BOARD OF THE METROPOLITAN SEWERAGE DISTRICT November 23, 1993

1. Call to Order and Roll Call:

A special meeting of the Board of the Metropolitan Sewerage District was held in the Boardroom of MSD's Administration Building at 2:00 P.M., on Tuesday, November 23, 1993. Chairman Post presided with the following members present: Bryson, Casper, Joyner, Kelly, Penny, Post, Selby, Slosman and Wallace. Those members absent were: Dent and Frizsell

Others Present were: W. H. Mull, Engineer-Manager, John S. Stevens, General Counsel, Bill Morris of Hendon Engineering Associates, Inc., Sondra Honeycutt and Linda Dickson, MSD.

2. Land of Sky Regional Council Water Forum:

Mr. Post appointed Mr. Joyner to serve as the District's delegate to the Land of Sky Regional Council's Water Forum.

3. Discussion of Annual User Charge Report - Bill Morris:

Mr. Morris presented a revised Analysis of Treatment and Collection charges (Table A) for FY 1992-93, showing the total treatment cost and percentages of the total cost between industry and domestic users. Mr. Morris reported that it has been the District's practice over the past 15 years to show the calculated revenue for industry based on the adopted rate. However, because the rates were billed at \$.46/CCF instead of the adopted rate of \$.32/CCF, the actual payment by industry was \$2.1 million with the numbers for domestic users remaining the same. Mr. Morris further reported that on the treatment side alone, a surcharge for industry is necessary in the amount of \$531,490.00, but because of an overpayment by industry on the collection side of \$156,293.00, the total net surcharge for industry is reduced to \$375,197.00. A lengthy discussion followed regarding the cost of capital projects. Mr. Morris explained that the \$2,015,547.00 budgeted for capital projects must come from user charge revenues since bond funds are set aside for specific projects and that the distribution of cost are based on actual revenues collected (15.385% for industry and 84.615% for domestic).

Mr. Morris stated that in order to meet total revenue costs for collections, industry users paid 11.856% and domestic users paid 88.144%, resulting in a net credit of \$156,293.00 for industry and \$2,818,098.00 for domestic. Mr. Morris further stated that because the District is not set up to give credit to domestic customers, the credit will be carried over to avoid sharp increases in rates and to defray the cost for domestic customer's share of capital projects and that the industry credit will be applied to the deficit of \$531,490.00 on the treatment side. A discussion followed regarding actual revenues collected; why industry credit is not carried over and whether capacity depletion fees are applied to capital projects. Mr. Mull explained that treatment cost are obtained from the actual cost of operating the plant, (based on BOD, Suspended Solids and Billable Flow) from industry and domestic customers, however, on the infiltration inflow portion, costs are allocated at 80% for domestic and 20% for industry. Mr. Mull stated that during the next three months the District will reevaluate the treatment and collection systems to analyze the cost split between industry and domestic users; consider the best method of collecting a surcharge from industry and decide whether a rate increase is necessary based on the calculations presented. A discussion followed regarding treatment cost and the recommendation of the Finance Committee.

Mr. Morris presented a projected Analysis of Treatment and Collection Charges (Table B) for FY 1993-94 along with the following proposed rates: Treatment (Industrial) - \$.32/CCF, \$.31/BOD, \$.14/SS; Treatment (Domestic) - \$1.16/CCF; Collection (Industrial) - \$.645/CCF; Collection (Domestic) -\$1.20/CCF with base meter charges ranging from \$4.10 to \$1,050.00. Mr. Morris reported that the proposed rates will create a deficit on the Treatment side of \$489,655.00 for Industry and \$264,976.00

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for Domestic; a combined total deficit of \$754,631. On the Collection side, (based on a scheduled expenditure of \$9.9 million for capital projects) there will be a deficit of \$1,100,168.00 for Industry and \$1,170,434.00 for Domestic; a combined total deficit of \$2,270,602.00, which can be carried over to next year because of the revenue stream. Following a brief discussion, Mr. Morris stated that the total amount of money to be spent in 1993-94 is \$24.2 million (\$6.9 million will be paid out of bonds, \$7.4 million out of retained earnings and \$9.9 million will come from user fees). At the request of Ms. Wallace, Mr. Stevens gave a brief history of how the District arrived at its rate structure following Sewer Consolidation upon the advice and recommendation of the Consultant and the so-called Blue Ribbon Commission.

A lengthy discussion followed regarding the use of retained earnings in lieu of raising rates; current rates, and at what level rates will need to be set in order to reduce the Treatment deficit for Industry in the amount of \$375,197.00. There being no further discussion, Mr. Penny moved that the rates effective July 1, 1992 and for fiscal year 1993-94 for industry and domestic be as follows: Domestic - No change; Industry Treatment Charge: \$.32 per CCF; \$.31/BOD; \$.14/SS and \$.38 for collection and that the arrearages for industry due for the period of 7/1/92 until the time of the next billing be calculated and ratably charged to industry over the next six (6) months, and that staff be instructed to continue to analyze costs and allocations and report further to the Board in February, 1994, with findings and recommendations regarding rates. Mr. Kelly seconded the motion. Roll call vote was as follows: 7 Ayes; 0 Nays; 2 Absent (Selby and Slosman).

Mr. Mull requested, with Board approval, hiring its Auditor to come in and compile information needed for the mid-year budget meeting in February.

Ms. Bryson expressed her appreciation to Bill Morris for his work on the User Charge Analysis.

Mr. Joyner questioned whether the news media is notified of all Committee and Board meetings and the cost to the District for the User Charge Analysis. He was informed that the news media are notified of all MSD meetings in compliance with the North Carolina Open Meetings Law.

Mr. Casper requested that a status report on capital projects; the budgeted amount and percentage of completion, be made available for the Budget meeting in February. Mr. Mull reported that in the O&M Budget, the District will have overages in the line item for power, because of the lack of rain, and possibly in two other line items. Mr. Penny suggested that in a future meeting of the Finance Committee that it discuss the District's philosophy with regard to the 80/20 split on user charges.

As a matter of information, Mr. Mull reported that in review of the study on fish habitat improvement structures dated August 31, 1993, the District did not meet the North Carolina Wildlife Resources Commission's criteria for improvements, therefore, the Commission suggested that all parties involved (MSD, NCWRC, N.C. Division of Water Resources, U.S. Fish and Wildlife Service) meet to discuss options for achieving desired improvements.

4. Adjournment:

There being no further business, the meeting was adjourned at 4:10 p.m.

Jackie W. Bryson, Secretary/Treasurer Metropolitan Sewerage District of

Buncombe County, North Carolina

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT November 10, 1993

1. Call to Order and Roll Call:

The regular monthly meeting of the Board of the Metropolitan Sewerage District was held in the Boardroom of MSD's Administration Building at 2:00 P.M., on Wednesday, November 10, 1993. Chairman Post presided with the following members present: Bryson, Casper, Dent, Joyner, Kelly, Penny, Post, Slosman and Wallace. Those members absent were: Frizsell and Selby.

Others Present were: W. H. Mull, Engineer-Manager, John S. Stevens, General Counsel, Gary McGill of McGill Associates, Bill Morris of Hendon Engineering Associates, Inc., Bob Tinkler, representing the League of Women Voters, Sondra Honeycutt and Linda Dickson, MSD.

2. Approval of the Minutes of the October 20, 1993 Meeting.

Mr. Slosman moved that the minutes of the October 20, 1993 meeting be approved as presented. Mr. Penny seconded the motion. Voice vote was unanimous in favor of the motion.

3. Annual User Charge Report - Bill Morris

Mr. Morris presented a revised User Charge Analysis for Fiscal Year 1992-93 and reported that the Finance Committee met November 1 and November 3, 1993 to discussed several alternatives in an attempt to avoid substantial surcharges or rebates at the end of the fiscal year and to install a mechanism whereby the District can evaluate itself more frequently during the year to determine its experience under the adopted 1993-94 Budget. In addition the Committee considered whether the District is spending at a higher level than in 1992-93, and if so, discussed adjusting the user charge rates for industry and domestic users and examined the distribution share in raising the collection system costs. Mr. Morris further reported there is a substantial difference in the split between treatment charges and collection system charges, which occurred because of the two different rate structures, (Industry underpaid treatment charges by \$372,848.00, and domestic customers paid in an excess of \$425,000.00). Mr. Morris stated that because the adopted FY 92-93 rates were not coded into the billing program on January 1, 1993 nor was the \$48,000.00 rebate credited to industry accounts, industry customers will be given a credit of \$206,103.96 toward the \$372,848.00 surcharge, resulting in a net surcharge of \$166,744.04 to be billed to industry this year.

It was the consensus of the Committee that, (1. Since the industrial treatment user charges would be impacted the most by changes in treatment plant operation and capital improvements, an interim set of user charges should be implemented immediately based upon the actual unit cost for CCF-BOD-SS experienced for FY 92-93, and that these charges be retroactive to July 1, 1993. (2. The District perform an in-house audit of line item cash expenditures from July 1, 1993 through December 31, 1993 and compare these cost to the line items adopted in the FY 93-94 Budget. If the projections made at that time, using the interim industrial treatment rates, is capable of carrying the remaining six months expenditures, the interim rates will remain in effect. However, if revenue projections fall short of the remaining six months, industrial treatment rates will be adjusted and collected retroactive to July 1, 1993. (3. The Domestic treatment user charge should be set at the projected level of \$1.16 per CCF for Treatment and \$1.20 for Collection to support the FY 93-94 Budget and should be effective January 1, 1994. (4. The Collection system user charges per CCF and the monthly base meter charges for industrial and domestic customers should be set to support the projected cash flow needs and as long as unreasonable increases are avoided, a move should be made to return to the original Consolidation Concept of 80% Domestic/20% Industrial sharing of the collector system, O&M and capital improvement costs. Therefore, in order to return to an 80%/20% split, it is recommended that the industrial rate per CCF for

collection be increased from \$.46 to \$.79. Following a lengthy discussion regarding the reasons for the 80/20 split of collection system cost; revenue neutral rates; actual rates paid by industry and how revenues were calculated, Mr. Casper moved that the District take the 1992-93 actual expenses, (total of operation and maintenance cost, debt service, acquisition and construction of capital assets allocated between the two main operations of the District's treatment and collection), and allocate these costs between industry and domestic, using the 80/20 split on items that need to be allocated where its not specific; compare the revenues earned under each scenario; see the overages and underages; break the revenue down into what the CCF's are on a unit basis in a format similar to table A, page three of the Analysis and not consider the 1993-94 numbers at all. In addition, review these calculations at a called meeting of the Board, November 23, 1993 at 1:00 p.m. Mr. Slosman seconded the motion. Voice vote was unanimous in favor of the motion.

4. Engineer-Managers Report

Sewer System Consolidation Committee Items - October 25, 1993:

1. Consideration of Proposals for Geotechnical Services - US 74 Sewer Rehab Project - Buncombe County CIP

Mr. Mull reported that the following proposals were received to determine rock excavation quantities for the US 74 Sewer Rehabilitation Project: Froehling & Robinson (F&R) at a total cost of \$9,500.00 and Soil & Materials Engineers (S&ME) at a total cost of \$9,514.00. The Committee recommended award of the contract to Froehling & Robertson (F&R) at a cost not to exceed \$9,500.00 and utilizing Water Jet Probing Procedures wherever possible, (saving the District approximately \$1,875.00). There being no discussion, Mr. Penny moved that the Board adopt the recommendation of the Sewer System Consolidation Committee. Mr. Dent seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

2. Consideration of Proposals for Testing Services - Earl Capps Hollow Sewer Rehab - Woodfin CIP

Mr. Mull presented the following proposals for testing services on the Earl Capps Hollow Sewer Rehabilitation Project (Young Bus Line Property): Soil & Materials Engineers at a total cost of \$4,399.50; Froehling & Robinson at a total cost of \$5,560.00 and Law Engineering at a total cost of \$11,046.00. It was the recommendation of staff that the contract be awarded to Soil & Materials Engineers at a cost not to exceed \$4,399.50. Mr. McGill reported that the Sewer System Consolidation Committee recommended contacting Mr. Young concerning what he would be willing to pay for the costs of testing. However, Mr. Young had already contacted the State by letter and provided soil samples he had taken himself. As a result, McGill Associates received a letter from the State November 4, 1993 stating that no evidence of petroleum contamination was found in the samples sent by Mr. Young and that no further action is required at this Mr. McGill further reported that following a meeting with the State regarding this matter and because McGill Associates does not agree with the report received from the State, recommends that the Board approve the proposal of Soil & Materials Engineers at a cost not to exceed \$4,399.50 and if the borings show that the site is safe, contact Mr. Young regarding alignment across his property. Mr. McGill stated that because of an explosion on the site, the contractor said they would not go back on the site until it was found safe. Mr. Penny moved that the Board approve the proposal of Soil & Materials Engineers at a cost not to exceed \$4,399.50 and that the testing results remain confidential

and the property of the District. Mr. Joyner seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays. A brief discussion followed with regard to the need and cost of additional right-of-way acquisition across Mr. Young's property; who would be responsible to clean up any contaminated areas; how many borings will be done and how the District will complete the line if the soil is contaminated.

3. Consideration of Construction Closeout Change Order - Phase I - Montreat CIP.

Mr. Mull presented a Construction Closeout Change Order Summary for Phase I, Montreat CIP and reported that due to the additional contract items, the total adjusted contract cost has increased from \$579,036.00 to \$727,755.00 (an additional \$148,719.00). Mr. Mull further reported that following review of the change order, the Sewer System Consolidation Committee recommend approval. A lengthy discussion followed regarding reasons for the addition of Assembly Drive Pavement Repair at a cost of \$109,898.00; the original contract amount; the cost of \$26,208.00 for Select Backfill Material Location and what can be expected as far as change orders for Phase II. There being no further discussion, Ms. Wallace moved that the Board adopt the recommendation of the Sewer System Consolidation Committee. Mr. Joyner seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

4. Discussion of Sewer Problem - Cogswood Road.

Mr. Mull reported that the Sewer System Consolidation Committee recommended that staff investigate the legal aspects of acquisition of a lien on the property for Mr. Meyer's percentage of relocation costs. Mr. Stevens stated that during the last year the District said it would accelerate the construction of the sewer line to accommodate Mr. Meyer at a cost to the District not to exceed \$10,000.00. Mr. Stevens further stated that Mr. Meyer's Attorney said that Mr. Meyer's is willing to go along with the acquisition of a lien but wants to be assured that the total estimated construction cost is correct and that by signing on, Mr. Meyers will not be required to pay more than that cost. Following a brief discussion on whether this action would set a precedent for other projects, Mr. Joyner moved that the Board approve advertising for bid on the project contingent on the preparation of the appropriate legal documents to secure payment to the District of the amount advanced beyond the District's \$10,000.00 share. Mr. Dent seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

Mr. Mull reported that a meeting was held October 22, 1993 with Contractors and Consulting Engineers regarding Sewer Extension Procedures, Standards and Specifications. As a result, some changes would be incorporated, some would not, and some will be discussed at a future meeting.

Right of Way Committee Items - October 29, 1993:

1. Report on October 25, 1993 Property Owner Meeting - Beaverdam Creek Interceptor - McGill Associates

Mr. Mull reported that a meeting was held October 25, 1993 with Gary McGill of McGill Associates, MSD Staff and Property Owners to review the replacement of the Beaverdam Creek Interceptor Sewer line and that the slide presentation was well received by those property owners in attendance.

2. Discussion on Alignment Options for Young's Bus Line Property - Earl Capps Hollow.

Mr. Mull reported that the Right-of-Way Committee recommended approval of the necessary surveys needed to finalize re-route around the contamination site at a maximum not to exceed cost of \$4,000.00. There being no discussion, Mr. Penny moved that the Board adopt the recommendation of the Right-of-Way Committee. Mr. Dent seconded the motion. Roll call vote was as follows: 9 Ayes; 0 Nays.

3. Consideration of Town of Weaverville Tree Request - Weaverville Rehabilitation Project:

Mr. Mull reported that the Town of Weaverville has requested that the District participate in the replacement of 30 trees within the permanent easement at a maximum cost of \$35.00 per tree up to \$1,050.00 (35% of the cost). Mr. Mull further reported that although the easement agreement from the Town of Weaverville was conveyed with no mention of special conditions regarding tree replacement, the Committee agreed that in promoting public relations, the District contribute its share in the replacement cost. Mr. Dent moved that the Board adopt the recommendation of the Right-of-Way Committee. Mr. Slosman seconded the motion. Following a brief discussion, roll call vote was as follows: 8 Ayes; 0 Nays; 1 Abstention (Mr. Joyner)

4. Consideration of Engineering Assistance During Easement Acquisition Contract - Sweeten Creek Interceptor Sewer:

Mr. Mull reported presented a proposal from Hendon Engineering Associates, Inc. to provide engineering assistance during easement acquisition for the Sweeten Creek Interceptor Sewer at a cost not to exceed \$59,520.00. Mr. Mull further reported that following review of the proposal, the Right-of-Way Committee recommended approval. There being no discussion, Mr. Dent moved that the Board adopt the recommendation of the Right-of-Way Committee. Mr. Slosman seconded the motion. Roll call vote was as follows: 8 Ayes; 0 Nays; 1 Absent (Mr. Kelly)

5. Report on Buildover - Norman F. Stephens Property - Beaverdam CreekNorth Fork:

Mr. Mull reported that Mr. Norman Stephens constructed a concrete pad and aluminum storage building over and upon the District's described easement area (Beaverdam Creek - North Fork Sewer Project). Because the Committee felt that the language in the easement agreement may not be clear, requested that Counsel revise the wording to specifically prohibit placement of permanent structures within the permanent easement area. Mr. Stevens, General Counsel, stated that the property owner has proposed to sign any document necessary, which would be a permanent encumbrance on the property and obligate any owner to remove the concrete pad on request at his own expense. Following a discussion regarding whether the concrete pad should be removed, Mr. Penny moved that the Board inform the property owner to saw cut the concrete pad and remove it from the easement area and that the language in the easement agreement be modified to prohibit permanent structures within the permanent easement area. Mr. Dent seconded the motion. Voice vote was unanimous in favor of the motion.

5. Report of Officers:

Mr. Post presented a revised copy of the proposed committee structure and asked for the Board's suggestions for further revision. Mr. Post stated that the Right-of-Way and CIP Committees will stand alone until projects are completed. Ms. Wallace stated that Joe Joyner should be added as a member of the Right of Way Committee and questioned what committee Public Relations should be under. Mr. Post stated that Public Relations will be under the Planning Committee.

Mr. Post presented a letter from the City of Asheville regarding sewer charges and reported that the letter states they understand the charges but does not indicate they will pay. Instead, the City requested that the District assume the responsibility for all extensions inside the City of Asheville, except those that are brought about through annexation, and that future annexations be treated like those that are currently in the CIP, with the City paying 65 percent of the cost, and the District paying 35 percent. Mr. Post further reported that following a meeting with City official, October 25, 1993, it was his understanding that the City of Asheville would pay sewer charges retroactive to July 1, 1993. In addition, no correspondence has been received from the Town of Black Mountain regarding payment of its sewer charges. A discussion followed regarding the amount of money owed from the City of Asheville and the Town of Black Mountain; the matter of separating sewer charges and sewer extensions and when other municipalities starting paying sewer charges. Based upon discussion and direction by the Board, Mr. Stevens proposed the following response to the letter from the City of Asheville: (1. acknowledge the letter to the Chairman and advise that Board consider the matter and asked Counsel to respond. (2. Its the consensus of the Board, Mr. Penny abstaining, that the two issues raised in the letter should not be considered in tandem, but should be considered separately and that on the issue of the money owed the District, the Board's position is that the money is due from July 1, 1990, but the Board continues its compromise offer to settle with the City effective July 1, 1993. (3. that the Board understands what Mr. Michalove is asking about the Extension Policy, but is of the opinion this is an issue the Board feels should be discussed with all units of government and that Board is willing to enter into such dialogue. The Board made several suggestions for change to the response letter; discussed who the letter should be addressed to and that a similar letter should be drafted to the Town of Black Mountain.

At 5:30 p.m. the Board went into Executive Session to consider a request from the City of Asheville.

At 5:40 p.m. the regular meeting of the Board reconvened.

6. Report of Committees:

a. Personnel Committee - November 8, 1993 - Mr. Post

1. Consideration of Revised Personnel Policy Manual

Mr. Mull presented a revised copy of the Personnel Policy Manual and reported that following several changes, the Personnel Committee recommended that the Board approve the Policy as presented. Mr. Penny moved that the Board adopt the recommendation of the Personnel Committee. Mr. Joyner seconded the motion. A discussion followed regarding the District's policy on employee termination and pay increases. There being no further discussion, voice vote was unanimous in favor of the motion.

b. Right of Way Committee - October 29, 1993 - Mr. Slosman

1. Tree Policy for Specification Book

As a matter of information, Mr. Slosman presented a revised "Tree Policy" and requested that the Board review the Policy for consideration at the next regular meeting of the Board.

2. <u>Discussion of Sewer/Greenway Easements</u>

Mr. Slosman presented a letter addressed to Mr. Robert Shepherd with Land of Sky Regional Council from River Link and reported that the Right-of-Way Committee discussed this issues and agreed to bring it to the Board's attention. Mr. Slosman further reported that River Link is requesting that the District acquire a 50 foot buffer along the Swannanoa River for greenway easements now and for sewer development at a later date. No action was taken.

With regard to the Tree Policy generally, especially in areas with older, established trees, Mr. Penny expressed his feeling that the District should consider preservation of trees where possible.

7. Unfinished Business:

None

8. Old Business:

Regarding several checks cashed under the District's signature, Mr. Mull reported that the matter was investigated by Buncombe County Sheriff's Department but because there were no leads, closed the file. However, the District did not realize a loss.

With regard to the Incineration Facility, Mr. Mull reported that the ultra press is not getting enough water out of the sludge in order for it to burn properly, however, the company is bonded and the District has met with the contractors and equipment suppliers who are testing a "ground paper process", which is added to the sludge as a dewatering product and are evaluating the product to see if it will work in the District's process. Mr. Slosman stated that he has looked into the possibility of using this process and requested a sample of the product and if the process is patented it would be advantageous to ship wastepaper to other plants, justifying an end-use for wastepaper within Buncombe County. Mr. Mull stated that there is a downside to the process in that the product has metals in it. A brief discussion followed regarding testing and marketing of the sludge product.

9. New Business

Mr. Mull presented information regarding a request from the Church of God that the District take over the sewer line constructed by Columbia Bible College and Seminary. Mr. Mull reported that the sewer line, built to District standards, consist of 3,056 linear feet and 21 manholes, and although this request has not been presented to the Right-of-Way or Sewer System Consolidation Committees, all right of way documents were received on November 8, 1993. However, staff noted that the deed of conveyance has not been recorded; that title opinion will have to be updated through the date and time of recording of the deed and that the easement contains a clause reserving the right of the Grantor (Eliada Homes) "at all times hereafter, to tap and use said line". Mr. Mull requested that the Board approve the District's acceptance of the line pending, deed of conveyance and approval of the legal documents. Mr. Penny moved that the

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Board approve the request of the Engineer-Manager. Mr. Slosman seconded the motion. Following a brief discussion, voice vote was unanimous in favor of the motion.

With regard to the User Charge Report presented by Hendon Engineering, Mr. Joyner questioned under what contract the report was completed; if the contract was put out for bid; the approximate cost to the District for this report and why the report is not done by staff rather than contracted out. In addition, Mr. Joyner recommended that the Engineer-Manager assign staff the responsibility of utilizing the material from the Georgia Tech Conference on Calculating Impact Fees in order to determine the impact fee the District should charge. Mr. Joyner stated that the methods suggested are worthy of consideration and is based on knowledge of the many legal ramifications of setting impact fees, and that by doing so, the District would realize some return on the funds expended in attending the conference. A brief discussion followed regarding who would be responsible for preparing the User Charge Report. Ms. Wallace requested that the Engineer-Manager make a recommendation on the best use of the conference materials regarding impact fees. Mr. Mull stated that he would review the information and make his recommendation to the Board. Mr. Post express his appreciation to staff for the extra work they have done since the Board Retreat.

With regard to the Director of Administration's position, Mr. Mull reported that the position will be advertised in the next scheduled issue of four publications followed by advertisement in local and State newspapers.

10. Adjournment:

There being no further business, the meeting was adjourned at 6:15 p.m.

Jackie W. Bryson, Secretary/Treasurer Metropolitan Sewerage District of

Buncombe County, North Carolina