

RESOLUTION APPROVING MODIFICATION TO PRBRSA BILLING PRACTICES
GOVERNING BLOOMINGDALE AND BUTLER RELEVANT TO CERTAIN FLOWS
EMANATING IN BLOOMINGDALE AND WEST MILFORD

WHEREAS, the Pequannock River Basin Regional Sewerage Authority (Authority or PRBRSA) operates a regional sewerage transmission facility interconnecting areas of Bloomingdale, Butler, Kinnelon and Riverdale with the Pequannock, Lincoln Park and Fairfield Sewerage Authority system for the purpose of sewage conveyance, treatment and disposal; and

WHEREAS, the costs incurred in the construction, operation and maintenance of the sewerage transmission facilities are borne by those served thereby, consistent with the 1990 Amendment to the 1985 Service Contract, and 2008 Amendment to the same; and

WHEREAS, as the PRBRSA interceptor system is presently configured, subflows from the Macopin Road line, which originates in West Milford and extends through Bloomingdale, enter the Butler sewer system unmetered at the Butler trunkline along the Pequannock River, and from there the subflows are conveyed via the Butler sewers to PRBRSA's Main Street Interceptor located at Main Street and Park Avenue in Butler; and

WHEREAS, the Macopin Road subflows (consisting of flows from Camp Vacamas in West Milford, residential connections along Macopin Road, Treetop Apartments and Waterfall Village within Bloomingdale, and including such other connections to the affected area of the sewerage system as may occur after the date of this Resolution - collectively, the "Bloomingdale Subflow") are not specifically addressed in the 1990 Amendment to the 1985 Service Contract, and 2008 Amendment to the same, and accordingly an Agreement was executed between Bloomingdale and Butler dated May 7, 1991 to regulate and establish billing procedures relevant to the Bloomingdale Subflows (hereinafter the "1991 Agreement"); and

WHEREAS, by prior agreement, PRBRSA has made adjustments to the Operating Charge assessed to Butler and Bloomingdale relevant to the Bloomingdale Subflow, based upon flows emanating in each town as a component of the sewer usage portion contained in the Annual Charge billing transmitted to the respective boroughs, consistent with the report entitled, "Report on PRBRSA Annual Charge Billing for Bloomingdale Subflow;" and

WHEREAS, this adjustment has only been applicable to the Operating Charge (flow based) portion of the Annual Charges levied, and does not include any adjustment to the Debt Service Charge (reserve capacity based) portion assessed to each town; and

WHEREAS, by letter dated November 28, 2011 (attached hereto and made a part hereof) the Boroughs of Bloomingdale and Butler have jointly requested that modified billing procedures be developed regarding the Bloomingdale Subflow, which charges shall also include charges for the Debt Service Charge of the Annual Charges for the Bloomingdale Subflow; and

WHEREAS, Bloomingdale and Butler have further requested that, for ease in billing, the prior years' flows and allowance for infiltration & inflow (I/I Allowance) included in the May 1991 Agreement between Butler and Bloomingdale be used to calculate the appropriate Debt Service Charge that is to be credited to Butler for the 2012 billing, with prior years' Debt Service Charges to be resolved between the Boroughs of Butler and Bloomingdale outside of the Authority; and

WHEREAS, the Authority has by letter of January 12, 2012 attached hereto and made a part hereof, prepared and filed with the Boroughs of Bloomingdale and Butler, a Pro Forma calculation of the estimated FY 2011 Debt Service Charges to be charged to and credited against the Annual Charges payable in the Authority's FY 2012; and

WHEREAS, PRBRSA agrees that it is appropriate, upon receipt of Bloomingdale Subflow information from Butler and Bloomingdale to, through the issuance of a separate billing, increase the amount of Debt Service Charge due from the Borough of Bloomingdale relevant to the Bloomingdale Subflow with a corresponding reduction in the amount due from the Borough of Butler; and

WHEREAS, PRBRSA, in consultation with both Participants has determined that this modification to its billing procedures will reasonably distribute charges for services provided by Butler on behalf of Bloomingdale for the Bloomingdale Subflow; and

WHEREAS, the implementation of such a billing system is not inconsistent with the 1990 Amendment to the 1985 Service Contract, and 2008 Amendment to the same, and will not require further amendment of the Service Contract between PRBRSA and its constituent municipalities.


NOW, THEREFORE, BE IT RESOLVED by the Pequannock River Basin Regional Sewerage Authority as follows:

1. The Authority's FY 2011 billing practices and future billing practices shall be as follows:
 - a. The Consulting Engineer is hereby authorized and directed to calculate the Debt Service Charge portion of the FY 2011 Annual Charge in the manner prescribed by the 1990 Amendment to the 1985 Service Contract and the 2008 Amendment thereto, and by mutual agreement of the Boroughs of Bloomingdale and Butler, calculate a separate Debt Service Charge billing relevant to the Bloomingdale Subflow. Neither said separate billing for the Bloomingdale Subflow Debt Service Charges – nor the Operating Charge billing related thereto – alter the legal obligations of the Boroughs of Bloomingdale and Butler for Annual Charge payments due under the 1990 Amendment to the 1985 Service Contract and the 2008 Amendment thereto.

- b. For FY 2011, the Debt Service Charge shall be based upon the Bloomingdale Subflow as previously billed to the towns for FY 2011 at 60,000 gallons per day (gpd).
- c. As set forth in 1(a) and 1(b) above, by separate billing, the FY 2011 Debt Service Charge so calculated shall be charged to the Borough of Bloomingdale with a corresponding credit due to the Borough of Butler for the Bloomingdale Subflow for the Annual Charges payable to the Authority in FY 2012.
- d. The separate FY 2011 Debt Service Charge billing shall be charged (for Bloomingdale) and credited (for Butler) to the last three (3) quarterly Annual Charge payments due in FY 2012.
- e. The separate FY 2011 Debt Service Charge billing shall be payable in accordance with the 1990 Amendment to the 1985 Service Contract.
- f. For FY 2012 and future years, the Boroughs of Bloomingdale and Butler shall submit to the Authority, no later than November 15th of each year, a mutually agreed upon calculation of the Bloomingdale Subflow, inclusive of the I/I Allowance as set forth by the 1991 Agreement referenced hereinabove.
- g. For FY 2012 and future years, upon receipt of the mutually agreed upon Bloomingdale Subflow calculation from the Boroughs of Bloomingdale and Butler, the Consulting Engineer is authorized and directed to prepare a separate calculation and to issue, by separate billing to both towns in the manner set forth above for FY 2011, the Debt Service Charge for the year.
- h. If, on or before November 15th of each year, the Authority is not in receipt of the mutually agreed upon Bloomingdale Subflow calculation as set forth above, the Bloomingdale Subflow will be billed on the basis of 60,000 gpd (inclusive of the I/I Allowance per the 1991 Agreement).
- i. The Boroughs of Bloomingdale and Butler shall have thirty (30) days from receipt of the Bloomingdale Subflow billing statement to challenge the charges, otherwise the Boroughs of Bloomingdale and Butler shall waive the right to challenge the same and the charges shall be conclusively deemed to have been prescribed, adopted and made in accordance with this resolution and to be fully authorized, due and payable quarterly as prescribed by the 1990 Amendment to the 1985 Service Contract, except as may be provided by final judgment on a court of competent jurisdiction in an action begun by either Bloomingdale or Butler within such period.

2. The Consulting Engineer is hereby authorized and directed to file this Resolution with the Boroughs of Bloomingdale and Butler.
3. This Resolution shall take effect as provided by law.

Certified to be a true copy of a Resolution adopted at a duly convened public meeting of the Pequannock River Basin Regional Sewerage Authority held on January 18, 2012.



Edwin Howard, Secretary