

## MEMORANDUM

TO: City Council  
Jeff Mikorski, City Manager

FROM: Timothy L. Ball, General Manager, MUB

DATE: January 27, 2015

SUBJECT: **Ordinances on Final Reading  
February 2, 2016 Council Meeting**

This will serve as a read ahead to help you prepare for the final reading of seven MUB related ordinances during the February 2 Council meeting. The seven ordinances are:

- Water Rate Ordinance (2<sup>nd</sup> reading)
- Sewer Rate Ordinance (2<sup>nd</sup> reading)
- Authorizing Ordinance (2<sup>nd</sup> reading)
- Four Bond Ordinances (3<sup>rd</sup> reading)

Together, these seven ordinances support two critical water and sewer infrastructure projects necessary to support the health and growth of our community. Those projects are a new raw water reservoir at Cobun Creek, and expansion/upgrade of the Wastewater Treatment Plant (WWTP) at Star City.

We do not take lightly the fact that water and sewer rates will need to be adjusted to fund these critical community projects, and we are constantly focused upon our strategic mission of protecting public health and safety at the lowest possible cost.

As you requested at the January 19 Council meeting, we are pleased to provide additional drawings of the projects, including draft project schedules. We also include typical photos depicting the completed condition of several recent major projects, as our assurance that construction areas will be properly restored without long term adverse impacts.

And as a final matter, we have provided a letter report responding to an inquiry from Charles C. Sell.

We appreciate the opportunity to provide this information. I look forward to the Council meeting, and always welcome your questions in support of your deliberations regarding these important decisions.

## Forest Drive Sanitary Project

Before



After



Sunshine Estates Sanitary Project

Before



After



**Sabraton Storm Project**

**Before**



**After**



## Rail Trail Force Main Project

After



After



**PERMITS – RAW WATER RESERVOIR**

Army Corps of Engineers-	404 Permit
Monongalia County Floodplain Management-	Floodplain Permit
US Fish and Wildlife-	Rare, Threatened, or Endangered Species Clearance
WV DEP-	401 Certification
WV DEP-	Construction Stormwater General Permit
WV DEP-	Dam Safety Permit
WV DNR Office of Land and Streams-	Stream Activity Permit
WV DNR-	Rare, Threatened, or Endangered Species Clearance
WV Division of Culture and History-	SHPO Clearance

**PERMITS – WWTP UPGRADE**

Army Corps of Engineers-	Nationwide Permits No. 7 and No. 13 Coverage
Monongalia County Floodplain Management-	Floodplain Permit
Morgantown Utility Board-	Stormwater Permit
Star City-	Building Permit
US Fish and Wildlife-	Rare, Threatened, or Endangered Species Clearance
WV DEP-	Construction Stormwater General Permit
WV DEP-	NPDES Permit Modification
WV DNR Office of Land and Streams-	Stream Activity Permit
WV DNR-	Rare, Threatened, or Endangered Species Clearance
WV Division of Culture and History-	SHPO Clearance



Google earth

Imagery Date: 9/5/2013 39°34'21.13" N 79°56'13.07" W elev. 1194 ft. eye alt. 3643 ft.

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Google earth

Imagery Date: 9/5/2013 38°54'37.00" N 79°56'18.93" W elev. 1126 ft eye alt. 2962 ft

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Imagery Date: 10/18/2015 39°34'46.12" N 79°56'15.16" W elev: 982 ft eye alt: 1186 ft

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1956

## **UPDATED PROJECT SCHEDULE - COBUN RESERVOIR**

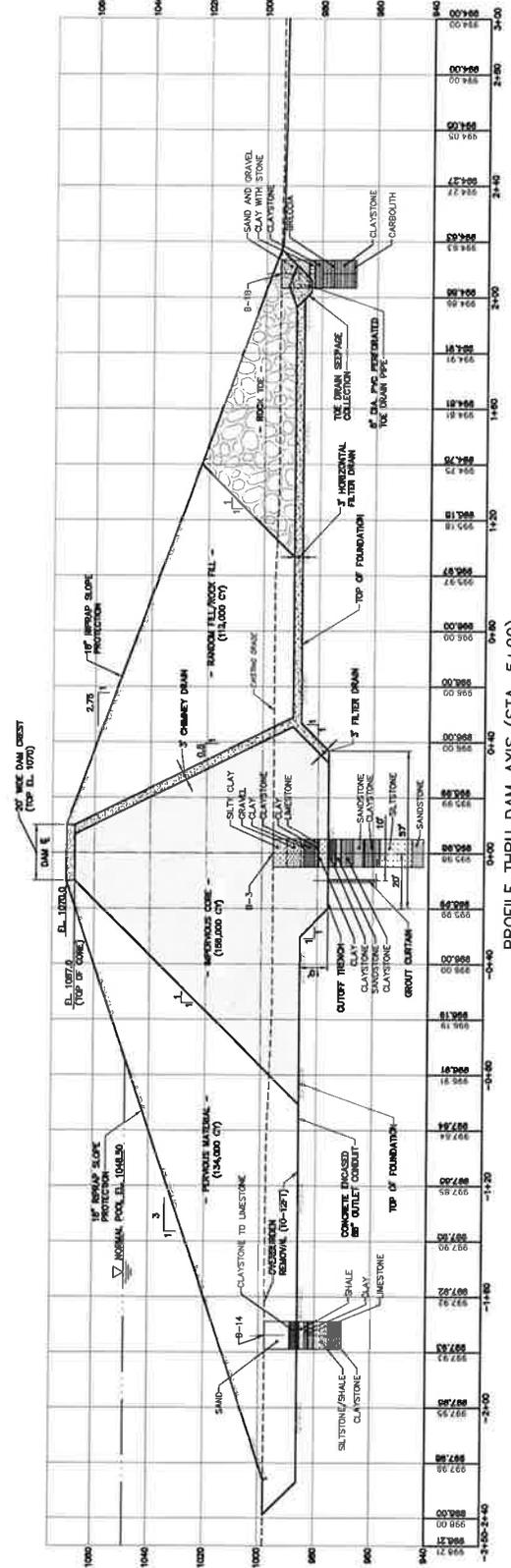
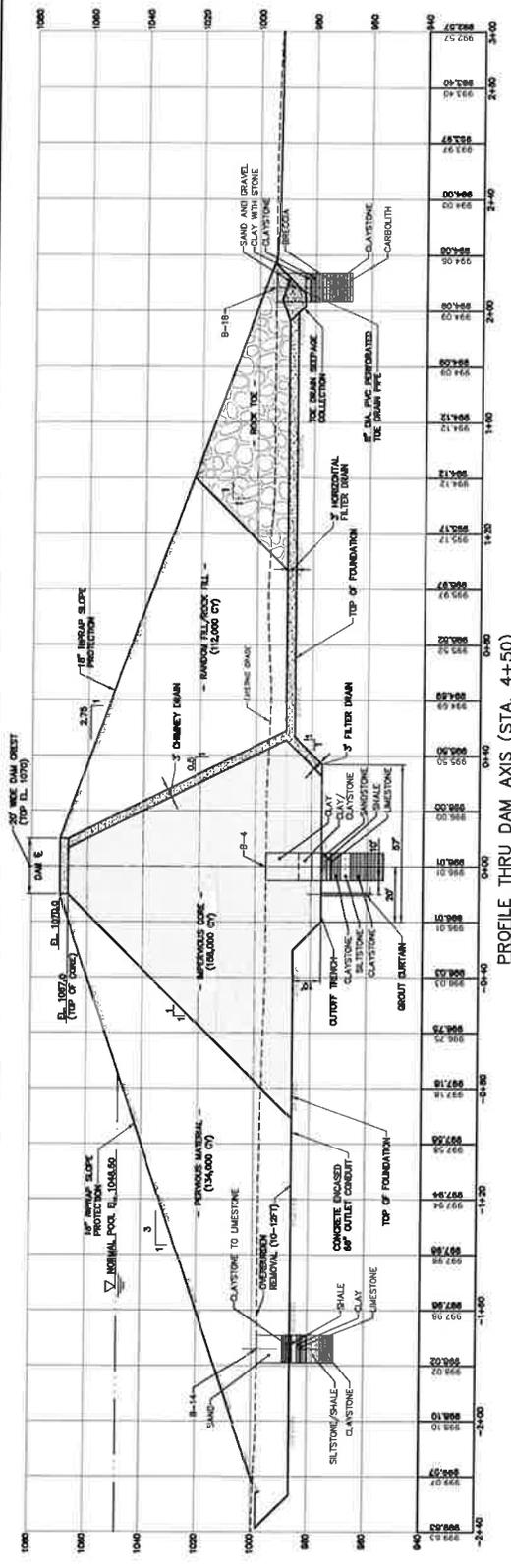
### **Work Planned**

- Receive Laboratory Soil Test Reports – January 28, 2016
- Stability Analysis Completion – February 10, 2016
- Preliminary Design and Engineering Complete/MUB Approval – February 20, 2016
- Complete NEPA Environmental Assessment Report – March 1, 2016
- Complete Plans/Specifications for Dam Safety Permit – April 15, 2015
- Complete Contract Documents – June 15, 2015
- Receive All Permits Including Dam Safety & 404 Permit/401 Cert. – July 10, 2016
- Advertisement For Construction Bids – July 15, 2016
- Bid Opening – August 15, 2016
- Award Bid to Construction Contractor – September 1, 2016
- Issuance of Notice to Proceed to Construction Contractor – September 15, 2016
- Start Construction – October 1, 2016
- Begin tree removal process – October 1, 2016
- Begin road relocation – October 15, 2016
- Complete road relocation – December 1, 2016
- Begin Dam Excavation – December 1, 2016
- Complete Construction – October, 2018

## **UPDATED PROJECT SCHEDULE - WWTP**

### **Work Planned**

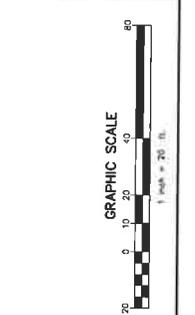
- Final Plans and Specification Complete – January 22, 2016
- Submit Plans and Specifications to WV DEP – January 27, 2016
- Receive Finding of No Significant Impact – February 27, 2016
- Submit Modification to NPDES Permit – February 28, 2016
- Receive NPDES Permit Modification and Authorization to Bid – March 28, 2015
- Advertise for Bids – March 31, 2015
- Prebid Conference – April 20, 2016
- Bid Opening – May 12, 2016
- Award Bid to Construction Contractor – July 1, 2016
- Issuance of Notice to Proceed to Construction Contractor – August 5, 2016
- Start Construction – September 1, 2016
- Complete Construction – March 12, 2020



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PROPOSED OCE DAM PROFILES THRU DAM AXIS  
 MORGANTOWN UTILITY BOARD  
**COBURN CREEK No. 2 DAM**  
**AND RESERVOIR**

DATE: 10/09 SCALE: AS SHOWN  
 MONROGALLA COUNTY, WEST VIRGINIA  
 PROJECT NO. 1009 SHEET NO. 4  
 DRAWN BY: JMS  
 CHECKED BY: JMS  
 PROJECT LOCATION: SECTION 20, TOWNSHIP 34 N., RANGE 10 E., MONROGALLA COUNTY, WEST VIRGINIA



Special Report  
MUB Response to Inquiry from  
Charles C. Sell

**Introduction**

Mayor Shamberger received an emailed inquiry from Charles C. Sell on December 9, 2015. The City Manager forwarded Mr. Sell's inquiry to MUB on January 20, 2016.

This report provides MUB's response, and as requested by Mr. Sell, is provided in written form to the City Council.

**Background – as submitted by Mr. Sell**

Mr. Sell's inquiry is provided here in its entirety:

From: Charles Sell  
Date:12/09/2015 10:48 AM (GMT-05:00)  
To: [mshamberger@morgantownwv.gov](mailto:mshamberger@morgantownwv.gov)  
Subject: Re apparent MUB duty

Dear Mayor and Council Members:

On 12/29/04, Public Service Commission (PSC) Administrative Law Judge Keith A. George issued his Recommended Decision in Consolidated Cases 04-1024-S-MA and 04-1025-W-MA, involving "investigation and suspension of" sewer and water rate increases MUB had sought and on which George had previously held a public hearing in Morgantown. Among the evidence George wrote he had considered was the following from the hearing transcript:

"MUB has combined sanitary and storm sewers. MUB has been required by the Federal Government to have a long-term plan to eliminate discharges from its overflows (into Decker's Creek and the Monongahela River) during wet weather events. MUB anticipates spending \$70 million over the next 20 years to address issues related to preventing" such overflows.

In a 1/2-page ad in the 12/4/15 *The Dominion Post*, MUB General Manager Timothy L. Ball gave public notice to the utility's customers, including me, that it still has 40 such combined sewer overflows (CSO's), the intent of such notice being to "create stronger public awareness of CSO's and to "promote greater public involvement in local CSO programs." Accordingly, and since the foregoing PSC cases transpired 11 years ago, and, further, since MUB is currently seeking very large increases in its water and sewer rates for its customers, the increased revenue therefrom apparently to be used for purposes other than eliminating discharges from its CSO's, I am seeking the following information via your having Mr. Ball provide it to Council in writing during a public appearance before you in open session:

1. The identity of and contact information for the Federal Government agency that so required MUB, whether MUB is still so required, and, if not, when and under what circumstances MUB was released from said requirement.

2. How much of the anticipated \$70 million expenditure has been expended by MUB during the last 11 years toward satisfying said requirement.

Your cooperation in this matter will be appreciated.

Charles C. Sell

Westover

### **Background – as Responded by MUB**

The quote attributed to PSC ALJ Keith George (George) is accurately presented. However, the quote is troublesome in two ways.

The most significant issue with George's statement is that George misstated the federally based requirements related to Combined Sewer Overflows (CSO's), when he wrote that MUB must "eliminate discharges" and that MUB's plans address "preventing" such wet weather overflows. While prevention and elimination of such discharges are laudable goals, even the relevant federal policy recognizes that achievement of such goals is unlikely. Federal policy therefore directs that CSO operators work to *minimize* wet weather CSO discharges and to *maximize* flows to the

WWTP. Elimination of CSO's would be prohibitively expensive for our ratepayers, a fact that is recognized in both federal rule and state regulation.

Another significant issue with the George statement is that it discusses future expenditures that were not directly related to the subject PSC cases at the time. The referenced PSC cases were routine rate increases (one for water and one for sewer) that were initiated by MUB for the purpose of improving general revenues for routine operations and maintenance costs. The 2004 rate increases did not include any capital expenditures for CSO program compliance or remediation.

The only CSO expenditures included in the 2004 rate cases were for monitoring and testing and the collection system so that a capital plan could be developed and presented to the regulating authority (WVDEP). The \$70 million mentioned by George was for potential *future* spending toward that capital plan which would be financed by potential *future* rate increases.

Mr. Sell also mentions a recent public notice by MUB which tabulates, as stated by Mr. Sell, that MUB "still has 40 such combined sewer overflows". Mr. Sell then comments on the currently proposed rate increases, which he supposes are "apparently to be used for purposes other than eliminating discharges from its CSO's".

As stated above, the regulations and policy applying to the operation and management of CSO's do not require their elimination, but instead require improvements to lessen the impact of CSO's on our water environment. It therefore should not be surprising that MUB's 40 CSO's continue to exist. MUB's strategy for maintaining CSO compliance is to *reduce* wet weather CSO discharges by *maximizing* flows to the WWTP. The proposed improvements at the WWTP are proposed primarily for that very purpose.

Finally, the currently proposed WWTP improvements are planned in conformance with, and are part of, the (then future, but now outdated) \$70 million capital plan mentioned by George in 2004.

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**Question # 1 – Mr. Sell asks:**

*The identity of and contact information for the Federal Government agency that so required MUB, whether MUB is still so required, and, if not, when and under what circumstances MUB was released from said requirement.*

MUB has had no direct communication with any Federal agency regarding requirements applicable to MUB's CSO program.

MUB is directly regulated by the West Virginia Department of Environmental Protection. WVDEP receives goals and guidance from USEPA regarding the administration of the West Virginia CSO program, which are translated by WVDEP into specific requirements included in MUB's NPDES permit (the permit allowing MUB to operate the sewer system and discharge wastewater into the receiving waters).

MUB's ongoing and future CSO requirements are included in its current (issued June 30, 2014) NPDES permit # WV0023124 (Section F). MUB has prepared and submitted a Long Term Control Plan in accordance with Section F.4 of said permit.

MUB has not, at any time, been released from its CSO requirement to lessen the impact of CSO discharges upon our waters.

As with all of its NPDES programs, MUB's CSO program progress and compliance is monitored and regulated by WVDEP.

WVDEP has primacy for its CSO regulatory program, and conducts said program under the guidance of the USEPA. USEPA promulgates CSO regulations and policy pursuant to the Clean Water Act. The federal regulation is at 59 FR 18688. The USEPA web site for this program is at <http://www.epa.gov/npdes/combined-sewer-overflows-csos>.

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**Question # 2 – Mr. Sell asks:**

*How much of the anticipated \$70 million expenditure has been expended by MUB during the last 11 years toward satisfying said requirement.*

First, it is important to remember that the \$70 Million figure discussed in the George quote from Mr. Sell's e-mail was a 2004 gross estimate of *future* capital requirements. It does not represent

funds made available to MUB at that time. The \$70 million amount was not included in the 2004 rates, and being 12 years old, that estimate is now outdated.

The CSO capital investment included in the current rate proposal, was included in the 2004 estimate mentioned by George, and its construction will continue MUB's implementation of, and conformance to, its CSO Long Term Control Plan. The proposed improvements will allow MUB to meet its NPDES permit requirement to *maximize* wet weather flows to the treatment plant, and to *minimize* its wet weather CSO discharges.

MUB has completed a number of system improvements toward compliance with CSO requirements since 2004. Those projects are tabulated as follows:

<u>YEAR</u>	<u>DESCRIPTION</u>	<u>COST (millions)</u>
2006	WWTP New Secondary Clarifier	\$ 6.3
2007	Poponoe Run Interceptor Upgrade	\$ 0.5
2008	West Run Pump Station and Force Main Upgrade	\$ 0.8
2008	High St Sewer Separation	\$ 0.6
2010	WWTP New Splitter Box	\$ 0.4
2010	WTP Pump Station and Force Main	\$ 2.7
2010	North Mon Interceptor Upgrade	\$ 0.8
2010	Deckers Creek Lift Station and Force Main Upgrade	\$ 8.0
2011	Central Mon Interceptor Slip Repair (to restore / maintain capacity)	\$ 2.4
	Total	\$ 22.5

## Summary

Mr. Sell's inquiry might be *paraphrased* simply as this:

*The PSC said in 2004 that MUB would spend \$70 million over the next 20 years to eliminate its CSO's. Yet, MUB recently published a list of 40 existing CSO's and has also proposed a new \$90 million in CSO / WWTP improvements. How was the \$70 million from 2004 used, and in light of that expenditure, why do 40 CSO's remain?*

To which we reply:

- Regulations do not require that CSO's be eliminated; rather, they require that CSO wet weather discharges be *minimized*, and that CSO flows to the WWTP be *maximized*.
- MUB's existing CSO's remain in place, so that remaining excess flows may be discharged, as allowed under its current NPDES permit.
- MUB's proposed \$90 million in WWTP improvements are for the very purpose of increasing treatment capacity so that CSO wet weather discharges may be *minimized*, and that CSO flows to the WWTP may be *maximized*.
- The \$70 million of CSO related capital expenditures mentioned by George in 2004, were *not* part of the 2004 rate increase, but instead, were for a 20 year plan of *future* capital expenditures to be made under *future* rates.
- The currently proposed \$90 million improvement program is part of the same evolving plan as the (then future, but now outdated) \$70 million capital plan mentioned by George in 2004.
- Other recently completed CSO related improvements are tabulated above. They total \$22.5 million.