisheries, lost recreation, and impaired water supplies. With this scale of lost revenues, tributary states are facing either strict federally-defined controls, citizen lawsuits, or both. Trading can help West Virginia maintain control over how our private and state resources are spent.

Bay states have been investing large public subsidies into important clean-up efforts such as necessary wastewater treatment plant upgrades and support for agricultural best management practices. These are important investments, but they do not guarantee the largest reductions per dollar. Trading can be used to help ensure that such public funds are spent to improve water quality with greater efficiency and to target activities that also generate public benefits locally. If the program is designed properly, it can help ensure that public money does not crowd out private sector innovation or impede progress.

What is a nutrient load allowance or waste load allocation? The Chesapeake Bay Program has done extensive research to estimate and source pollutant loads flowing into the Bay. To restore the Bay, all contributing jurisdictions must reduce their load by differing amounts. Bay jurisdictions have developed Tributary Strategies and Implementation Plans to define how the states are to reduce and maintain load levels entering the Bay watershed. While the modeling and estimates are not perfect, they represent the best available data based on professional and academic monitoring and research.

West Virginia’s Tributary Strategy commits the state to reducing our sediment loads by 6 percent, phosphorous by 33 percent, and nitrogen by 35 percent. Annual reports to the Bay Program indicate that the state has already made significant strides toward reductions, but programs and plans (like trading) are needed to ensure that we meet our obligations for future growth and development.
**How could WV benefit from stricter federal requirements?** Generally speaking, many of our existing NPDES-regulated point sources will comply by making costly but fairly straightforward nutrient removal upgrades. Trading allows those existing facilities that face high costs for upgrading (usually older plants with shrinking service bases) and for new or expanding plants that will not receive a nutrient load allowance to generate or purchase nutrient credits to meet regulatory requirements. Both categories of permittees will be looking to “offset” any discharge in excess of their permitted annual load.

Under a trading program, these facilities can buy nutrient offset credits from local projects that generate real nutrient reductions and, often, many other ancillary local benefits at the same time. Money from West Virginia to solve a nutrient problem stays in West Virginia to solve local priorities, funding erosion and sediment control projects, stream stabilization and restoration projects, addressing leaking septic systems in sourcewater protection areas, and other important activities.

**In trading, can discharging facilities buy credits upstream? In other watersheds?** Yes! Under the proposed trading program, adjustments or “delivery” factors will be applied to the use of credits so that the discharge and corresponding offset have an equivalent effect in the impaired water body - the Bay. Nutrient hot spots (eutrophication) will continue to be evaluated and monitored. Other safety measures will be applied in certain areas, as appropriate.

Trading across watersheds is not as straightforward because of jurisdictional boundaries that do not match watershed boundaries. Currently, West Virginia only has plans to trade in the Potomac. Credits may be traded from the Opequon watershed to the Cacapon watershed, but all credits must be bought and sold in the West Virginia Potomac. Eventually, credits may be tradable across jurisdictions - such as between Maryland and West Virginia within the Potomac, and across larger watersheds within the Bay watershed - like between the Potomac and the James. Where localized nutrient hot spots or nutrient impairments (such as eutrophication) are anticipated, trading will not be allowed.

**Why are only point sources regulated? Is that fair?** Non-point sources such as farm and urban runoff generally have no single point of effluent discharge. Regulating these entities and the quality of their discharge is extremely time consuming, uncertain, and expensive. For these reasons, they are traditionally not addressed in federal regulations unless they are determined to be causing a localized water quality problem. Many surrounding states have formulated a minimum set of practices that non-point sources must implement rather than effluent standards. The trading program would not have the authority to develop mandatory management practices. The program is, however, interested in fairness and ensuring that trading rules do not undermine the state’s progress toward achieving commitments in all sectors.

The developing trading program proposes to handle these two issues by setting **baselines**. Baselines are the minimum standards that an entity must demonstrate before it can generate and sell credits in the trading program. These standards encourage implementation of best management practices in the non-point source sector. They also level the playing field so that those who have always been good land stewards are not disadvantaged by a trading program, and they ensure that progress is being invested in and accomplished by all sectors.***
As the country’s water infrastructure ages, we are facing a looming crisis in replacing and maintaining the systems that protect the quality of our drinking water and our streams. Deferred maintenance, crumbling systems, and a gap between revenues and long term costs are presenting an increasing challenge to the utilities and communities that provide safe and clean water. As a result, the EPA has been pursuing a Sustainable Water Infrastructure Initiative in attempts to raise the visibility of the challenge and to affect a change toward more sustainable practices.

What is this initiative and how will it be implemented? Basically, it is a basis of common management procedures to evaluate and manage improvements in all facets of utility operations. The EPA will strongly encourage that the principles and approaches listed below are adopted by those receiving funds for water, wastewater, or stormwater projects. Doing so will help your utility in the long term and reduce costs in the short term.

An Environmental Management System (EMS) is identifying, monitoring, and managing activities that have potential environmental impacts. Implementation can result in increased efficiency, reduced costs and greater operational consistency, improved ability to meet environmental compliance requirements, improved long term planning, and better relationships with regulators.

In order to facilitate the EMS, the EPA has developed a number of tools to help wastewater utilities and they can be found at www.peercenter.net. These tools include:

- EMS Handbook for Wastewater Utilities
- EMS Compendium for Wastewater Utility Managers
- Case studies

Asset management (AM) processes help utilities inventory the condition, age, service history, and useful life of each asset – and then prioritize assets based on criteria that include: remaining useful life, criticality of the asset; failure probability, cost; actual or potential risk to public health or environment, customer demands, and improved operations.

AMs collect data that document preventive maintenance schedules, data collection instructions, operational controls and work instruction, performance monitoring, quality control processes, necessary funding reserves for rehab/replacement, etc.

The five major steps of developing an asset management system are based on answering the following questions:

- What is the current state of my assets?
- What is my required level of service?
- Which assets are critical to sustained performance?
- What are my best O&M and capital improvement strategies?
- What is my best long term funding strategy?

The website for this is www.epa.gov/owm/assetmanage/index.htm

Full Cost Pricing is pricing that recovers the cost of building, operating, and maintaining a system (treatment and delivery).

The website for this is www.epa.gov/waterinfrastructure/pricing/index.htm

Also the Environmental Finance Center at Boise State, Idaho provides a free “Rate checkup” software at: http://sspa.boisestate.edu/efc/Tools_Services/RATECheck/ratecheck.htm

Water Efficiency – the EPA is promoting improving water use practices to increase efficiency, eliminate waste, and conserve water resources resulting in a decreased burden on the infrastructure. Promoting water efficiency in your community is important to long term sustainability. http://www.epa.gov/watersense.

There is no one “right way” to sustain, improve or implement efficiency methods of water conservation. It takes a bit of each of the above methods to reach the right mix for your system’s long term health.***
Pierpoint Water serves about 88 residential drinking water customers in Wyoming County. It appears the source water, that comes from a mine, is not under the direct influence of surface water, but testing has not been conducted. The system does not have a licensed drinking water operator and no legal authority to oversee water system operation and management. Several community volunteers operate the system, make repairs, bill customers, collect samples, and complete other administrative duties.

The West Virginia Department of Health and Human Resources recently issued Pierpoint Water an Administrative Order citing many violations and declaring it is out of compliance with the Safe Drinking Water Act.

Several agencies, including The West Virginia Bureau for Public Health (BPH), the West Virginia Rural Community Assistance Partnership (RCAP), the Public Service Commission of West Virginia (PSC), and the Region One Planning and Development Council (R1P&DC) representatives conducted two public meetings in Pierpoint to discuss options, such as:

- Becoming part of a neighboring water system
- Entering into an operation and maintenance agreement with a neighboring water system
- Purchasing water from another system
- Retaining and maintaining their own water system

Meeting attendees preferred continuing to use Pierpoint’s source water and operating Pierpoint’s water system. Considerable funds will be necessary to bring the system into compliance resulting in an increased monthly charge and the involvement of additional regulatory agencies. Many customers do not or are unable to pay a bill.

Additional activities discussed:
- Water system ownership and administrative contacts
- Raw water source classification
- Public hearing schedule
- Assistance options

After the December 16, 2007, meeting a governing board was selected to work with a neighboring water system to determine Pierpoint’s raw water source and gauge Pierpoint’s long-term options. The board maintains contact with the BPH via e-mails and telephone calls and has displayed a willing and cooperative attitude to providing safe drinking water for their customers and community. However, that is the governing board’s responsibility to consider all findings, present them to customers, and determine solutions. Short-term and long-term plans must be enacted immediately. The BPH’s Capacity Development Program (CDP) offers free technical, managerial, and financial guidance to public water systems in West Virginia, including:
- On-site visits and return visits
- Formal written Capacity Development Assessment Reports
- Two CAPDEV meetings yearly (or more often if needed)
- Many written handouts (Financial Guidance for Small Water Systems, etc)
- Telephone and e-mail correspondences
- Third party assistance references and networking capabilities

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If your water system can benefit from CDP assistance, please contact us. CDP staff includes:
- Richard Watson, Coordinator  304-558-6747
- Dan Parker    304-558-6748
- Jan Griffith    304-558-6762
- Tom Goehring    304-558-6741

Our mailing address is:
- West Virginia Department of Health and Human Resources
- Bureau for Public Health
- Office of Environmental Health Services
- Capitol and Washington Streets
- 1 Davis Square, Suite 200
- Charleston, West Virginia  25301-1798

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**CWNS 2008 Information for Community Stakeholders**

*By: Rosalie Brodersen, WVDEP*  
*CW SRF Program*

What is the Clean Watersheds Needs Survey (CWNS)?
The Clean Watersheds Needs Survey (CWNS) is a comprehensive assessment of the capital needs to meet the water quality goals contained in the Clean Water Act. Every four years, the states and EPA collect information about: publicly owned wastewater collection and treatment facilities; stormwater management projects; combined sewer overflow (CSO) control facilities; nonpoint source (NPS) pollution control projects; and decentralized wastewater management. This information is used by the EPA to develop a report to Congress and by state and local governments to support budgeting and planning efforts.

How can you help DEP accurately report needs?
Data collection for the CWNS 2008 is currently underway. States rely on a variety of resources, including community stakeholders, to gather the information to accurately report needs to EPA. Community stakeholders can include representatives of:
- Wastewater treatment plants
- Municipal stormwater programs
- Municipal health departments
- Planning authorities
- Service providers
- Watershed organizations

These community stakeholders can provide the DEP with valuable information about the needs and technical information for their facilities and projects. To submit the documentation, please contact Carrie Grimm of DEP at 304.926.0499, ext. 1605 or e-mail at cgrimm@wvdep.org.
Emergency Management Planning

Contributed by: Jennifer Schiefer, Safety & Loss Control Specialist, WV BRIM

For businesses today, the list of possible events that can disrupt daily operations from natural disasters to workplace violence is never ending. Having a plan in place for dealing with unexpected emergencies can help prevent the loss of life and control injury to people and damage to property. An emergency management plan is a coordinated response to such unexpected emergencies. Tailoring the plan to the organization is essential. There is no “one size fits all” plan.

Closely related is a business continuity plan which outlines a series of steps on how to continue business functions during an emergency. With a business continuity plan in place, personnel follow a logistical plan to recover and restore critical interrupted functions. The development process for either an emergency management plan or business continuity plan can be broken down into similar components.

The development of an emergency management plan has four main components: Establish a Planning Team

To get started, determine who is in charge of developing the emergency management plan. An effective way of increasing personnel input is to have representation on the planning team from all departments. The size of the planning team will depend on the organization's operations, requirements and resources.

Analyze Capabilities and Hazards

The next step for the planning team is to gather information about the organization’s current capabilities for handling emergencies and developing a list of possible emergency events. The team should review internal plans and policies to help determine the organization’s means to handle various emergency events. This information includes: employee manuals, fire protection plans, environmental policies and security procedures.

During this step, the team should also develop a list of critical operations. Developing this list will assist the team to determine the needed resources during an emergency. It is impossible to plan for an emergency event if the impact on the organization is unknown.

Once the team has determined the organization’s current capabilities, the focus turns to identifying potential emergency events. This would include all emergencies that could affect the organization’s facility and the community.

Develop the Plan

After determining current capabilities and potential emergencies, the team can use this information to develop the plan. The plan should include the following basic components: executive summary, emergency management objective, emergency response procedures and supporting documentation. The executive summary provides a brief overview of the plan including possible emergency events, policies and procedures, and the location where the response operations will be managed. The emergency management objective section should outline the organization’s approach to emergency management. Following the organization’s approach to emergency management, the next section of the plan should contain emergency response policies and procedures. Supporting documentation should be placed at the conclusion of the plan and include documents that could be needed in an emergency (i.e. emergency call lists, building and site maps).

Continued on Page 10
**Implement the Plan**

The implementation phase is the execution of the plan. But implementation is more than executing the plan during an emergency. This phase includes integrating the plan into the organization’s operations, training employees, drills, evaluation and maintenance of the plan. All personnel should know exactly what to do in the event of an emergency. Personnel input during the planning process, as well as open communication during implementation will help to increase the plan’s acceptance.

The West Virginia Board of Risk and Insurance Management offers guidance in implementing plans and procedures that can help to prevent the loss of life and control injury to people and damage to property should an emergency event occur at a workplace.

References:
Occupational Safety and Health Administration
www.osha.gov
Board of Risk and Insurance Management Sample Loss Control Manual
http://www.state.wv.us/brim/Loss/losscntl.htm

**MUNICIPAL SEWER CHARGES**

By: Geert Bakker, PSC

In the Assistance Group of the WWW Division, we have received numerous calls concerning municipal sewer charges. In the following, no one resides in the residence, which is the most frequent situation for calls we receive. This article is written because of the issues in the complaint case described below and the time it took to resolve.

On January 27, 2005, a citizen (Complainant) of the Town of Durbin (Town) filed a formal complaint against the Town of Durbin (Case No. 05-0087-S-C). The Complainant alleged that the Town had just begun billing for sewer service at her rental property that had not been rented for four years. The Town started enforcing an ordinance passed many years ago, particularly, because several properties in town were vacation homes and only occupied during the summer or during hunting season. The Town wanted to charge a sewer fee year round for all homes in town to recover the cost of maintaining the sewer collection and treatment facilities. The Town relied upon West Virginia Code §8-18-22.

On August 25, 2005, the Administrative Law Judge (Judge) issued her first Recommended Decision: “...The payment of a bill is purchasing the access to the sewer system, as well as treatment and disposal of any sewage flows produced, because the sewer system must maintain sufficient capacity to serve that property should it begin producing sewage flows in the future. However, because Ms. Nottingham’s property is physically connected to the Town’s sewer system, the Town can bill her according to its rates and charges without question and West Virginia Code §8-18-22 was inapplicable to her situation because her property is connected to the sewer system.”

Although dismissing the complaint, the Judge focused on the statutes that allow PSDs and Municipalities to bill residents for sewer service once service has been made available to this property:

“2. The pertinent provisions of West Virginia Code §16-13A-9 regarding public service districts and West Virginia Code §8-18-22 regarding municipalities apply to situations where a property owner has refused to connect to the utility’s sewer system. They are not applicable when a property is connected to the system, but is currently unoccupied.”
The Recommended Decision was appealed by Commission Staff and the Complainant took exceptions to the Recommended Decision as well. The Commission issued an Order on September 27, 2006, and ordered as follows:

“By this Order, the exceptions are denied in part and granted in part and the matter is remanded to the Administrative Law Judge (“ALJ”) to determine whether the property in question is uninhabitable and not connected to a source of water” … “It is reasonable to require all properties that must be connected to the sewer system, pursuant to West Virginia Code §8-18-22 to share in the costs incurred to maintain that sewer system, regardless of whether the entities utilize the sewer system. That said, the Commission finds that the facts of the present case indicate that if Ms. Nottingham’s (complainant e.d.) property is uninhabitable and the dwelling is not connected to a source of water, then that property should be disconnected from the sewer system and she should not be charged a sewer fee by the Town of Durbin. The Commission remands the matter to the ALJ for a determination concerning whether the building on Ms. Nottingham’s property that is the subject of this complainant is uninhabitable and not physically connected to a source of water.” …”5. The Commission finds that West Virginia Code §8-18-22 does not require a property to be connected to a municipal sewer system or otherwise be charged for sewer service if that property is 1) uninhabitable and; 2) not physically connected to a water source.”…”6. The Commission finds that an uninhabitable property is one that must have been condemned for human occupation or otherwise found to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare by an appropriate governmental authority.”…

The Judge’s second Recommended Decision was issued on September 28, 2007, quite lengthy and contained much discussion by all parties about the conditions of the relevant properties and who could be “an appropriate governmental authority.” The Judge’s Order reasons that only the Town has the authority to declare a structure uninhabitable.

The Judge dismissed the complaint a second time. This Recommended Decision was appealed to the full Commission and the Commission issued an Order which stated:

“By this Order, the Commission (i) denies the Exceptions filed by Commission Staff (Staff) on October 4, 2007 and the Exceptions filed by Complainants on October 10, 2007; and (ii) adopts the Recommended Decision of September 28, 2007 as the Final Commission Order.”

The Commission further explained its position concerning what the PSC can and cannot do in the facts of this complaint case.

“The Commission does not possess the ability to grant the Town the authority to determine habitability as requested in the Town’s March 11, 2008 filing. Although Staff argues that absent Commission action, there can be no relief for the complainants, the complainants in this case have the option of petitioning the Circuit Court of Pocahontas County for an order requiring or authorizing the Town of Durbin to declare the property as uninhabitable and to relieve them of the obligation to pay their sewer bills to the Town.

As noted in the Recommended Decision entered on September 28, 2007, the Legislature, not the Commission, defines the rights and powers of municipalities and, in fact, has granted municipalities the authority to adopt ordinances to regulate habitability under West Virginia Code §8-12-16(a). See, Recommended Decision entered September 28, 2007 at Finding of Fact 6.”

The full text of these orders are, of course, available on line at the Commission’s web site (www.psc.state.wv.us) ***
### CASE CONTROL SECTION

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<td>C. Sue Stephenson, Utilities Analyst I</td>
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### ASSISTANCE SECTION

<table>
<thead>
<tr>
<th>Name</th>
<th>Contact Information</th>
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</thead>
<tbody>
<tr>
<td>Geert F. Bakker, Chief Utilities Manager</td>
<td>340-0467</td>
</tr>
<tr>
<td>Conrad Bramlee, Utilities Analyst III</td>
<td>340-0471</td>
</tr>
<tr>
<td>Bonnie Boston, Utilities Analyst I</td>
<td>340-0479</td>
</tr>
<tr>
<td>Versie Hill, Utilities Analyst I</td>
<td>340-0870</td>
</tr>
<tr>
<td>Pina Sangani, Utilities Analyst I</td>
<td>340-0769</td>
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### INFORMAL COMPLAINTS

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>James F. Aucremanne, Consumer Affairs Tech</td>
<td>340-0379</td>
</tr>
<tr>
<td>Sharra Huffman, Consumer Affairs Tech</td>
<td>340-0826</td>
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### WATER AND WASTEWATER DIVISION

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Amy L. Swann, Director</td>
<td>340-0481</td>
</tr>
<tr>
<td>Vicki Miller, Administrative Secretary</td>
<td>340-0482</td>
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<tr>
<td>Edwina Strickland, Secretary</td>
<td>340-3749</td>
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### ENGINEERING DIVISION

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Earl Melton, PE, Director</td>
<td>340-0392</td>
</tr>
<tr>
<td>Victoria Trent, Secretary</td>
<td>340-0370</td>
</tr>
<tr>
<td>Lynn Pringle</td>
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### CASE CONTROL SECTION

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>David W. Dove, PE, Chief Utilities Manager</td>
<td>340-0436</td>
</tr>
<tr>
<td>Lisa Bailey, Technical Analyst I</td>
<td>340-0499</td>
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<tr>
<td>Jonathan Fowler, PE, Engineer III</td>
<td>340-0491</td>
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<tr>
<td>David Holley, Technical Analyst I</td>
<td>340-0328</td>
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<tr>
<td>Joe Marakovits, Technical Analyst III</td>
<td>340-0443</td>
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<tr>
<td>Jim Spurlock, Technical Analyst II</td>
<td>340-0357</td>
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<tr>
<td>Sylvie Steranka, Technical Analyst I</td>
<td>340-0466</td>
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<tr>
<td>James C. Weiner, PE, Engineer I</td>
<td>340-0476</td>
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<tbody>
<tr>
<td>James Ellars, PE, Chief Utilities Manager</td>
<td>340-0331</td>
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<tr>
<td>Jeff Bennett, Utility Inspector II</td>
<td>340-0313</td>
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<tr>
<td>Ralph Clark, PE Engineer II</td>
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<tr>
<td>Ingrid Ferrell, Technical Analyst III</td>
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<tr>
<td>Dave Foster, Utility Inspector III</td>
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<tr>
<td>Craig Miller, Utility Inspector II</td>
<td>340-0353</td>
</tr>
<tr>
<td>John Mottesheard, Engineering Tech.</td>
<td>340-0399</td>
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