

MINUTES OF THE METROPOLITAN SEWERAGE DISTRICT BOARD

July 17, 1973

PUBLIC HEARING ON THE BLACK MOUNTAIN RELIEF SEWER PROJECT. "COURT STENOGRAPHER" PRESENT.

RESOLUTION AUTHORIZING P. GREER JOHNSON, ENGINEER-MANAGER, TO APPLY FOR A 55% FEDERAL GRANT FOR THE BLACK MOUNTAIN RELIEF SEWER PROJECT. THE FEDERAL GRANT INCREASED TO 75% OF ELIGIBLE PROJECT COST. THE FEDERAL GRANT OFFER OF \$67,500.

PUBLIC COMMENTS ON THE SEWER USE ORDINANCE.

The regular monthly meeting of the Metropolitan Sewerage District Board was held in the Council Chamber Room 201, City Building, Asheville, North Carolina at 2:00 p. m. on Tuesday, July 17, 1973.

The Board convened at 1:30 p.m. in the Council Chamber for the purpose of holding a Public Hearing on the Black Mountain Relief Sewer Project. Transcription by the "Court Stenographer" attached.

Chairman Peterson convened the regular Board meeting at 2:00. Mrs. Swicegood, Secretary, called the roll with the following members present: Mr. Dawson, Mr. Clark, Mr. Goodson, Mr. Brownell, Mr. Hyatt, Mr. Warlick, Mr. Robinson, Mrs. Swicegood, Mr. Williams, Mr. Peterson and Mr. Redmond, Attorney.

The members having received copies of the previous minutes, Mr. Williams moved and Mr. Clark seconded the motion that they be approved as amended. This motion was carried unanimously.

Mr. Johnson, Engineer-Manager, stated that the next item on the agenda was the Black Mountain Relief Sewer Project. He read a grant offer from EPA for the amount of \$67,500 and stated that certain assurances were necessary to accept this offer. Mr. Redmond read a prepared statement explaining the assurances to the Board and then presented the following resolution.

RESOLUTION

WHEREAS, by resolution at the August 15, 1972 Board meeting, the Board authorized P. Greer Johnson, Engineer-Manager, to apply for a 55 per cent Federal Grant for the Black Mountain Relief Sewer Project; and

WHEREAS, since said time State and Federal criteria affecting eligibility for grant funds have changed, and the available Federal Grant increased to 75% of eligible project cost; and

WHEREAS, P. Greer Johnson, Engineer-Manager, on November 20, 1972 did apply for a 75 per cent grant on the Black Mountain Relief Sewer Project; and

WHEREAS, on June 30, 1973, the Federal Government did offer to the Metropolitan Sewerage District a Federal Grant of 75% of the estimated eligible project cost of \$90,000, to-wit: a grant of \$67,500, subject to certain conditions attached to said grant offer:

NOW, THEREFORE, BE IT RESOLVED that the action of P. Greer Johnson, Engineer-Manager, on November 20, 1972 in applying for a 75 per cent Federal Grant is herewith authorized and approved.

BE IT FURTHER RESOLVED that the Engineer-Manager, P. Greer Johnson, be authorized and directed to accept on behalf of the Metropolitan Sewerage District, the Federal Grant Offer of \$67,500, subject to the conditions thereto attached.

BE IT FURTHER RESOLVED that a copy of said Grant Offer, as executed on behalf of the Metropolitan Sewerage District, together with the conditions attached thereto, be made a part of this Resolution and be recorded verbatim in the minutes of the District Board for this meeting.

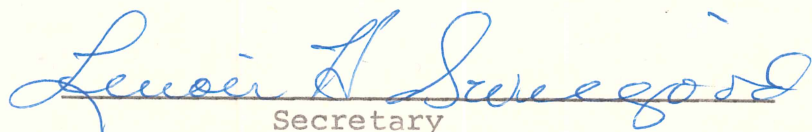
Mrs. Swicegood moved and Mr. Clark seconded this motion. Roll call vote was unanimous. Affirmative.

Mr. Johnson stated that the only other item on the agenda was public comments on the proposed sewer use ordinance. Chairman Peterson opened the floor for comments and instructed Mr. Johnson to introduce the speakers who had indicated their desire to be heard. Transcription by the "court stenographer" attached.

After all the comments were heard, Chairman Peterson made some closing remarks; thanking the public for their participation and assuring them that the Board would give further deliberation to this matter.

There being no further business, the meeting adjourned at 4:05 p. m.

July 17, 1973


Secretary

Original

1

1 REGULAR MONTHLY MEETING OF THE
2 METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY
3 City Hall, Council Chamber
4 July 17,1973
5

6 CHAIRMAN: M. C. Peterson.

7 I would like to ask this before we start. Mr.
8 Johnson has a list of people who want to make presentations
9 at this meeting. Is there any person who wants to be heard
10 that has not turned in a slip? There are so many people that
11 want to be heard, we ought to do this in an orderly way so
12 we don't miss anyone. It is now 2 o'clock and we will call
13 the regular monthly meeting to order. We will ask the secre-
14 tary, Mrs. Swicegood, to call the roll.

15 (The following members answered present:)

16 Mr. Dawson, Mr. Clark, Mr. Hyatt, Mr. Brownell,
17 Mr. Robinson, Mr. Warlick, Mr. Williams, Mr.
18 Goodson.

19 CHAIRMAN PETERSON: The minutes of the last meeting
20 have been mailed to each member. If it is in order we would
21 like to have a motion in order to discuss any question of
22 anything we might have.

23 (The motion was made and seconded that the minutes
24 be accepted . The motion was passed unanimously.)

25 CHAIRMAN PETERSON: Mr. Johnson, we will call on you.

1 MR. JOHNSON: Mr. Chairman and Members of the Board:
2 We have just concluded a public hearing on the Balck Mountain
3 Sewer Project. It is on the agenda for this meeting. Mr.
4 Redmon, your attorney, had a formal resolution for your con-
5 sideration.

6 CHAIRMAN PETERSON: A copy has been placed in front
7 of each member. Is there any discussion?

8 MR. BROWNELL: There is discussion, Mr. Chairman.
9 It occurs to me that the cost of this project may exceed the
10 estimate. In this connection, is the Federal grant - in other
11 words, this is just for pure information - is the Federal
12 grant limited to this seventy-five? Would any excess be dis-
13 tributed three ways or how does that work?

14 MR. JOHNSON: Mr. Brownell, the normal procedure here,
15 of course, this is the grant offer, \$67,500.00 and we have no
16 assurance of any more. The normal procedure, if the cost
17 exceeds the estimated \$90,000.00, we could go back and apply
18 for a supplemental grant. We may or may not get it. If it
19 is reasonable, I think normally we would get it, but the
20 procedure would require a supplemental application for additional
21 funds.

22 MR. WARLICK: Is there any chance we could get any
23 more from the State?

24 MR. JOHNSON: Yes, sir, Mr. Warlick. Thursday of
25 this week the State has on their agenda a board meeting set-

1 ting the amount pertaining to the State at this time. It
2 will not be 25%, that is 75% Federal and 25% State. We
3 understand it is not going to be a 100% grant, but they will,
4 presumably this week, the State will tell us how much they
5 will participate.

6 CHAIRMAN PETERSON: Mr. Redmond has a resolution
7 authorizing you to take advantage of this grant. We will
8 hear from Mr. Redmond at this time.

9 MR. REDMOND: Mr. Chairman and Members of the Board:
10 This resolution in effect authorizes the Engineering Manager
11 of the Board to accept the grant offer of the Federal Govern-
12 ment of \$67,500.00, being 75% of the total eligible cost on
13 an estimated basis. Mr. Johnson has already explained the
14 procedure if we exceed that cost. Now, of course, the grant
15 is not going to be available to us, even if we accepted it,
16 unless the job is done. The Federal Government attaches
17 certain conditions to the grant, certain things that have to
18 be made a part of the acceptance. I think the Board should
19 be made aware of what the conditions are in addition to the
20 fact that the money is available in order to be able to pro-
21 ceed in connection with the matter. The conditions which
22 were sent along to Mr. Johnson by the Federal office of EPA
23 at Atlanta set forth briefly the number of lineal feet and the
24 payment schedule for the grant and then set forth special
25 conditions which, with your permission, I will read. Number

1 One is: " Approval of this treatment facility by EPA does not
2 in any way relieve the applicant from complying with the pro-
3 visions of PL 92-500." We are doing that now.

4 MR. JOHNSON: We are now.

5 MR. REDMOND: "Although EPA will not approve a treat-
6 ment facility whose design will knowingly not meet the second-
7 ary treatment effluent criteria, the basic responsibility for
8 providing the right combination of treatment design and oper-
9 ating expertise is the applicant's." Number Two: "Prior to
10 approval of contract award (Part B) a record and transcript
11 of a public hearing held on the Environmental Assessment
12 Statement, will be submitted to EPA. This grant will not meet
13 NEPA requirements until a review and evaluation of the public
14 hearings have been performed."

15 So a transcript of the public hearing and statements
16 included therein, with exhibits, will have to go to EPA's office
17 in Atlanta as part of this documentation.

18 Number Three: "The grantee hereby agrees that as soon
19 as NPDES permit Standard Form A applications and instructions
20 are available, he will complete and submit such application
21 in an expeditious manner."

22 MR. JOHNSON: If I can interject right at this point,
23 so I won't have to do it but once, the statement that I have
24 made in this letter to Mr. Lentz is: "In connection with the
25 assurances attached to the grant offer, I can make the assur-

1 ance that the MSD fully intends to comply with the rules and
2 regulations of both the State and Federal agencies; since the
3 subject project has no industries involved and thus has no
4 industrial sewage involved, we can see no reason that this
5 project will not meet Federal criteria. I can further make
6 the assurance that this project will not be authorized or
7 started until EPA grants permission." This thing that Mr.
8 Redmond refers to, I have assumed that since there is no
9 industry involved that this industrial rate sewer ordinance
10 does not effect this project. This is an assumption on my
11 part. If EPA rules differently, then we will see what they
12 say. The assurance that I have made, gentlemen, is that we
13 will not start the project until we have EPA satisfied. If
14 I sign this today, if the Board concurs, it will come back to
15 the Board again at sometime for permission to advertise, after
16 the bids have been received it will come back to the Board
17 again to assign the contract. At any time between now and the
18 time the Board meets to sign the construction contract, this
19 Board can reconsider their action if they want to. This
20 document today secures the funds, that is, the allotment of
21 the funds. We won't get any funds until we build it. We are
22 attempting and this is done at the Grantor's request so that
23 they can allot this money to Buncombe County. If we decide at
24 a future date not to build the job, no damage is done. We
25 won't get the money and the Government will keep the money

1 and we will do whatever the Board decides.

2 CHAIRMAN: Mr. Redmond.

3 MR. REDMOND: Shall I continue? " Within 60 days of
4 the completion of the grant agreement, the grantee will submit
5 the following information regarding the proposed operation and
6 maintenance program; (1) Proposed operating staff for treat-
7 ment facilities (2) Proposed budget to cover operation and
8 maintenance activities (Salaries, chemicals, utilities, equip-
9 ment, analytical work, etc.) (3) Proposed program for labora-
10 tory testing of treatment plant performance. Number five:
11 Within 90 days after completion of the grant agreement, the
12 grantee will submit an inventory of all industrial wastewaters
13 being discharged to the sewer system including flow, BOD and
14 any other critical characteristics of the wastewater. The
15 inventory shall also include present or proposed pre-treatment
16 being provided for each industry. Six: The grantee hereby
17 agrees that pre-treatment of industrial wastewaters shall be
18 provided as necessary to ensure that the publicly owned treat-
19 ment works are protected from: (a) physical damage, (b) exces-
20 sive rates of flow and/or pollutant discharge over relatively
21 short time periods which could cause treatment process upset,
22 and (c) the presence of pollutants at concentration levels
23 which could inhibit treatment process efficiency or adversely
24 affect sludge treatment and disposal. Pre-treatment shall
25 also be provided as necessary to prevent pollutants, other
than BOD and suspended solids , passing through publicly owned
treatment works inadequately treated. Seven: The grantee's

1 proposed Industrial Waste Cost Recovery System and User Charge
2 System in compliance with 40 CFR Part 35, will be submitted to
3 EPA by the time the project is 50% complete and enacted by the
4 time of project completion."

5 As to all of these conditions, Mr. Johnson has read
6 you the last paragraph of his letter to the EPA and he is hope-
7 ful that these conditions will be waived with particular
8 reference to the Black Mountain project. Number eight is:
9 "Adjacent areas for which it is determined to be the most cost
10 effective alternative will be accepted into the proposed system
11 on an equitable cost recovery basis. User charges to be ap-
12 proved by the State and EPA." Standard Conditions, shall I
13 read these, Mr. Peterson?

14 CHAIRMAN: I don't think it is necessary.

15 MR. REDMOND: The only pertinent one is that the grantee
16 shall submit a proposed sewer use ordinance in compliance with
17 40 CFR 35.927 (C) within 60 days after the date of the grant
18 agreement. Such sewer use ordinance shall be enacted prior to
19 completion of the project.

20 MR. BROWNELL: Mr. Chairman, I don't know the solution
21 of this. I would be appalled that for obtaining \$90,000.00 on
22 a grant it brought about a situation where pre-treatment and all
23 of that would be applicable, but I guess we can talk about that
24 later.

25 CHAIRMAN: We will discuss that at a later date. A

1 motion would be in order for action on this resolution ,if
2 there are no further questions.

3 MRS. SWICEGOOD: I move we adopt the resolution.

4 (Seconded by Board Member.)

5 CHAIRMAN: The motion has been made and seconded.
6 The secretary will call the roll.

7 (Roll was called and all members present answered
8 in the affirmative.)

9 CHAIRMAN: We will pause momentarily while this is
10 being signed.

11 MR. JOHNSON: Mr. Chairman, we apologize for taking
12 time, but this is going to the post office to go by certified
13 mail to Atlanta. It is to be there by Friday and we want to
14 get it in the mail by today.

15 CHAIRMAN: At the June meeting of this Board a motion
16 was unanimously adopted that the general public and industry
17 served by the Metropolitan Sewerage District of Buncombe
18 County be invited to the July meeting for the purpose of com-
19 menting on the proposed sewer use ordinance. It is my view
20 that the District Board is required to enact some type of
21 sewer use ordinance also to establish in due course some
22 schedule of industrial usage charges in order for the Board
23 and the District to fulfill its obligation to the bond holders
24 and to control the district in accordance with Federal and
25 State grants in connection with the sewer system. While such

1 action appears necessary, at this same time it is with the
2 feeling and intent of the Board to do everything it can to
3 avoid undue hardship on the users of the sewage system.

4 Therefore, your comments today will be greatly appreciated
5 and will be given substantial, serious consideration in the
6 development of the new ordinance which I have referred to.

7 Mr. Johnson has the slips he has taken up from the people who
8 want to be heard. At this time Mr. Johnson, I will turn it
9 over to you.

10 MR. JOHNSON: Mr. Chairman, I have some half dozen.
11 I will ask each one to come forward, please, and make any com-
12 ment you have. If you have your comments in writing, we will
13 ask you to please leave a copy of it with the recording
14 secretary. Without discriminating on any of these, I have
15 one here from Mr. Harry DuMont, Attorney. Mr. DuMont is just
16 out of the hospital with a voice problem. I assume, Mr. Dumont
17 that you will file a written statement later, is that your
18 wish or do you have someone to speak for you?

19 MR. ROBERT.E. HARRELL, ATTORNEY: I will pass, if I
20 could, please, right now. I do have a statement to make later
21 on.

22 MR. JOHNSON: Mr. George Cecil, Biltmore Company.

23 MR. CECIL: Mr. Johnson, thank you. Mr. Carson,
24 Mr. Chairman, who was up here last time with us, unfortunately
25 had to be in Waynesville at 2 o'clock and said he would be

1 back as quickly as he could. If there are any further quest-
2 ions you want to ask from a legal point of view, I am certain
3 he can answer them when he gets back, if that is all right.

4 Mr. Chairman, at the request of the Metropolitan
5 Sewer Board at its last meeting , we have studied in as much
6 detail as we possibly could the draft ordinance that Mr. John-
7 son sent us and I would like to hand out a copy, if I may -
8 and this has taken quite some time to go over and I apologize
9 for getting this to you on such short notice. As I said, at
10 the last meeting we did go over this in great detail and
11 rather than try to interpolate and make a lot of changes in
12 the draft ordinance that was sent to us, we took the liberty
13 of redrafting the ordinance as a suggestion to have some
14 basis on which we might be able to discuss it. In studying
15 this ordinance, I would like to make one or two points, that
16 our thinking was guided by certain principles. One, it is
17 our feeling that all the treatment of sewerage and waste and
18 waste water should be done at the sewerage plant and quite
19 frankly, as we mentioned in the letter to Mr. Peterson and
20 the Members of the Board at the last meeting, we abhor the
21 idea of having holding tanks and pre-treatment facilities
22 scattered all around the county. We feel that this in great
23 measure defeats the basic purpose of building the Metropolitan
24 Sewerage System which we all worked on six or eight years ago.
25 The whole idea, as I recall it, at the time was to bring every-

1 thing in to one central place and get a group of experts who
2 knew how to take care of it and treat everything down there
3 at less expense to everybody. It also appears from the studies
4 we have made that each city or each municipal organization
5 has a different problem. In some cases you have got an
6 overloaded system in a fast-growing metropolis that needs
7 action taken in one direction. Here, on the other hand, as
8 we see it from figures, at least, published in various publi-
9 cations, we are faced with a very happy situation of having
10 an excellent system with plenty of room to expand and in view
11 of this, really we think that is important; it gets to my
12 original point that we feel all the sewerage should be treated
13 in one central place rather than having these holding tanks
14 and pre-treatment facilities. Now, as we said at the last
15 meeting and as, we hope, considered as responsible citizens
16 of the community, we feel that if the sewerage plant is going
17 to handle the sewerage, then those of us who put an extra
18 load on the plant should in all fairness to everybody concerned
19 be willing to pay our fair share to have the sewerage treated.
20 That certainly is the idea that we have and we certainly are
21 going to pay our fair share of the project.

22 Given those first three principles, (1) that we have
23 an adequate system that can be enlarged, (2) that the sewerage
24 should be treated down there and (3) that those that put an
25 added work-load on the system should pay our fair share, then

1 what limits are we going to set up and where should the sur-
2 charge come in?

3 Again, many cities have different problems and many
4 of them have approached them differently and we have put forth
5 the limits, we did here, in suggesting limits above which a
6 surcharge would apply and certain definite limits in one or
7 two cases which appear in the original ordinance we studied
8 before and needless to say, these are based on the latest
9 knowledge that we have available. I would like to point out
10 that this knowledge changes constantly and what might have been
11 applicable in an ordinance that was drawn up several years ago
12 in a city , again that might have an overloaded sewerage system,
13 would not necessarily be applicable in another system. A
14 perfect example of that, I might add, if a BOD or these other
15 odd things we are talking about here - I don't know that I
16 would recognize them, I would rather that I didn't - but if
17 you take the City of Greensboro, for instance, they ran a
18 study down there and , as I understand it, the BOD content of
19 waste water from restaurants, who under the original ordinance
20 could be assumed negligible, ran approximately 600 parts to
21 a million. Now, there was no provision in that ordinance in
22 Greensboro for taking care of that because they thought their
23 BOD content was so much less. We discussed, I think at the
24 last meeting, the question of temperature of water being put
25 in the sewerage system and all of these things need to be

1 thoroughly looked at.

2 Finally, I might say, we have endeavored to draft
3 this proposal here largely to answer problems that we saw
4 coming up in the previously submitted ordinance.

5 Mr. Chariman, I don't know how you would like for
6 me to handle this, but if I may just run through this quickly?
7 Each of the Members has a copy.

8 CHAIRMAN: Yes, sir, if you can, please go through it
9 hurriedly.

10 MR. CECIL: Yes, I will go through it very briefly,
11 if you will make notes. We have made some changes. On Page
12 2 here, we suggested adding commercial and institutional waste
13 as a group as differentiated from domestic waste. Maybe you
14 want to tick it or check it off.

15 On Page 3, we tried to clarify the definition of
16 unpolluted waste water.

17 On Page 5, we suggested a couple of changes in A,
18 B and C . (A) Any waste water, liquid or vapor, having a
19 temperature higher than average of 150° Fahrenheit over a
20 thirty minute period of measurement. (B) and (c) we separated,
21 parts per million of fats and oils and petroleum and other
22 products from those of animal or vegetable origin. It is
23 our understanding that animal and vegetable origin fats are
24 very easily treatable and we feel, therefore, that a higher
25 limit should be allowed rather than on petroleum products.

1 On (G) there was a suggested change, again a thirty
2 minute average measurement.

3 In (H) and (I) , we suggested raising interdictions
4 against things that cannot be put in the sewerage system, the
5 way we see it. We have raised the BOD in suspended solids
6 limit to a limit beyond which you cannot go, which we feel
7 would be realistically proper. We have tried to put in a sect-
8 ion on Permits here, section 3 on Page 6, to clarify that a
9 little bit.

10 Page 8, we made one or two changes at the very top
11 of it. We have added some words about a controlled manhole
12 from which samplings could be taken or other approved sampling
13 facilities; possibly a manhole might not be necessary, but
14 other facilities would. Section 5, we felt we were in no
15 position to comment on this because packing houses and so
16 forth, we know nothing about and we could not comment on
17 those.

18 On Page 11, Section 6, B, #3, we have tried to clari-
19 fy that a little bit and then add section 3, there, 'or other-
20 wise calculate such portions of water not discharged in the
21 sanitary sewerage system.'

22 On Page 12, seven c, this relates to the tests that
23 are made by the Engineer-Manager to see what goes into the
24 sewerage system. If you recall it is quite sweeping powers.
25 This is no personal reflection on the Engineer-Manager, but

1 it is just the way the thing is written, it is very sweeping
2 powers in the original ordinance as to how that was going to
3 be decided and who was going to decide it. Here we put it
4 back on the District Board which we feel is where the responsi-
5 bility should be.

6 Section 8 we have made some suggested changes in and
7 now, Section 9, Charges & Surcharges, is basically a new sect-
8 ion that we have come up with to try to tie this in, it comes
9 from various parts of the previous ordinance.

10 Page 15, Section 12, here we again suggest most
11 respectfully, that the power be given in these instances here
12 to this District Board rather than putting it in the hands of
13 one person, the Engineer-Manager.

14 Section 14, Policy of the Board, Amendment and Waiv-
15 er and so forth, on Page 15, this ties various points together
16 in that draft , it covers some points made verbally at the
17 meeting last month.

18 Page 16, subsection B, the Waiver, that we feel is
19 most important. We put that in as a backdoor escape clause
20 for you gentlemen later on. We figured that should be in
21 there and then in Section 15, matters of enforcement, while
22 we feel that obviously you have got to work with the Engineer-
23 Manager, we feel that if anyone is going to get their water
24 cut off it should be by District Board Resolution so that the
25 matter may be thoroughly discussed.

1 Mr. Chairman, I have run through that very briefly
2 as you have requested me to do and as to any questions, if
3 there are any questions of a technical nature, we will ask
4 Mr. Carawan to take part, who is a technical expert to answer
5 any questions you might have. Any other general questions
6 I will try to answer. Any questions?

7 MR. BROWNELL: Maybe we will listen to the other
8 discussion then later, if we have any questions, Mr. Cecil
9 will be here.

10 MR. JOHNSON: Mr. B. A. Pope of the Biltmore Dairies,
11 do you have anything to add?

12 MR. POPE: Not right now.

13 MR. JOHNSON: Mr. Joseph J. Kozlowski and W. O. Doud,
14 Ball Corporation.

15 MR. DOUD: Gentlemen, I am Bill Doud from Ball Corp-
16 oration. I have a letter from my company which I would like
17 to read at this time.

18 (Letter attached read by Mr. Doud.)
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25

BALL CORPORATION

ASHEVILLE, NORTH CAROLINA 28803

704 274-1661

July 17, 1973

The District Board Of The Metropolitan
Sewerage District of Buncombe County
Asheville, North Carolina

Gentlemen:

In reply to a letter of June 25, 1973 from Mr. Greer Johnson concerning the proposed Sewer Use Ordinance for the Metropolitan Sewerage District of Buncombe County, Ball Corporation wishes to offer the following comments for your consideration.

We recognize the proposed ordinance as a well prepared, comprehensive document designed to protect the sewerage district against misuse and thus assuring continued high quality service to its several users both domestic and industrial. An ordinance so devised would also aid in the acquisition of Federal EPA funds for the improvement and maintenance of the existing facilities.

We believe the inclusion of cooling waters in the definition of "unpolluted" waters should be modified to allow the discharge of such waters when they are purchased from local water supply districts. This provision is necessary to prevent instances where the user would not be able to discharge such water into surface waters as regulated by the National Pollutant Discharge Elimination System or the sewer district. Faced with this dilemma, the user would be forced into undertaking major capital expenditures for recirculation and result in the loss of revenues to both the water supply district and the sewerage district.

We are also concerned with the provision relating to the construction of holding tanks, presumably including lagoons, by users when certain conditions are exceeded. While it may be true that extreme surges of effluents can upset a treatment facility, no indication of these parameters are given. We believe that the imposition of the construction of holding tanks or lagoons on existing facilities could cause serious economic and ecological repercussions. The terrain and climatic conditions in the Asheville area could conceivably cause contamination of surface waters if such holding facilities were uncovered and subject to acts of nature.

Such exterior storing of waste water would have to be approved by the branch of government controlling surface waters, which would be unlikely for wastes in need of treatment. While Ball Corporation at present has a uniform discharge rate, we offer these comments for your consideration.

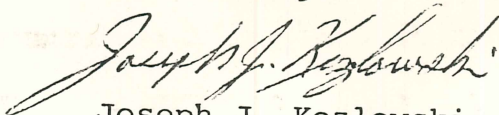
Another area of concern is the broad powers granted to the Board where permits and violations are involved. Such powers if invoked, could impose economic hardships on the populace. We feel a time table of compliance should be included in the ordinance to allow existing facilities to meet the requirements at a pace coincident with the state of the art.

Ball Corporation as an interested member of the community hopes these suggestions will be considered for incorporation into the final ordinance.

Sincerely yours,



W. O. Doud
Plant Manager



Joseph J. Kozlowski
Supervisor Glass Technology

JJK:bjm

cc: F. H. Dellwo
A. C. Dirlam

1 MR. DOUD: I would like to comment just a little on
2 one item about unpolluted water. If you would refer to the
3 proposed ordinance on Page 3, in the definition of unpolluted
4 water, it includes the discharge from cooling waters contain-
5 ing "no free or emulsified grease or oil, acids or alkalies,
6 phenols or other substances imparting taste and odor in the
7 receiving waters." Now, in other words, the way we interpret
8 this, even though we have cooling water discharged that is
9 completely free of the elements restricted in the ordinance,
10 the ordinance does not allow us to put it in the sewerage
11 system and it seems to me we should be able to discharge any
12 water we buy from the District after using it, to put it back
13 into the sewerage system, otherwise we couldn't use the water
14 in the first place. I really believe the purpose of this
15 was to prevent people from using rain water or stream water
16 to dilute their normal discharge to the point that they could
17 put the parts remaining into the sewerage system. So the
18 cooling water would work against us and we feel that any water
19 we buy for cooling purposes that meets the other limitations
20 of this ordinance should be allowed to go back into the sew-
21 erage system for treatment.

22 CHAIRMAN: You are speaking of the water you pur-
23 chase through the City system?

24 MR. DOUD: Yes.

25 CHAIRMAN: You say that this water cannot meet the

1 specifications?

2 MR. DOUD: We buy it and put it through the cooling
3 system and it goes through the cooling tanks and there are
4 very few contaminates in it; it is as pure as the water itself
5 and yet they say we can't put it back in the system.

6 CHAIRMAN: Does it go back to its normal temperature?

7 MR. DOUD: Our temperature is about 100 degrees.

8 CHAIRMAN: Mr. Doud, do you have more copies of this?

9 MR. DOUD: I left four or five. I can send more.

10 CHAIRMAN: Thank you, Mr. Doud.

11 MR. JOHNSON: Mr. Tom Haney of CTS of Asheville.

12 MR. HANEY: I am Tom Haney, from CTS or representing
13 CTS of Asheville. We, likewise, have received Mr. Johnson's
14 letter of June 25th. I got caught on a little short notice.
15 I won't go into all the details, but we have listed what
16 changes we would like to have made and have submitted them
17 to Mr. Johnson for his evaluation, which, of course, the
18 Board will pass on. They are of a technical nature, primarily
19 concerned with the parts per million or milligrams per litre
20 by weight on page 11 of the proposed specifications and I
21 know you people are very busy as we are and I have nothing
22 further to add unless there are some questions. Thank you.

23 CHAIRMAN: Any questions?

24 MR. WARLICK: Are you speaking of BOD? There is no
25 BOD on page 11 - Cyanides, is that what you are referring to

1 on page 11? You mentioned you were taking exceptions to the
2 milligrams per litre by weight on page 11. There are quite
3 a few listed, are all of them included?

4 MR. HANEY: Yes, according to the specifications for
5 them, our requested changes in all of them , our proposed
6 changes and recommendations and the figure is underlined that
7 we would like to see and submit for your consideration and
8 the technical journal listed at the bottom of the page from
9 which we gathered our information.

10 MR. JOHNSON: Mr. Haney, do you give permission for
11 a copy of this letter to be published in the transcript of
12 this hearing?

13 MR. HANEY: Yes, sir.

14 CHAIRMAN: Any other questions of Mr. Haney?

15 (No response.)

16 -----
17 (Letter from Mr. Haney is attached at 19A.)
18
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25



CTS OF ASHEVILLE, INC.

manufacturer of electronic components SKYLAND, NORTH CAROLINA 28776

TWX 510-935-0059
AREA CODE 704-684-6451

19A

July 17, 1973

Mr. Greer Johnson, Engineer-Manager
Metropolitan Sewerage District
of Buncombe County
P.O. Box 7413
Asheville, North Carolina 28807

Dear Mr. Johnson:

We are in receipt of your proposed Sewer Use Ordinance, third draft, dated March, 1973, and in accordance with your letter of June 25, 1973, we are respectfully submitting our recommendations for your consideration as listed below.

Page 11

PROPOSED:

(h) Zinc - Concentration of zinc in waste shall not exceed 0.5 milligrams per liter by weight at the source. The p^H of waste containing zinc shall not be less than 8.5.

CTS RECOMMENDATION:

(h) Zinc - Concentration of zinc in waste shall not exceed 5.0 milligrams per liter by weight at the source. The p^H of waste containing zinc shall not be less than 8.5.

PROPOSED:

(i) Copper - Concentration of copper in waste shall not exceed 0.5 milligrams per liter by weight at the source. The p^H of waste containing copper shall not be less than 8.5.

CTS RECOMMENDATION:

(i) Copper - Concentration of copper in waste shall not exceed 1.0 milligrams per liter by weight at the source. The p^H of waste containing copper shall not be less than 8.5.

PROPOSED:

(j) Chromium - Waste containing hexavalent chromium shall not be discharged into the sanitary sewerage system. Hexavalent chromium shall be reduced and precipitated before discharge. Concentration of chromium in waste shall not exceed 0.5 milligrams per liter by weight at the source. The p^H of waste containing chromium shall not be less than 8.5.

July 17, 1973

CTS RECOMMENDATION:

(j) Chromium - Waste containing hexavalent chromium shall not be discharged into the sanitary sewerage system. Hexavalent chromium shall be reduced and precipitated before discharge. This concentration of hexavalent chromium shall not exceed .05 milligrams per liter by weight at the source. Concentration of chromium in waste shall not exceed 1.0 milligrams per liter by weight at the source. The p^H of waste containing chromium shall not be less than 8.5.

PROPOSED:

(l) Cyanides - Concentration of cyanides in waste shall not exceed 0.1 milligrams per liter by weight at the source, and the cyanates shall not exceed 1.0 milligrams per liter by weight. The p^H of waste containing cyanides shall not be less than 8.5.

CTS RECOMMENDATION:

(l) Cyanides - Concentration of cyanides in waste shall not exceed 0.2 milligrams per liter by weight at the source, and the cyanates shall not exceed 1.0 milligrams per liter by weight. The p^H of waste containing cyanides shall not be less than 8.5.

CTS RECOMMENDATION FOR ADDITION TO ORDINANCE:

The proposed regulations do not mention silver or nickel. We would like to suggest the concentration of silver in waste not exceed 0.1 milligrams per liter by weight at the source, and nickel in waste not to exceed 1.0 milligrams per liter by weight at the source.

* * *

The above recommendations submitted for your consideration are acceptable drinking water standards as listed in PUBLIC HEALTH SERVICE DRINKING WATER STANDARDS, AWWA, Task Group 2225M, and TREATISE ON ANALYTICAL CHEMISTRY, Part 3, "Analytical Chemistry and Industry", Volume 11, Edited by Kolthoff, published by Wiley, copyright 1971, page 321.

We are most hopeful that you will find the above recommendations satisfactory to incorporate in your permanent rules and regulations for the Metropolitan Sewerage District of Buncombe County. If, however, there are any questions or details which might need clarification, please do not hesitate to contact us.

Yours very truly,

CTS OF ASHEVILLE, INC.

D. B. Honey

1 MR. JOHNSON: Ms. J. A. Friedrich, from the League
2 of Women Voters.

3 MS. FRIEDRICH: The League of Women Voters of Ashe-
4 ville- Buncombe County has long been interested in the improve-
5 ment and maintenance of water quality. In more recent years
6 this has led to an awareness of the need to regulate municipal
7 and industrial waste discharges as well as sound management
8 of solid waste.

9 When the ordinance under consideration was first proposed,
10 here seemed to have been some well-reasoned objections and a
11 great deal of misunderstanding. We commend your effort today
12 to have citizen in-put before the final adoption. The League
13 urges you to adopt an ordinance that will regulate the dis-
14 charge of effluent into the sewerage system. To the members
15 of the League, it seems only logical that if the Metropolitan
16 Sewerage District is held responsible for what is discharged
17 into the South French Broad River by the State, then the District
18 must have the authority to set reasonable standards.

19 While we do not pretend to have the technical background to
20 understand the intricacies of the provisions, we believe any
21 ordinance that is adopted by this board should have provisions
22 establishing clear lines of authority as well as spelling out
23 the enforcement powers of that authority. The board delegates
24 this authority and we think it is in the best interest of
25 the district that the engineer-manager have this authority.

1 He serves at the pleasure of the board and that, in itself, is
2 a constraint of "power". We believe it would be a good idea
3 also to include the appeal provisions just to avoid future
4 misunderstanding. We understand the appeal procedure follows
5 the General Statutes of North Carolina, so the board is the
6 ultimate authority on decisions of the engineer-manager, just
7 as the court is for decisions of the board.

8 Ordinances such as this are in effect in many localities in
9 North Carolina and surrounding States. The members of the
10 League believe that the price of manufacturing a product or
11 providing a service should reflect the true cost of production
12 by including the cost of any pollution abatement equipment
13 whether it is produced in Asheville or in Charlotte. Any
14 increased cost should be borne by the users of the product
15 or service, not by the public-at-large. It is only with the
16 true cost reflected in the price of a product that resources
17 can be allocated to the highest and best use.

18 The most important consideration in the adoption of an ordin-
19 ance to regulate the waste discharged into the system is that
20 without it, Federal grants for planned and future sewer construc-
21 tion would not be available. Considering the rapidly rising
22 costs of any construction, further expansion of the sewer
23 system and therefore any further development of business and
24 industry, will depend on outside financial help if the taxes
25 are not to become prohibitive.

1 We therefore, strongly urge this board to adopt a meaningful
2 ordinance that conforms with Federal guidelines with enough
3 enforcement powers necessary to regulate existing, as well
4 as future, industries in the Metropolitan Sewerage District.

5 CHAIRMAN: Thank you Mrs. Friedrich.

6 MR. JOHNSON: Robert D. Wilroy of Square D.

7 MR. GEORGE PRESSLEY: Mr. Chairman, I am George
8 Pressley, Mr. Wilroy is with me. We didn't put both names
9 on the slip. We represent the Square D Company and I apologize
10 for sending in our comments so late, but since we sent
11 in those comments, I don't think I will comment further, I
12 think that is sufficient.

13 CHAIRMAN: I think your letter is very comprehensive.

14 MR. PRESSLEY: Our Waste Control Engineer, Mr. Wilroy,
15 did have a couple of additional comments that are not in the
16 letter, he would like to bring up at this time.

17 MR. WILROY: I am Bob Wilroy, Engineer, Firm Consult-
18 ant, Waste Treatment. One thing we did want to point out very
19 clearly. In looking at other ordinances, especially the model
20 ordinance put out by the Water Pollution Control Federation,
21 it does call for a penalty clause in enforcement. One part-
22 icular item is not included and we think it should be given
23 consideration at this time. I would like to read it. It
24 reads as follows: "Article 8, Section 1. Any person found to
25 be violating any provision of this ordinance, except Article

SQUARE D COMPANY
ELECTRICAL EQUIPMENT

254-7471



P.O. BOX 3107

ASHEVILLE, NORTH CAROLINA 28802

July 16, 1973

Metropolitan Sewerage District of Buncombe County
P.O. Box 7413
Asheville, North Carolina 28807

Attention: Mr. M. C. Peterson
Buncombe County Chairman

Dear Mr. Peterson:

In regard to the proposed Sewer Use Ordinance, we would like to make the following comments:

1. The biggest objection that we have concerning the proposed sewer ordinance is on Page 16 under Section 5 where the District Board can arbitrarily, just by passing a resolution, shut an industrial operation down just so a sewage system evaluation can be made. It is felt that some definite limitations on this authority should be provided which would permit industry to operate without fear of such an arbitrary requirement. We feel that this authority would give the District Board unreasonable mandatory control over any operation within a plant. An arbitrary shutdown could have a catastrophic economic effect on both the parts of industry and its employees in terms of process spoilage and employee layoffs. We recommend that the particulars be worked out to permit a system evaluation without causing undue hardships on industry and their employees. Deficiencies found from such an evaluation subsequently should be worked out to the best interests of all concerned without requiring a plant shutdown.
2. The proposed regulations are not absolutely fixed as a blanket statement. It leaves the discretion to the Board for any changes that they may see fit to make. Some limits should be placed on this with possibly public hearings required before they can be changed either up or down.
3. Section 3 (Pages 8 & 9) of the proposed ordinance stipulates that a holding tank or system be provided to discharge waste at a uniform rate over a twenty-four hour period in the event that an industrial operation exceeds a discharge rate of 100 G.P.M. and/or 50,000 gallons/day.

Metropolitan Sewerage District of Buncombe County
Attention: Mr. M. C. Peterson

July 16, 1973

This restriction could influence future industrial operations moving to this area and definitely will affect existing industry. With this restriction, existing industry must face the unreasonable expectation of construction of a holding tank or similar system. It would not be unrealistic to say that some of the existing industries could not afford the additional investment and/or do not have the space or land available to accommodate a holding system.

It is possible that many industrial operations could comply with the proposed flow rate and discharge restrictions if the process operations were spread out over a three-shift or twenty-four hour period; however, with Buncombe County's current unemployment rate of 1.8%, workers are going to demand and get first shift jobs. This in itself will limit the operation of processing applications to the periods when manpower is available.

Therefore, we would recommend that the flow rate restrictions be reviewed and reestablished considering compatibility with existing and future industrial operations.

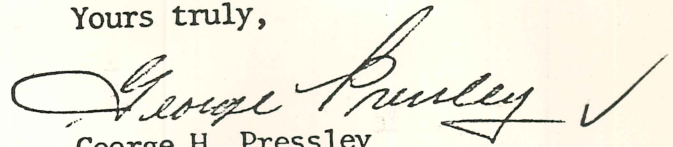
4. Page 15 and subsequent pages refer to a "twenty-four hour notice" period for suspension of service. This notice period is restrictive considering the short amount of time given to initiate corrective action and negate a shutdown. The twenty-four hour notice period could potentially be initiated during a holiday or weekend period when that particular industry's engineering and maintenance personnel could not be located for call-in. We would recommend a minimum notice period of five working days.
5. With regard to the sampling manhole (Section 3, Page 14), we feel that the city should also be in position to accept samples from a sampling device within the plant, especially on a plating operation.
6. Establishment of a monetary rate structure is mentioned in this proposed ordinance, but the specifics have not been made available at this point. We recommend that local industry also be permitted to review and comment on a rate derivation.

Metropolitan Sewerage District of Buncombe County
Attention: Mr. M. C. Peterson

July 16, 1973

In summary, we are not suggesting that controls and restrictions are not necessary; however, it is our opinion that industry in Buncombe County will demonstrate a moral and social conscience and will not intentionally jeopardize the health or the environment of the people of Buncombe County, and for this reason we submit the above recommendation for consideration concerning a more compatible and plausible Sewer Use Ordinance.

Yours truly,


George H. Pressley
Manager, Manufacturing Services

GHP/o

cc: Mr. George E. Dawson, Asheville
Mrs. R. M. Swicegood, Court House
Mr. C. LeRoy Robinson, Matthews Motors Inc.
Mr. Ben Clark, Weaverville
Mr. Paul W. Warlick, Coca-Cola Bottling Co.
Mr. M. Leon Williams, Williams Brothers Oil Co.
Mr. William T. Goodson, Woodfin
Mr. Phillip C. Brownell, Asheville
Mr. D. Frank Hyatt, Hyatt Electric Co.
Mr. Anthony Redmond, Attorney, Lawyers Bldg.
Mr. John N. Daniel, Square D Co.

1 6, shall be served by the city or sewer district with written
2 notice stating the nature of the violation and providing a
3 reasonable time limit for the satisfactory correction thereof;
4 the business shall within the time stated in such notice per-
5 manently cease all such violations." I think, based on the
6 arbitrary notice of such at 24 hours that some consideration
7 might be given to this in any future preparation of an ordin-
8 ance. This does give you some basis for operation of the
9 plant. The other thing is it does make it difficult, it is
10 hard to understand why a particular plant should be shut down
11 by the passing of a resolution for evaluation of the sewerage
12 system where an adequate sampling program should be able to
13 do this should any problems of this nature happen.

14 CHAIRMAN: Thank you, Mr. Wilroy. Any questions? If
15 not, we will go ahead.

16 MR. JOHNSON: Mr. Wilton Rankin, Attorney, Martin
17 Marietta Corporation.

18 MR. RANKIN: I have here some nine sets of exhibits
19 that I will refer to in my remarks. I will pass them to each
20 of you and you can incorporate them in the record if you wish.
21 I am Wilton Rankin from Charlotte. I represent Martin Marietta
22 Corporation, Sodyeco Division. My background: I hold degrees
23 in Chemistry, Public Health and Law from the University of
24 North Carolina. I am Chairman of the advisory committee on
25 water pollution control to the Mecklenburg County Health Depart-

1 ment for five years. I am a former member of the advisory
2 committee on air pollution control to the Mecklenburg County
3 Health Department and a former Chairman of the Environmental
4 health committee of the Health & Hospital Council for Mecklen-
5 burn and Union counties which is the official health foundation
6 for the government for these counties.

7 I have with me here today Dr. Aspen and Mr. Eckles,
8 who have some interest in this proposal.

9 My primary interest in being here today is that this
10 proposed ordinance outlaws sulfur dye waste from inclusion in
11 the sanitary sewer system, whether or not this waste has been
12 pre-treated and furthermore it contingently outlaws the inclu-
13 sion of all other dye wastes into the sewerage system. We
14 sell dyes all over the world and we have never run across a
15 condition like that in a sewerage ordinance.

16 The only distinction between sulphur dyes and any
17 other dyes is that sulphur dyes contain a small amount of
18 sulphides. Sulphide is largely converted into sulphate before
19 it reaches the sewer plant. Therefore, it is possible to treat
20 sulphides and sulphur dye waste without any problems. I am
21 unaware of any technological problems that have been reported
22 concerning treatment of dye wastes in your system. In fact,
23 your system has the reputation of being one of the better
24 systems in the whole state. Therefore, I cannot understand
25 why sulphur dyes are outlawed and we are concerned with the

1 effect this will have on our customers in Buncombe County.

2 There are approximately 20 textile firms in the county.

3 I hope to be helpful by discussing with you policy,
4 legal, technical and practical considerations relating to sewer
5 use regulations, to discuss with you some of the deficiencies
6 of your proposed regulation and to present for your consid-
7 eration a substitute regulation.

8 At the outset I would like to say that we are not
9 opposed to reasonable sewer use regulations. Aside from
10 deciding whether to build a treatment facility, the adoption
11 of a sewerage regulation is the single most important decision
12 this Board will ever make. Some of the reasons sewer use reg-
13 ulations are adopted are to protect the treatment system and
14 the people, assist localities in qualifying for State and Fed-
15 eral grants, attract or drive away industry and to assist the
16 sewage system in producing an effluent complying with State
17 and Federal standards, but, like the hemline of a fashionable
18 lady's dress, the regulations should go far enough, but not
19 too far, to accomplish the desired purpose.

20 Good economic and environmental policy is that waste
21 should be collected in a central system and treated there. It
22 can be treated more efficiently and treated better. It is bad
23 policy to have a lot of pre-treatment tanks and lagoons scat-
24 tered all over the county, they smell, they can go septic.
25 You should not even consider having holding tanks or lagoons

1 until it is absolutely imperative because of lack of sewerage
2 disposal capacity in your system that that waste must be held
3 or because it is such waste that absolutely must be equalized
4 before it is given to you.

5 I suggest that you consider the economic impact of
6 the proposed regulation will have on existing industry and
7 industry you may wish to attract. This proposed regulation
8 is more severe and restrictive than those of other localities.
9 Many North Carolina localities do not have sewer use regulations
10 at all. Industry you are seeking to attract studies sewer
11 policy and costs very carefully before deciding where to locate.
12 Your industry must compete against industry from other states
13 and counties which offer all sorts of attractions and with
14 industry from some other North Carolina counties where product-
15 ion costs are lower. Many other States give industry all
16 sorts of inducements that are not available in North Carolina
17 such as tax free loans and so it is important if you want to
18 encourage industry to come here that you be very careful. Your
19 actions will determine to a large extent whether this county
20 grows and its people find employment in the future.

21 Let's look at some of the legal questions involved:
22 Does State or Federal law absolutely require sewer use regu-
23 lations? The answer is : no. Does State law require sewer
24 use regulations as a condition for obtaining a State grant?
25 The answer is: No. Do State regulations give grant priority

1 to localities with sewer use regulations? Answer: Yes, but
2 it bears on priority, not eligibility. See page 23 of the
3 State regulations (Exhibit 1). There are no State standards
4 for what is "an acceptable sewer use ordinance", but as that
5 appears in the Fiscal Responsibility section, we must assume
6 that it relates to raising enough revenue.

7 Do Federal regulations require sewer use regulations
8 as a condition for obtaining a Federal grant? The answer is:
9 Yes. I show you on page 5334 of the Federal Register, dated
10 2/28/73 , (Exhibit 2); you will see that those regulations are
11 in force. I talked to Mr. Zorc, who is assistant general
12 counsel for grants yesterday and in interpreting those stat-
13 utes he told me this relates only to establishing charges. It
14 does not relate to the quality of waste accepted by the sewer-
15 age plant. Did you by this resolution just accept this grant
16 by EPA ?

17 CHAIRMAN: Yes.

18 MR. RANKIN: Then let me tell you what you agreed to
19 do. You have first agreed within sixty days from the date
20 of acceptance, you will send to the EPA a proposed draft of
21 the sewerage use ordinance and that you will enact that ordin-
22 ance by the time constructions is completed of this project.
23 That is under consideration this morning.

24 MR. BROWNELL: Would Mr. Rankin mind if appropriate
25 questions are raised at this point?

1 MR. RANKIN: I didn't understand.

2 MR. BROWNELL: Would it discombobulate you if questions
3 were raised as you go along?

4 MR. RANKIN: No, sir. Is there any question?

5 MR. BROWNELL: On that I am very interested in the
6 question as to whether a grant for a sewer line in the ground
7 would bring into effect what you are saying?

8 MR. RANKIN: It depends on who is the applicant for
9 this grant. If you will look at Exhibit 3, these are in your
10 book, looking down at the bottom of page 23, it says - this
11 is Congressional Law you are looking at now, - the last two
12 line of the page: "Notwithstanding any other provision of this
13 title, the Administrator shall not approve any grant for any
14 treatment works under section 201 (g) (1) after March 1, 1973,"
15 and you approved the Black Mountain Project in June, you will
16 remember, "unless he shall first have determined that the
17 applicant (A) has adopted or will adopt a system of charges
18 to assure that each recipient of waste treatment services with-
19 in the applicant's jurisdiction," and here, I say, it depends
20 on who. Is the Metropolitan Sewerage District the applicant
21 or is the Town of Black Mountain the applicant?

22 MR. BROWNELL: I understand it is the Metropolitan
23 Sewerage District, but is it a grant for a treatment works?

24 MR. RANKIN: Yes, sir, I think so. So here we are, if
25 you are the applicant, here is what you agreed to do. You will

1 adopt a system of charges to assure that each recipient of
2 waste treatment services within the applicant's jurisdiction
3 as determined by the Administrator, will pay its proportionate
4 share of the cost of operation and maintenance (including
5 replacement) of any waste treatment services provided by the
6 applicant; (B) make provision for the payment to such applicant
7 by the industrial users of the treatment works, of that portion
8 of the cost of construction of such treatment works (as deter-
9 mined by the Administrator) which is allocable to the treatment
10 of such industrial wastes to the extent attributable to the
11 Federal share of the cost of construction. As for that project
12 there will be no industrial contribution because I heard that
13 no industries would be on that line.

14 MR. BROWNELL: How can a collecting line be defined
15 as a treatment works?

16 MR. RANKIN: I think if you will look at the statute
17 you will find it is defined as a part of treatment works. Here
18 is the case, you see, you have not agreed to adopt a system
19 of charges just for that system there, you have agreed to adopt
20 a system of charges for every recipient in your district. You
21 will not have much control over what they will be. If you will
22 look at the charts, you have very definite limits on what you
23 will charge users. The folder contains proposed regulations
24 that were published for comment and comments were received by
25 June 30th and EPA has advised that they expect to adopt these

1 regulations with minor limits very shortly, so I say to you
2 that what to charge is taken from you because of the Federal
3 grant.

4 MR. BROWNELL: And you are saying - forgive me for
5 being repetitious - you are saying that the installation of
6 a collecting line which I gather is one of ---- I don't know
7 how many collecting lines that bring the sewerage into the
8 existing treatment plant which is already in existence, you
9 are saying that that line meets the definition of a treatment
10 works and enables the Federal government to adopt all of these
11 requirements and time limits as conditions for that grant?

12 MR. RANKIN: Well, the 60 day limit is one of the
13 special conditions of your contract only. The other time
14 limit is Congressional in the Act which I have just handed
15 you, on page 24 of that exhibit. Anyway, the Legislature
16 says you will have this charge system in effect before you
17 complete the construction of the project.

18 MR. BROWNELL: But the project is not a treatment
19 plant. How does a collecting line become a treatment plant?

20 MR. RANKIN: I believe you will find that in the
21 definitions. It is my understanding that the whole system
22 will be defined as a treatment works, including interceptors,
23 etc. You see, you have just by contract said - now, this
24 contract related only to the interceptors, so-called, or lines
25 as you called them, but by contract you said that in 60 days

1 you will submit a proposed sewerage regulation and you will
2 adopt it within one year or by that time. Now, Sewer lines
3 are part of treatment works.

4 I was in the process of telling you how a grant was
5 handled. A grant is handled by sending it to Raleigh, the
6 sewerage regulation is ripped out and sent to the divisional
7 manager for the state or Area Inspector, which I believe, is
8 Mr. Mull in Asheville and then those regulations are relayed
9 to the EPA in Atlanta, Mr. Oxendox, I believe, who either ap-
10 proves the regulations or issues new comments, but the EPA
11 must approve this regulation and as far as they are concerned
12 they are only interested in charges. I don't say it is not
13 good policy to cover what you will accept into the sewer, but
14 as far as EPA is concerned, money is the thing.

15 We have gone over the question of what charges you
16 must make if you accept a Federal grant. That is in Section
17 204 (B) of the 1972 Congressional Pollution Control Amendment
18 Act and the not yet final EPA regulations which are entitled
19 Industrial Use and Charges.

20 In addition, you have some obligations to North Caro-
21 lina under the Bond Act, Section 8 (3) and (4). That is Exhib-
22 it 5 of the material I handed you. Then in the Joint Resolution
23 which I have handed you as Exhibit 1; this is a joint resolu-
24 tion by the State Board of Health, Department of Human Resources
25 the Board of Water and Air Resources and the Department of

1 governing these things as priority conditions but not as prim-
2 ary conditions.

3 Now, let me ask further, what standards do Constitu-
4 tional and Administrative law impose upon you as a Board when
5 you enact sewerage regulations and they do impose standards
6 on you under the case law. First, they must be reasonably
7 intended to meet matters under your authority; second, no
8 part of the regulations are to be unreasonable, arbitrary or
9 capricious; notice and opportunity for hearing must be given
10 to affected parties; the standards must be definite and not
11 vague and ambiguous and you are not to delegate to anyone else
12 the rule making power that the legislature had delegated to
13 you and the rules must be uniformly interpreted and applied.

14 Your proposed regulations have serious problems in
15 practically every one of those areas.

16 What is the Federal Law on industrial pre-treatment
17 of waste? Section 307 (b) (1) of the 1972 Congressional Act,
18 Exhibit 6 of the exhibits I handed you, says that the EPA
19 Administrator shall publish proposed regulations and adopt
20 regulation. These have not yet been published, except that
21 40 CFR ,Part 128 is a proposed regulation.

22 Now, what does this mean. This means the Federal
23 Government is going to say how much pre-treatment is required
24 of anyone contributing to a publicly owned sewerage system.
25 In addition there are further guidelines that have not been

1 published at all; they are out in draft form. I have copies
2 of both pre-treatment standards and guidelines that are just
3 being circulated within the Environmental Protection Agency
4 now. I will mark them Exhibit 7. I have only one set that
5 I will give to the Chairman.

6 The problem is, before you launch into a discussion
7 of pre-treatment, why don't you look into what the Federal
8 Government requires. It appears to me that whoever drafted
9 this ordinance did not have that in mind so far as toxics are
10 defined or any materials in this ordinance that go through and
11 hold down standards, from where, I know not.

12 What is the law with regard to toxics? The Congres-
13 sional Act, which is Exhibit 6, for both toxics and pre-
14 treatment and this is the Congressional Act, it says in effect
15 that EPA is going to publish a list of toxics and then they
16 shall define how much toxics to prohibit and how much to let
17 through the treatment plant and to be let into waste and to
18 be let out by you. Now, the Federal Government has just start-
19 ed that this month and if you will look at Exhibit 8 you will
20 find that this is Federal Register, Volume 38, Number 125, dated
21 July 6th, 1973 and lists a group of so-called toxic materials
22 for comment. Sometime in August the EPA will receive comments
23 on these so-called toxic materials and after that the EPA will
24 decide which of these shall be outlawed and which shall be
25 restricted or allowed. Again your proposed ordinance does not

1 take into account most of these toxics.

2 MRS. SWICEGOOD: May I interrupt? Are you suggesting
3 we wait until we get these guidelines ?

4 MR. RANKIN: Well, I am suggesting that very shortly
5 you will now be able to adopt your User Charges part of the
6 Sewerage Ordinance because EPA regulations are spelled out
7 on that within a matter of days. As far as other matters
8 are concerned, it would seem to me that the portion of the
9 sewerage regulation, regulating the waste which you will
10 accept should relate to the standards that will be established
11 under Congressional Law and EPA regulations or should directly
12 go under those when those standards have been published and
13 made final. If you don't do it that way you are going to
14 have to go back and do it all over again. You are getting
15 the cart before the horse. As far as what is going to hap-
16 pen to you if you delay in putting in your so-called Users
17 Charges within 60 days from the acceptance date of this grant,
18 all EPA is going to do is when you reach 50% of the construction
19 of this project, they are not going to let you have any more
20 money until you do put in that regulation, but nothing is
21 going to happen to you before that. You have by contract to
22 put in a proposed regulation related to charges within 60 days
23 and you must then adopt after that a final ordinance or regu-
24 lation by the time you complete the Black Mountain Project.
25 If you haven't done this, you are not going to make a draw

1 beyond 50% of the money for payment of the project.

2 What about the practicalities of obtaining more
3 grant money? Well, it is going to be pretty tough. The
4 Federals have twenty million dollars allocated to North
5 Carolina. Two hundred million dollars is now being sought
6 by localities. It is State policy not to make any grants
7 whatsoever until maximum matching Federal money is forth-
8 coming. That is in the State Bond Act. So until the Federal
9 money comes, the minimum is going to come from the State,
10 the Maximum from the Federal and there is ten times as much
11 of it sought, of Federal money, as is available. Moreover,
12 I have been told by an official of EPA that Federal grants
13 are going to localities which cannot meet so-called secondary
14 treatment standards and need Federal money to meet them. In
15 other words, your system probably already meets secondary
16 treatment standards and the priority is going to systems that
17 cannot meet secondary treatment standards.

18 The Asheville paper has stated these proposed regu-
19 lations are less strict than the State Plumbing Code. If
20 that were true, you wouldn't need the regulations. My copy of
21 that Code in 1968 relates to how to build things, not what to
22 put in sewers. At one time, the State Plumbing Code forbade
23 putting explosives into the sewer and called for acid-resistant
24 pipe if acid is discharged.

25 Now, the State Board of Water & Air Resources has

1 published a model Sewer Use Ordinance. That is Exhibit 9 in
2 the package that I gave you. It is not mandatory whatsoever,
3 purely suggested. It was published before all of this busin-
4 ess of Federal charges and Federal guidelines came out , in
5 I believe, March, 1971 was the date on that. It was Exhibit 9,
6 you have that. The Federal law, the 1972 Amendment by Congress
7 of the Waste Water Treatment Act came out the following October
8 or November and the guidelines just had not been set finally
9 and so naturally the State model ordinance could not follow
10 that.

11 Nevertheless, your proposed ordinance does not fol-
12 low the State model. It has some of the language of it, but
13 I don't think the State model is a good ordinance either, it
14 needs to be amended some.

15 I would like to hurriedly review a few comments on
16 your proposed regulations.

17 Page 3, item (i), "Weight" should read "concentration."

18 Page 4, item (p), "Approving Authority" should be this
19 Board, not the Engineer-Manager.

20 Page 5, item (e) outlawing "Lint" means the ladies
21 in town will no longer be able to use their home clothes
22 washers anymore if you adopt this proposed regulation.

23 Page 5, item (f) pH 5.5-9.5 means outlawing the
24 discharge of bathtub water, which has pH 10-10.5 and outlaws
25 using clothes washers and automatic dishwashers which have
pH 11-12. The proposed Federal pre-treatment regulations

1 (Exhibit 7) speaks of "below pH 6.0" as a prohibition.

2 Page 5, item (g), it is customary to prohibit BOD
3 above the 1,000-2,000 range and to surcharge BOD above 300.

4 Page 5, item (h) Charlotte allows 700 suspended solids,
5 your regulation allows 300. It would be all right to surcharge
6 above 300 suspended solids, but to allow up to 750.

7 "Objectionable color," page 5, item (i) is vague and
8 indefinite. I wonder which color you would object to and, if
9 I may, I would like to read to you some language that would be
10 a much better substitute for that as a substitute for the
11 section of your proposed ordinance on Page 5, item (i) I
12 propose, "any waters or wastes having color which is not
13 removable, to the extent required by State or Federal law or
14 regulations, in the sewage treatment plant processes existing
15 at the time in question." Because, after all, isn't that
16 what you are trying to do, to get within the laws and the
17 system?

18 Page 5, item (m), "Any unpolluted water or waste"
19 means the citizens can't run a little tap water through their
20 sinks. I think the drafters of the ordinance intended to
21 exclude storm water, basement drain water and things like
22 that and, if so, why didn't they say so?

23 Page 7, item (4) below the middle of the page, "limits
24 established by the Engineer-Manager" is an illegal delegation
25 of your rule making power.

1 Page 9, item (3), of first paragraph, "Engineer-Manager
2 and Consulting Engineer specifically recommend waiver" is an
3 illegal delegation of the Board's power, which relates to
4 waiving holding tanks. Holding should be discouraged, not
5 encouraged. It should be called a holding facility, not a
6 holding tank, as tanks are sky-high for larger users.

7 Page 9, last sentence of first full paragraph, comes
8 very close to saying that industrial waste shall not be taken
9 in at all unless it meets the high standards of Section 2,
10 which commences on page 4.

11 Page 10, item (c), "stabilized" appears twice and is
12 nowhere defined, and I am sure I don't know what it means, and
13 I don't think anyone else knows.

14 Page 10, item (c), "sulfur dyeing wastes shall not be
15 admitted to the sanitary sewerage system", I think that is
16 unreasonable, arbitrary and capricious. This means with or
17 without pre-treatment. The only difference between sulfur dye
18 waste and other dye waste is that sulfur dye waste contains
19 a little sulfide. Domestic waste also has sulfide. Normal
20 sulfur dye waste, as discharged by a mill, has about 0.2-12
21 parts/million sulfide, which your treatment works can easily
22 handle and has been handling for years." Admission of other
23 dyeing wastes will be considered as specific problems when
24 presented" is vague and indefinite. Considered by whom and
25 on what basis? We sell sulfur dyes throughout most of the

1 free world and this is the first time we have encountered a
2 regulation outlawing sulfur dye waste.

3 Page 10, item (e), after "review", it ought to speci-
4 fy by this Board.

5 I think the whole item beginning on Page 9 and ending
6 on page 12 is interesting, because (a)-(1) speaks of if you
7 are industry what you can discharge in the sewer; the rest
8 of it speaks in terms of what concentration becomes bad when
9 the waste reaches the treatment works. If the whole philosophy
10 were receipt at the treatment works, some of it wouldn't be
11 too bad. Isn't the ultimate question not interfering with
12 treatment, protecting people and the ability of the plant to
13 meet stream standards and effluent limitations? Isn't that
14 what we are really after? I think, all of us are after. In-
15 dustry is going to pay. Don't worry about that. Federal guide-
16 lines take care of that. Biltmore said Industry would pay their
17 fair share and industry always has felt this way and
18 the Federal guidelines assure it, so there is no need to
19 worry about that, but what you can ultimately take into the
20 sewerage plant, assuming that the lines are adequate and are
21 not going to be a hazard by stopping up and assuming that
22 industry observes the level prescribed by law, is what you
23 can accept without endangering your treatment plant or without
24 endangering people and thereupon you can discharge it accord-
25 ing to State law. This business of reaching over here and

1 reaching over there because some engineer or professional has
2 said, "We ought not to have more than this, we ought not to
3 have more than that, that might kill the crayfish," just
4 doesn't make sense.

5 For example, take Chromium, page 11, item (j), 3 mg.
6 per litre. English leather tanners have proved they can treat
7 waste with 30 mg./litre chrome at the treatment works. You
8 have 0.5 and Chromium is not even in the proposed list of
9 toxics just published by the Federal Government. This is one
10 more example of what I am talking about.

11 What is the practicality of what I am talking about?
12 I am talking about sulfur dyes. When a manufacturer has to
13 go from sulfur dyes to some other agent in his mill, he will
14 spend millions or hundreds of millions by making that transit-
15 ion, just because somebody said, "0.5 is what we want."

16 Page 12, item (0), is a vague and indefinite catch-
17 all. It says in effect that just because your waste hasn't
18 been outlawed, it doesn't imply that it will be let in and
19 anyway if the Engineer-Manager thinks a waste is of "peculiar
20 character or volume", whatever that may mean, it will be
21 subject to regulations deemed applicable by the Engineer-
22 Manager. Aren't you here delegating on-the-spot rule making
23 and standard making power? In other words, is the law to be
24 what some person says it is, based on person, time in question
25 and place?

1 Page 12, item (p), first sentence, "Regulations are
2 generally applicable...but not absolutely fixed". They should
3 be fixed until amended. Otherwise, they are like a nose on a
4 wax face, to be twisted and shaped as anyone wishes.

5 Page 12, last sentence commencing on the page, lays
6 down conditions under which this Board can adopt a future
7 resolution. That has been illegal since Lord Coke was the
8 English Chancellor. If this Board can pass a resolution, it
9 can amend or repeal it and this Board cannot prevent or condi-
10 tion its , or its successor Board's , resolution-making powers.
11 Anyway, it is in express conflict with the last sentence of
12 Section 9 on page 20.

13 Page 15, there is no right of appeal to this Board
14 from the Engineer-Manager's right to refuse a permit to
15 discharge.

16 I am reciting these things to show you this is a
17 badly drawn document from a lawyer's viewpoint.

18 Page 17, first two sentences, can you really believe
19 that the courts will permit this Board to alter limits and
20 restrictions to a particular person, but not others? I don't
21 believe you even want that power if you could obtain it. That
22 contravenes the Equal Protection of the Laws clause of the
23 14th Amendment of the United States Constitution. The law is
24 the law and it is not to say, "I will do for him this, but I
25 will not do it for that man." This is for the protection of

1 Page 17, third sentence of third paragraph, why do
2 you forbid dilution of waste? Are you rationing water? Why
3 not expand the treatment plant if you cannot handle a large
4 quantity of specific pollutant, or why not ration your services
5 on a weight basis, not forbid dilution. If you require these
6 so-called holding facilities as proposed, all water must go
7 into those facilities and it will be diluted by unpolluted
8 water. There is no other way to handle it.

9 Page 19, second full paragraph, there is no right
10 of appeal provided from the Engineer-Manager's determination
11 of additional expense caused.

12 Page 20, section 10, should not the Board set limits
13 beyond which sufficient surety would not go? For example,
14 if the Engineer-Manager decided anyone was about to cause the
15 Board trouble with problems, he could require them to post a
16 bond of any limit. There is no right of appeal from this
17 matter. What is the alternative to having your water cut off
18 right then?

19 Page 20, last sentence, why is it necessary to re-
20 affirm the Bond Resolution. It is already on your books. It
21 is redundant.

22 Page 21, section 13, this is extremely important.
23 This is the last point I am going to make, the effective date.
24 If and when you adopt a Sewer Use Regulation that pertains to
25 the quality of input that you accept, if those regulations

1 require or preclude or if they require holding facilities,
2 industry will need at least one year to comply with them.
3 Structural steel is on back order, all sorts of construction
4 equipment is on back order. There will be a lot of construction
5 around Asheville if you draft this ordinance with holding
6 facilities and pre-treatment required.

7 I have drafted a set of proposed regulations (Exhibit
8 10) and ask that you consider them. They are derived from the
9 model ordinance (Exhibit 9) and represent an amendment thereof.
10 I don't say it is the greatest ordinance ever written. I do
11 know it is a substantial improvement over the ordinance that
12 has been proposed to you. I would ask you to take it and
13 consider it for what good it may do.

14 The last point I would like to make is this: this
15 is an extremely important question and I think rather than
16 taking up too much of the Board's time considering these
17 points, the Board might wish to consider appointing a commit-
18 tee made up from Board Members, staff of the treatment works,
19 and some local industry members to see if they can sit down and
20 come to some agreements as to what they need as to a sewer
21 regulation and report back to this Board.

22 I thank you for your patience and I would be glad
23 to help you in any way I may.

24 CHAIRMAN: Mr. Rankin, you are from Martin Marietta,
25 what is your interest here?

1 MR. RANKIN: I am a lawyer, but my background is
2 chemical. We manufacture sulfur dyes and sulfur dyes are
3 outlawed in this ordinance.

4 MR. JOHNSON: Who do you represent.

5 MR. RANKIN: I represent Martin Marietta Corporation.

6 MR. BROWNELL: Mr. Chairman, are you asking what his
7 local interest is?

8 CHAIRMAN: Yes.

9 MR. RANKIN: Our corporation sells dyes to industry
10 all over Buncombe County. We manufacture dyes in Charlotte
11 and we sell all over to the whole textile industry and we have
12 perhaps twenty textile facilities in Buncombe County and know
13 they would be absolutely affected by this ordinance. Our first
14 concern is sulfur dyes and next is the welfare of our customers.
15 We couldn't hardly get along without it.

16 MR. BROWNELL: Apart from all the details involved
17 here, I am disturbed as one member of the Board by the problems
18 involving the time elements. Let me see if I can formulate, if
19 I may, a question and get Mr. Rankin's opinion, which I am
20 sure he understands we won't necessarily take, but I would like
21 to get the opinion of the lawyer as to whether this formulation
22 is, roughly and in very broad terms, correct or not. It is
23 in two parts. Insofar as this Board is concerned, our paying
24 attention to the requirements of the State and Federal laws,
25 would I be correct in saying, would fall into two, possibly

1 three categories, that we have the obligation to comply contin-
2 uously, the District does, the treatment facility plant does,
3 with the requirements which can be imposed under Constitutional
4 limitations by either the Federal or State governments as to
5 the quality of the effluent as it effects the river into which
6 the treatment plant empties, is that correct, Mr. Rankin?

7 MR. RANKIN: Yes, sir and may I answer for you what
8 your State and Federal requirements are right now?

9 MR. BROWNELL: Well, that was one part of it.

10 MR. RANKIN: The State has a regulation which says,
11 "Thou shalt not contravene the quality of the water of the
12 receiving stream."

13 MR. BROWNELL: That's right and let me finish my
14 question. So there is that angle which applies to us and has
15 applied to us at all times. Now, we get to the second lever-
16 age of the Federal and/or State governments which has to do
17 with the conditions which can be attached in return for their
18 giving money?

19 MR. RANKIN: Yes, sir.

20 MR. BROWNELL: But other than that, am I correct, if
21 I put it a little bit bluntly, it isn't enough, unless it is
22 on the basis of one or the other of those requirements, there
23 is no State or Federal agency that simply has the authority
24 to tell this Board, "You must do so and so or do something else,"
25 except under one or the other of those broad principles?

1 MR. RANKIN: Yes, sir, with one exception. The State
2 Board of Health, if you affect drinking water, they can.

3 MR. BROWNELL: Yes, sir. Now on the matter of the time
4 element, would it not be so that insofar as you have got an
5 existing plant, the fact that you have State or Federal money
6 in that does not authorize the State or Federal government to
7 say, "Because you got some money from us before, we are impos-
8 ing new condition on you"?

9 MR. RANKIN: No.

10 MR. BROWNELL: But if we ask for new money and obviously
11 we are very much interested in that; what are we going to have
12 to do if we borrow that money?

13 MR. RANKIN: I say to you now that if the interceptor
14 lines or treatment works are constructed with Federal or State
15 money, if you are the applicant as opposed to the Town of
16 Black Mountain, you have already contracted that you will
17 adopt this charge system and in addition to that this industrial
18 cost system, but if you decide you don't want to, you can
19 always back out on the proposition. It is always a matter of
20 whether you want Federal money and what goes along with it or
21 whether you don't want Federal money. If you do want the Fed-
22 eral money, you are going to have to follow their requirements.
23 Now, here are the Congressional amendments in 1972 to the
24 Water Pollution Control Act and this book is about half full
25 of stuff that is going to be told to anybody and half of it
about what you have to do if you borrow Federal money.

1 MR. BROWNELL: Would you agree that it is very
2 important for us to know, it is an acute question, concerning
3 the time element only, as to whether or not a sewer line out in
4 the project at Black Mountain is a treatment works or not?

5 MR. RANKIN: Yes, certainly, but you have said that
6 in 60 days you will comply with all of these conditions. That
7 is your promise.

8 MR. BROWNELL: They cannot enforce that unless that
9 facility, that sewer line, falls within the definition of a
10 treatment works?

11 MR. RANKIN: That is true and moreover unless you are
12 the applicant as opposed to being an agent for the Town of
13 Black Mountain. Furthermore, if you want to issue your own
14 bonds and not apply for the money, you could do it and so
15 advise the Federal government and they have lots of other people
16 who would like to have this money.

17 MR. JOHNSON: Mr. Chairman, we have one more from
18 Mr. Alexander Czarnecki, of the Metal Finishing Corporation.

19 MR. Czarnecki : I am Alexander Czarnecki, vice-president
20 and general manager of the Metal Finishing Corporation and
21 rather than going into details and going down through this
22 ordinance as we have reviewed it and pointing out what we dif-
23 fer with and what we agree with, the comments as made by all
24 of the speakers today, more or less, in general, review our
25 comments to the Board. We would suggest that the Board would

1 take into consideration some of these comments and review this
2 ordinance before going into and passing this resolution. As
3 Mr. Johnson is aware, the Metal Finishing Company in Charlotte
4 was involved in a test case over the Water Pollution Act way
5 back in 1959-60 and we went through quite a few little words
6 that meant one thing or another; in other words, this was a
7 matter of definition of just what was meant and what was the
8 definition and we were involved in trying to find out what was
9 meant. As we read it, we said it meant one thing, they said
10 it meant another thing. These things have stretched out for
11 several years. We finally got a compliance back in 1970. It
12 took us almost eleven years to get a compliance and then a
13 simple little thing like not allowing for floor drains in the
14 plant put us back out of compliance again. We notice it says
15 here, "floor drains." Now, floor drains - every service station
16 in Asheville will be not complying with your resolution because
17 they will be putting gasoline into your sewer system.

18 So are we going to pass a resolution and say to
19 everybody, "This is what we want and you comply with it," or
20 are we going to be fair to everybody and say, "Let's pass an
21 ordinance that everybody can live by, not only the City of
22 Asheville, but Buncombe County and taking into consideration
23 every future need"? I believe if we get such an ordinance
24 that we will be glad to comply with it in every way, shape and
25 form as I think would every man here and every company, if

1 it is a fair resolution and takes into consideration everything
2 including the expense. I think of a plant in Asheville that
3 has only space for his plant and if he had to put up a water-
4 sewer tank to hold 50,000 gallons of water, he would have to
5 close his plant and he would have to go out of business.

6 So we would request the Board to take into consideration
7 every item that was suggested today and maybe take the recom-
8 mendation of the representative from Martin Marietta and
9 appoint a committee from members of the Board and industry and
10 part of Mr. Johnson's staff and try to work out a good,workable
11 solution that we all can live by. Thank you.

12 MR. JOHNSON: Gentlemen, this is all of the requests.
13 I might ask if there is anybody that has changed their mind.
14 Is there anybody that would like to come forward?

15 MR. R. ED HARRELL: Mr. Chairman, I am Ed Harrell, with
16 the law firm of Uzzell & Dumont. I,along with Mr. Harry Dumont,
17 represent Sayles-Biltmore Bleacherries. As Mr. Redmond and Mr.
18 Peterson know, Mr. Dumont called you last week and said he
19 was going to the hospital. He has been handling this thing
20 since Sayles got notice of it on June 25th. That was our first
21 notice of this proposed ordinance. Gentlemen, we really have
22 not had too much opportunity to work on it. I got into it
23 last Thursday so I know nothing about it but what I have read.
24 Mr. Dumont requested the Chairman^{and Mr. Redmond} that he be heard at a later
25 date and I respectfully request that he be given an opportu-
nity to be heard.

1 I would like to make one or two comments as a private
2 citizen , let alone being an attorney. I personally think
3 that this is the biggest decision that you Ladies and Gentle-
4 men are going to have to make. It is going to effect not
5 only industry here in Buncombe County, but it is also going
6 to effect the citizens of this community, as to what kind of
7 ordinance you ultimately pass. Right now the proposed ordin-
8 ance as it affects Sayles-Bleacherries, we can't live with it.
9 It will put us out of business. Right now, if we wanted to
10 have a holding tank for pretreatment, the State Highway De-
11 partment is going to come in and take the land. We are like
12 a lot of other businesses, we only have so much land.

13 I agree with Mr. Rankin that this is an important
14 decision and one that I do not think should be acted on im-
15 mediately just to get an ordinance prepared to satisfy the
16 State or Federal government.

17 I would like to answer Mr. Brownell's question. In
18 my opinion, the Federal government is going to come in and
19 tell you gentlemen what you are going to do with the sewerage
20 system for \$67,500.00. They are going to tell you how to
21 run it and you are going to like it ,whether you do or not.
22 I am all for getting Federal money, I pay taxes just like
23 you gentlemen, but I still believe as a citizen I would be
24 a little conscious even though the money is free as to what
25 obligations I am going to be faced with in getting that money.

1 I agree with Mr. Rankin. I heartily recommend that
2 this Board form a committee of engineers, chemists, business
3 men and industry to look into a proposed ordinance that
4 everyone can live with, the citizens and industry and, again,
5 I respectfully request the committee to give Mr. Dumont an
6 opportunity to be heard. Thank you.

7 MR. MANLEY WRIGHT: Mr. Chairman, I was one of those
8 who were undecided, but I will be very brief. I am Manley
9 Wright, Chairman of the Agricultural Development Committee
10 of the Asheville Chamber of Commerce. The Chamber has taken
11 no position whatsoever on this resolution, but has some con-
12 cern due to the apprehensions and the confusion and certainly
13 the misunderstanding that for some reason has surrounded it.
14 I think we can see some of the reasons for that today.

15 We certainly have had the finest cooperation in the
16 world from the MSD in Asheville and Buncombe County. As you
17 know, the Chamber of Commerce are loyal and hearty supporters
18 of the bond issue and we actually, in our economic develop-
19 ment, have boasted and bragged about the MSD and said they
20 have been tremendously cooperative and is one of the finest
21 in the country and it has been a tremendous sales tool for
22 us in talking to new industry coming into Asheville.

23 The Chamber, as you know, in its economic develop-
24 ment has its emphasis on quality and that certainly includes
25 quality of all aspects of ecology and environment. We do

1 not want to see that lost, but if there is any one thing,
2 however, that is more important to us than future economic
3 development or new economic development coming in, it is the
4 protection of or continuation of existing development of our
5 current local industry, the establishment and livability of
6 those who are here.

7 We simply urge and hope that you will work out
8 regulations that are meaningful, of course, and can be worked
9 with and lived with in our existing industry, always, of course,
10 commensurate with safety and as to the enforcibility, as to
11 the time element, that proper notice and reasonable notice and
12 time be given any offenders, whatever resolution you pass and
13 that before anybody is terminated from dumping into the sewer
14 that it be checked and considered by the Board.

15 CHAIRMAN: Thank you ,Mr. Wright. Any others that
16 would like to come forward? I would like to go back over one
17 sentence in my opening remarks, that while such action appears
18 necessary, at the same time it is the feeling and intent of
19 the Board to do everything it can to avoid working undue hard-
20 ships on the users of the sewerage system. I think that is
21 definitely the feeling of this Board and we feel that something
22 will be worked out to satisfy the vast majority. I don't
23 think we could do anything that would satisfy everybody, but
24 will try to make it satisfy the majority.

25 MR. JOHNSON: If I may, Mr. Chairman, make a comment

1 on behalf of the staff. In this whole matter, we feel
2 strongly about this. We are willing to accept any amendment.
3 Some good amendments have been suggested. I would like to
4 say for the industries who are here that we thought we were
5 trying to help the industries in Buncombe County. We still
6 think we are. Mr. Rankin, you presented comments, very well
7 done. I have copies of everything he presented; they are not
8 anything new to us. I can't interpret them. I am not a law-
9 yer, but I would like to say on behalf of the Board, there
10 is one point you did not cover, Mr. Rankin - he may not have
11 wanted to cover it - if something is not done between now and
12 January 1st that every industry in this district is going to
13 have to get a permit from the Federal government to operate.
14 I don't mean this as anything except I have seen one of the
15 bulletins that you have that says Federal permits go into
16 effect January 1, 1974. We thought and honestly thought that
17 we were trying to get something, I don't care what it was,
18 so that industry will not have to go get Federal permits if
19 we can get them for them. If we can't do this, I would sug-
20 gest each industry confer with your attorneys and see what
21 the new Federal permits that go in effect January 1, 1974 will
22 require of you.

23 MR. BROWNELL: Mr. Chairman, I would like to have a
24 comment on that last statement. What is the meaning of that
25 statement that by January 1, 1974 every industry will have to
get a federal permit. I don't understand that.

1 MR. RANKIN: I am not aware of the section of the law
2 being referred to by Mr. Johnson. He said it was in one of
3 the bulletins I just gave to him.

4 MR. BROWNELL: Will you point it out, Mr. Johnson?

5 MR. RANKIN: I don't dispute him, but I am just not
6 familiar with that provision. There are so many provisions
7 of this law that nobody can keep up with every bit of it.

8 MR. BILL MULL: I will have to agree with that. While
9 I look up that deadline, there is one question you had here
10 earlier regarding the definition of an interceptor sewer or
11 a treatment works.

12 CHAIRMAN: Are you a lawyer?

13 MR. MULL: No, sir.

14 CHAIRMAN: Are you interpreting the law here?

15 MR. MULL: No, sir, I am reading a law.

16 CHAIRMAN: All right.

17 MR. MULL: This is Rules & Regulations, Title 40,
18 Chapter 1, Part 35, subsection 35.905 sc treatment works. Under
19 35.905, definitions.

20 CHAIRMAN: Is this State law?

21 MR. MULL: No, sir, Federal.

22 MR. RANKIN: Are you reading from the United States
23 Code or the Federal Register or are you reading from enacted
24 law or proposed law?

25 MR. MULL: I am reading from the Rules and Regulations,

1 of the Federal Regulations.

2 MR. RANKIN: Rules and Regulations, proposed or
3 adopted?

4 MR. MULL: They are Interim Rules & Regulations,
5 effective February 28, 1973.

6 MR. RANKIN: All right, so these are adopted regulations
7 of the Environmental Protective Agency; this would be their
8 interpretation of the law.

9 MR. MULL: This is their definition, right. "Any
10 device or system used in the storage, treatment, recycling or
11 reclamation of any sewerage or waste water..implemented under
12 Section 201 of the Act or necessary to recycle or reuse water
13 at the most economical cost over the estimated life of the
14 works, including intersecting sewers, outflow sewers, sewerage
15 collection systems, pumping, power and other equipment and it
16 shall include remodeling, additions and alterations thereon."

17 MR. RANKIN: That is the definition of treatment works?

18 MR. MULL: Yes.

19 MR. RANKIN: Then the answer to the question you raised
20 to me earlier is, yes, if you take the Black Mountain money,
21 the EPA is going to say that this collection system is part
22 of a treatment works and you are brought under that law. Now,
23 I must hasten to say that this is EPA's interpretation. The
24 only thing I have with me is the 1972 Amendments to the Act.
25 If there is a Congressional enactment in the United States Code,
it would supercede that. I rather doubt that EPA has done any-

1 thing there except to follow the statute or put in their own
2 definition that Congress put in the definition.

3 MR. BROWNELL: Will you send us a copy of that? I
4 would be glad to see a copy. It is difficult for this member
5 of the Board to understand what I can only describe as very
6 intimidating statements. When I say intimidating statements,
7 I mean in the direction of saying and of influencing the
8 feeling that we must act or some terrible thing is going to
9 happen. That is why I think it is very important to ask here
10 today, this authority, where it comes from, who said it,
11 because I feel in the light of our proposed regulations these
12 things become important.

13 MR. JOHNSON: They do become important, Mr. Brownell.
14 May I remark that I suggested that these corporations consult
15 their attorneys.

16 MR. BROWNELL: The point I am making is that we as
17 Board Members need to be very sure what kind of statements
18 we are getting and understand exactly what it means and how
19 authoritative it is.

20 MR. MULL: He is looking this up about this January
21 first deadline, but it was my impression that the National
22 Food Elimination Discharge systems is a permanent system for
23 people that discharge into surface waters and tributaries
24 thereof and if you are an industrial user discharging into a
25 sewer facility, then you should file what we call a short

1 form which gains you recognition of that fact, but you do
2 not have to be o.k'd by the government to discharge into that
3 system, you are just telling the government that, "I don't
4 discharge directly into any surface water and I don't have
5 my own treatment facility. I am using a municipal sewer" and
6 you are entitled to just write a letter to them and tell them
7 you are not doing this, but as far as I am concerned or was
8 aware of, I was unaware that we will by January 1st have to
9 get some o.k. from the Federal government to use a municipal
10 sewer system. I thought that was up to the municipal system
11 to decide on. I am unfamiliar with Mr. Johnson's statement
12 there.

13 A BOARD MEMBER: That is what Mr. Johnson is saying,
14 he doesn't have to have a permit, but everybody else has to
15 have one. Isn't that right, Mr. Johnson?

16 MR. JOHNSON: I requested the industries to confer
17 with their attorneys; I don't know.

18 MR. MULL: I did not realize a regular drawn out
19 permit was at this time required. It might be required to
20 get Federal funding.

21 MR. RANKIN: Mr. Johnson said the law referred to is
22 contained in the material that I handed the Board. If he can
23 put his finger on it for me, I will be glad to look at it.

24 MR. JOHNSON: I don't think I can. I will do it after
25 the meeting.

1 MR. RANKIN: I am just not familiar with any require-
2 ment that the industries will have to get individual discharge
3 permits if the city doesn't have a sewer use permit, there
4 may be such a requirement. I would be interested in seeing
5 if there is and if you will tell me what it is in, I will be
6 glad to look for it.

7 MR. JOHNSON: I will be glad to discuss it with you
8 after the meeting.

9 CHAIRMAN: The hour is getting late. It is after 4:00
10 o'clock.

11 MR. CZARNECKI: We got involved in this industrial
12 discharge permit in Charlotte. We ran a waste line into an
13 open ditch and under an old Army Corp of Engineers Act of
14 1889, we had to pay \$100.00 to discharge it. Then EPA came
15 along and proposed two standard application forms for use
16 by the State and industries for permits to discharge any
17 waste water into waterways. This is when you discharge direct-
18 ly into a stream. Our line ran into the ditch, but the ditch
19 ran to Sugar Creek and into the river and we were liable under
20 the Corp of Engineers. I believe that this is what they are
21 talking about in this sense of the word, that you have to have
22 these permits renewed every year and they are renewable ordin-
23 arily on January 1st.

24 MR. BROWNELL: That is thoroughly understandable and
25 a fine idea, but what that thing deals with, if I understand

1 you correctly are those industries or individuals that are
2 not discharging into a sewerage treatment plant?

3 MR. CZARNECKI: That is correct.

4 MR. BROWNELL: Therefore, I would simply endeavor to
5 either find out that I was erroneously understanding the
6 situation or if I was not to point out to my co-members of
7 the Board that a statement which means one thing should not
8 be applied to another and to say that because MSD facilities
9 which are receiving the effluent from industries and so doing,
10 then unless we did something or other every industry would
11 be thrown on its own, I don't believe is an applicable state-
12 ment.

13 CHAIRMAN: Anything further? The hour is drawing late.
14 I do want to say on behalf of all the Board, we certainly
15 appreciate your attendance and your remarks. They will be
16 taken under advisement by the Board at a later meeting. We
17 want to come up with some solution that everybody will be
18 happy with.

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20 Meeting adjourned.
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