Elk Point / St. Paul Regional Water System Business Plan

Draft 4.3 – April 4, 2011
With Revisions arising from Alberta Municipal Affairs Review
Presented to Member Municipalities for Approval

Member Municipalities

Town of Elk Point

County of St. Paul No. 19

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Executive Summary

Background

The Town of Elk Point (Elk Point) and the County of St. Paul No. 19 (County) propose to join together through the creation of the Elk Point / St. Paul Regional Water Commission (Commission), to develop a regional system (System) that will meet the long term drinking water needs of Elk Point and the South east sector of the County. Currently Elk Point is faced with significant costs for the immediate expansion and substantial upgrading of its water treatment facilities to meet present quality standards. The County has no existing water supply or distribution systems within this area of the County to serve potential development. The Municipalities have concluded that a cooperative, regional approach would be best address these supply issues and have prepared a Business Plan which will set out the System to be developed, the manner in which it would be operated, the expected capital costs and funding and the projected operating costs and rates needed to raise the required revenue.

Elk Point / St. Paul Regional Water System

The System, to be developed with major funding from the Government of Alberta through the Water for Life program, would provide for the estimated 25 year water requirements of Elk Point. The System would also make available up to 20% of the projected Town water volumes for development within the County in the vicinity of the transmission line. The System capacity would allow for a 1.5% average annual growth in the Town and up to 360 litres per person per day. Treated water would be purchased from the Town of St. Paul and conveyed by a 23 km transmission line to Elk Point.

As part of the development of the System, the Town of St. Paul's Water Treatment Plant (St. Paul WTP) would be upgraded in order to be able to supply the long term needs of the System. The Commission would obtain a license to divert raw water from the North Saskatchewan River for treatment through the St. Paul WTP. Elk Point would be able to discontinue operation of its existing water treatment facilities.

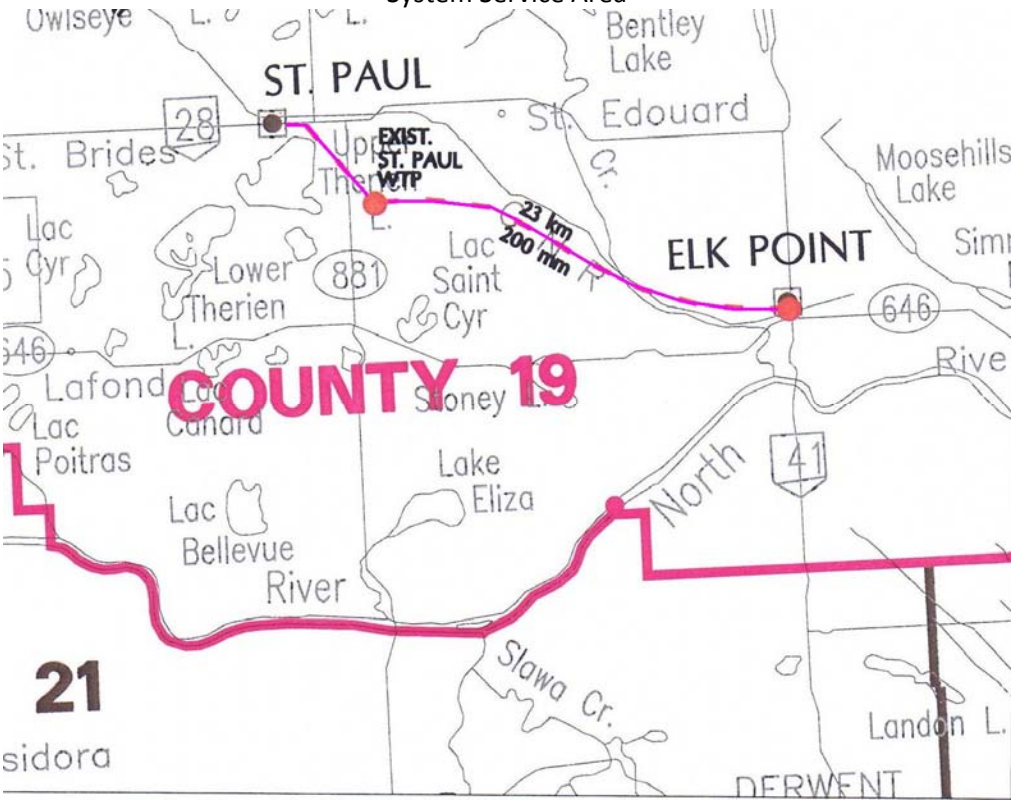
Elk Point would continue to be responsible to operate its water distribution system while the County would be responsible to develop or regulate the development of any new distribution system that might be constructed within the County

Timing of Development

Subject to funding and regulatory approval, the following components of the System would begin constructed in 2011 with the:

1. construction of the pipeline completed this year for the commencement of operation January 1, 2012.
2. the upgrading of the St. Paul WTP would be completed during 2012.

System Service Area



Capital Costs and Financing

The estimated capital cost of upgrading the St. Paul WTP, and constructing the pipeline to Elk Point is 11.4 Million. If approved, Provincial Funding would provide 10.7 Million through the Water for Life Program, about 94% of the total cost.

The Commission would fund the remaining $730,000 through long term borrowing by way of a 25 year fixed debenture. This Plan is calculated using an interest rate of 5% though at present, the market rate is lower than that. Approval of the Minister of Municipal Affairs for the extension of debt limits for the Commission would be required.

Details of capital costs and financing are set out in the table following.

Elk Point / St. Paul Regional Water System
Projected Capital Expenditures and Financing
By Component

Capital Costs	
Upgrade to St. Paul WTP	$4,100,000
St Paul to Elk Point Transmission Line	$7,300,000
Total Capital Cost	**$11,400,000**
Capital Funding	
Water for Life Grant Program	
Eligible Costs - Treatment	$4,100,000
Share - Treatment	100.00%
Eligible Costs - Transmission Line	$7,300,000
Share - Transmission	90.00%
Calculated Grant	$10,670,000
Commission Funding	$730,000
Total Capital Financing	**$11,400,000**

System Operating Costs and Revenues

The Business Plan projects the operating costs and revenue requirements for a five year period, 2012 to 2016. with 2012 being the first year of operation of the System. The operating costs are made up of 5 primary components:

- Governance and Administration Costs: associated with the Board of Directors, the services of a Chief Administrative Officer and the general administration of the Commission. This cost, about $27,000 in 2012, would be split equally among the two Members.

- Debt Repayment Costs: the annual principal and interest payments for the capital borrowing for the System development. The borrowing would drawn in two parts, one in 2011 and the other in 2012. The annual payments would begin in 2012 at about $47,000 rising to $52,000 in 2013. These annual costs would be attributed proportionally to each Member based on its respective share of the 25 year System capacity of the System. The Members would pay these amounts to the Commission directly.

- Water Supply Costs: associated with the purchase of treated water from the Town of St. Paul. The purchase rate for this water has not been finalized with the Town and for the purposes of the Plan an estimate of $0.80 per cubic meter (m3) is used with an escalation of rate provided in subsequent years. Dependent on actual volume purchased, the estimated cost of this would be $170,000 in the initial year rising to nearly $225,000 by year 2016.

- Water Transmission Costs: associated with the operation of the transmission line to Elk Point. Annual cost is about $45,000 annually. These operating costs, rising annually with increasing volumes and inflation, and would be recovered through water rates.

- Transfer to Reserves: funds transferred to operating reserves for emergency response and rate stabilization and to capital reserves for future capital replacement and upgrading. Over the 5 year

period, about $215,000 is proposed to be transferred to these reserves from revenue associated with water rates.

Rates

As a general principle, rates for the supply of water services would be charged to the Members at a uniform rate per cubic meter (m3) on actual volume of water delivered to the Member. However, to ensure that the Commission is able to meet its fixed costs in years where water consumption is significantly lower than forecast, Members would be charged for a minimum of 90% of the volume estimated for that year.

The projected rate and its components for the years 2012 to 2016 are:

	2012	2013	2014	2015	2016
Purchase of Water	$0.80	$0.85	$0.90	$0.92	$0.94
Operations	$0.20	$0.20	$0.20	$0.20	$0.20
Capital Reserves	$0.00	$0.00	$0.00	$0.11	$0.10
Operating Reserves	$0.16	$0.21	$0.20	$0.09	$0.08
Surplus	$0.14	$0.04	$0.05	$0.04	$0.03
Total Rate	**$1.30**	**$1.30**	**$1.35**	**$1.35**	**$1.35**

1. Introduction

1.1 Definitions

In this Plan:

i) "Board" is the Board of the Commission constituted under the bylaws of the Commission,
ii) "Elk Point" means the Town of Elk Point,
iii) "Commission" means the proposed Elk Point / St. Paul Regional Water Commission,
iv) "County" means the County of St. Paul No. 19,
v) "Director(s)" means the representative or representatives of the Members duly appointed to the Board,
vi) "Member" means one of Elk Point or the County in the context of membership of the Commission,
vii) "Members" means Elk Point and the County collectively in the context of membership of the Commission,
viii) "Municipality or Municipalities" means Elk Point or the County individually or collectively,
ix) "Plan" means Elk Point / St. Paul Regional Water System Business Plan,
x) "System" means the Elk Point / St. Paul Regional Water System,
xi) "St. Paul" means the Town of St. Paul, and
xii) "St Paul WTP" means the Town of St. Paul Water Treatment Plant.

1.2 Project Background

1.2.1 Water Needs and Existing Water Supply Facilities

Recognizing their common needs to provide for the long term water supply for their respective communities, the Municipalities have commissioned a series of engineering studies to examine the options of continued separate approaches and a regional solution. St. Paul has joined the Municipalities in examining the role that the St. Paul WTP might play in providing for the regional supply of water.

Town of Elk Point

Elk Point currently operates a water treatment facility which draws water from the North Saskatchewan River to meet its municipal water needs.

1. The capacity of the present raw water storage is at the point of being unable to supply the current water demands of the Municipality and certainly has no ability to provide for the long term growth of the community. As well, these ponds are subject to algae blooms in the late summer. For continued use as a long term raw water supply, this storage capacity would have to be nearly doubled from the present 160,000 cubic meters (m3) to 267,000 m3.

2. The existing Elk Point WTP is a Class 2 plant constructed in 1987 with the most recent upgrades in 2002. With a design capacity of 4,497 m3 per day, the plant has a hydraulic capacity to meet the long term needs of Elk Point. However, TTHM (Total Trihalomethane) levels above Health Canada guidelines have been detected. To continue to be used for long term supply for the Municipality, the Elk Point WTP would require the addition of pre-treatment processes for TTHM, future filtration upgrades based on turbidity evaluation and the renewal of aging pumps and other equipment.

3. If Elk Point is to retain its own stand-alone water supply system, a permanent raw water intake and pumping facility should be developed in the North Saskatchewan River. With the potential for year round operation, this could relieve the need for raw water storage expansion.

County of St. Paul No. 19

The County currently does not operate any water supply or distribution systems in the St. Paul / Elk Point area. As well, there are not any water cooperatives in operation in this sector of the County. While there are currently no specific residential, agricultural or industrial developments that have water supply issues, it is anticipated that some future rural developments would be interested in an external water supply if such a supply system were available in the region.

1.2.2 Regional Approach and Development of the Elk Point / St. Paul Regional Water System

Neither Alberta Environment nor Alberta Transportation support the upgrading of stand alone water treatment facilities when there is the opportunity to develop a single regional supply hub. Advantages of a single regional supply facility include:

a. Gaining of economies of scale in lowering per unit treatment costs generally and in consideration of higher levels of treatment,

b. Better opportunity to attract, retain and develop expertise in operations staff, and

c. Fewer treatment facilities to upgrade that meet both present standards and future changes, future changes in environmental standards and public health and safety requirements.

Based on the provincial government requirements, the capital funding programs available and the evaluation of the existing facilities and alternative solutions provided by the Municipalities' engineering consultant, the Municipalities have concluded that a regional approach would be the most advantageous in meeting present day water quality standards and long term water supply needs of Elk Point and the rural areas of the County between St. Paul and Elk Point. The Municipalities will together move forward with the planning and development of a regional water supply and transmission system to be known as the Elk Point / St. Paul Regional Water System (the System) in cooperation with St. Paul, which would provide: water by way of an upgraded St. Paul WTP to the System.

1.3 Business Plan Objectives and Scope

This Plan is intended to set out how the development of the project will be implemented, how the System will be managed and operated and the expected revenues, expenditures and rates.

Specifically, the Plan will:

a. Identify the expected volumes of treated water to be required by the Municipalities over the next 25 years,

b. Describe how the System is to be developed, the areas to be served and the stages in which it would be constructed,

c. Describe the governance and administration of the Commission and the responsibilities of the Members,

d. Set out the expected capital costs and financing of the System construction,
e. Set out the expected operating costs of the System for the years 2011 – 2015, and

f. Project the rates to be charged for water services and the contributions required of the Members.

1.4 Previously Completed Studies, Plans and Reports

Studies, plans and reports considered in preparation of this Plan include:

a. St. Paul Regional Water Feasibility Study (Associated Engineering – May 2009), and

b. Cost Update for Lottie Lake Upgrading (Associated Engineering – November 9, 2009)

c. Raw Water Infrastructure and WTP Capacity Assessment Update – (Associated Engineering - April 21, 2010)

2. System Description

2.1 Communities Served and Overview of System

The System will provide water services to the following municipalities:

a. Elk Point, and

b. Within the County between Elk Point and St. Paul.

The System service area is identified in Figure 2.1.

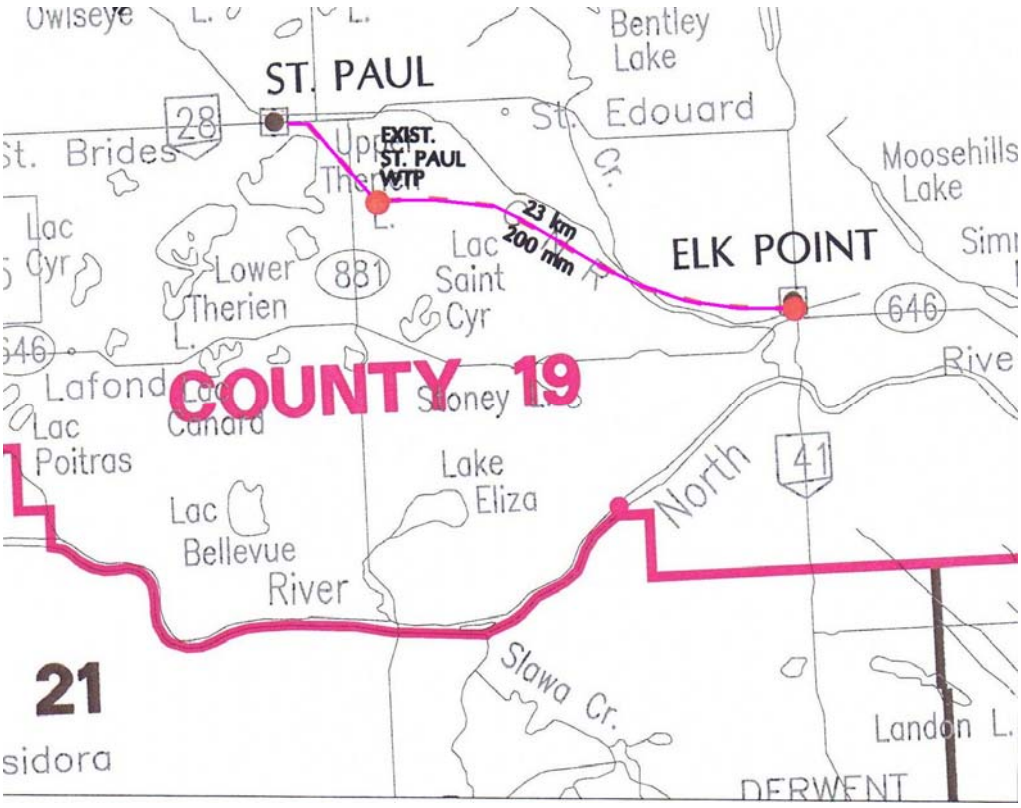
A water transmission pipe line east and south from St. Paul will:

a. Provide long term potable water supply for Elk Point, replacing the existing water treatment facilities there, and

b. Be available to supply new rural water distribution systems and major customers within the County in an area in the vicinity of the transmission pipeline alignment.

The St. Paul WTP will be upgraded as necessary to supply the System and St. Paul will enter into a long term supply agreement with the Commission.

Figure 2.1
System Service Area



2.2 Population Projections

The projected population over the ensuing 25 year time frame for each of the Municipalities is set out in Table 2.1. The population projection for Elk Point is based on an expected overall annual growth rate of 1.5%, increasing the population by two thirds from the present estimated 1,605 to a projected 2,300 in year 2036. The current provisions of the Water for Life funding program of the Government of Alberta allow rural municipalities up to 20% of the capacity allotted for urban municipalities and registered hamlets. At this point the Commission contemplates a system in which all the costs are fully eligible for this funding. As such, allocation would be available to service an estimated population of 466 in the County.

Table 2.1
Elk Point / St. Paul Regional Water System
Projected Population by Member
2011 - 2036

	Annual Growth %	Population					
		2011	2016	2021	2026	2031	2036
Town of Elk Point	1.5%	1,605	1,729	1,862	2,006	2,161	2,328
County of St. Paul	*	321	346	372	401	432	466
		1,926	**2,075**	**2,235**	**2,408**	**2,594**	**2,794**

* at 20% of Elk Point

2.3 Projected Treated Water Volumes

The projected daily and yearly volumes of treated water required by the population identified above are set out in Tables 2.2 and 2.3. Over the 25 year design life of the System, the expected water demands, based on a typical average daily use of 360 litres per person per day (lcpd),are projected to increase from the current 210,000 m^3 per year to just over 365,000 m^3 per year.

Table 2.2
Elk Point / St. Paul Regional Water System
Projected Average Daily Treated Water Demands
2011 - 2036

	AADD Per Capita Litres/day	M3 / Day					
		2011	2016	2021	2026	2031	2036
Town of Elk Point	360	578	622	670	722	778	838
County of St. Paul	360	116	124	134	144	156	168
Total Daily Volume		**693**	**747**	**805**	**867**	**934**	**1,006**
Average Rate litres/second		8.0	8.6	9.3	10.0	10.8	11.6

Table 2.3
Elk Point / St. Paul Regional Water System
Annual Treated Water Volume Based on Average Daily Consumption
2011 - 2036

	m3/Year					
	2011	**2016**	**2021**	**2026**	**2031**	**2036**
Town of Elk Point	210,868	227,165	244,721	263,634	284,009	305,958
County of St. Paul	42,174	45,433	48,944	52,727	56,802	61,192
Total Annual Flow (m3)	**253,042**	**272,598**	**293,666**	**316,361**	**340,811**	**367,150**

While the average per capita water consumption of 360 lcpd is used throughout the 25 year forecast period, it is expected that the average annual daily demand will decrease over time with tighter distribution systems, more efficient fixtures and general awareness and conservation stewardship among the populations. Conservation and stewardship policies and initiatives of the System which are reflective of the Alberta Environment Conservation Policy will encourage users to individually reduce long term water useage.

The maximum day demands for treated water are set out in Table 2.4 and are based on a peaking factor 2 times. In year 2036, the peak daily demand to be supplied by the System is about 2,000 m3/day. The components of the System will be constructed to meet or exceed these peak capacities.

Table 2.4
Elk Point / St. Paul Regional Water System
Maximum Daily Volume
2011 - 2036

	Peak Day Demand Factor	m3/day					
		2011	**2016**	**2021**	**2026**	**2031**	**2036**
Town of Elk Point	2	1,155	1,245	1,341	1,445	1,556	1,676
County of St. Paul	2	231	249	268	289	311	335
Total Daily Volume		**1,387**	**1,494**	**1,609**	**1,733**	**1,867**	**2,012**
Average Rate litres/second		*16.0*	*17.3*	*18.6*	*20.1*	*21.6*	*23.3*

2.4 System Description

The regional supply system required to provide the 25 year volume of water to the communities and areas identified is set out following. The description of the engineering works is based on preliminary engineering study. The refinement of the concepts and specification of materials would be determined during the detailed engineering design stage.

2.4.1 Water Licenses

The following water licenses are currently held by the Members:

Approval Holder	Approval No.	Priority	Source	Annual Gross Diversion m3	Rate of Diversion m3/day
Elk Point	18857	Jan 18, 1993	North Saskatchewan River	466 acre/feet 575,000 m3	833 igpm

For the System, the Commission would make application for a new water diversion license in the name of the Commission and with the point of withdrawal to coincide with the point of withdrawal of the St Paul WTP. The existing Elk Point License would be retained to extent allowed by Alberta Environment to provide for recreation uses in the community.

2.4.2 Projected Raw Water Volumes

The water treatment process typically results in a 10% loss of water as wastewater and facility service. Table 2.5 sets out the raw water needs to meet the treated water volumes required.

Table 2.5
Elk Point / St. Paul Regional Water System
Total Daily and Yearly Raw Water Requirements
2011 - 2036

	2011	2016	2021	2026	2031	2036
Waste Factor	10%	10%	10%	10%	10%	10%
Average Daily Requirement in m3	763	822	885	953	1,027	1,106
Maximum Day Requirement in m3	1,525	1,643	1,770	1,907	2,054	2,213
Yearly Requirement in m3	278,346	299,858	323,032	347,997	374,892	403,865
Yearly Requirement Acre/feet	226	243	262	282	304	327

2.4.3 Water Supply System

Water Supply

Treated water will be supplied to the System under a long term agreement from the St. Paul WTP, which will continue to be owned and operated by St. Paul. The St. Paul WTP will be upgraded as part of the development of the System and the Town will continue to upgrade and expand the capacity of the Plant to the meet the needs of the System. The licensed volumes of raw water would be available to the St. Paul WTP for treatment and would be drawn through the existing St. Paul WTP raw water facilities on Lac St. Cyr. St. Paul, under an agreement with Alberta Environment will operate the raw pumping facilities which move water from the North Saskatchewan River to Lac St. Cyr.

Upgrading to the St. Paul WTP will include:

a. Installation of a third Dissolved Air Floatation Treatment (DAF) Train
b. Upgrade of necessary pumping capacity
c. Installation of new GAC filter

The existing Elk Point water treatment plant and raw water supply facilities would no longer be required for the purposes of supplying potable water for Elk Point and will not be utilized to supply the System. Elk Point would be responsible to decommission and reclaim those components of the existing:

a. water treatment plant facilities that would not be required by the System or by Elk Point for its own water distribution system use, and

b. raw water supply facilities that would not be required in conjunction with recreation uses in the community.

Treated Water Transmission

Treated water would be conveyed from the St. Paul WTP or from a point on the water distribution system of St. Paul, such location to be determined at the time of detailed engineering design, to Elk Point by way of a 200 mm internal diameter PVC transmission line, approximately 23 km in length. Because of the elevation difference between the St. Paul WTP and Elk Point, the transmission line may effectively operate by gravity flow. The alignment of the pipeline would follow for the most part the right of way of the former CN railway from St. Paul to Elk Point. The trustee of this right of way, Municorp, has confirmed that the right of way would be available for this pipeline installation. The pipeline will discharge into the existing clear well reservoir at the Elk Point water treatment facility.

Distribution Systems

Elk Point will continue to be responsible for the operation and continued development of the water distribution system within Elk Point. The County will be responsible to undertake or regulate the development of rural water distribution systems.

A number of points will be provided along the transmission line to facilitate connection for future rural water distribution systems that may be developed. These connections will require that the water supplied from the System will be discharged into a reservoir developed as part of the rural distribution system where additional pumps would subsequently move water through the rural distributions systems. Connection of individual service lines directly to the transmission line will not be permitted.

Treated Water Storage

The accepted standard for treated water storage capacity for systems supplied by a regional source is one day peak demand plus fire flow demand. For Elk Point, the desired long term storage capacity would be 2,201 m3, the sum of one day peak demand in 2036 of 1,676 m3 and fire flow allowance of 525 m3. Existing storage in Elk Point consists of a 613 m3 clear well at the existing Elk Point WTP and an 840 m3 reservoir in the northern sector of the Town for a total of 1,453m3.

The provision of adequate treated water storage, its funding and operation are the responsibilities of the respective Members. Elk Point should add an additional 750 m3 of treated water storage to the clear well reservoir to provide for the one day peak demand and fire flow allowance. The System, as part of the construction of the transmission line, will assist Elk Point in optimizing the effectiveness of the existing treated water storage facilities.

Treated water storage for any new County distribution systems would be provided as part of the development of the distribution system.

Bulk Water Stations

The existing bulk water station in Elk Point would continue to provide truck filling facilities to supply the bulk water needs of Elk Point and the south east region of the County. The facility would be owned and operated by Elk Point.

2.4.4 Development of the System

The development of the System is anticipated to be constructed in a single stage given that:

a. the System comprises a single pipeline with Elk Point, as the largest user, at the end of the pipeline, and
b. St. Paul would require that the St. Paul WTP upgrading be undertaken at the beginning of System operation.

Construction of the pipeline, optimization of treated water storage in Elk Point and St. Paul WTP upgrades would commence during the 2011 with water begin available to Elk Point through the pipeline beginning January 1, 2012. Completion of the WTP upgrades and any treated water storage improvements in Elk Point would conclude during 2012.

3. Governance and Management

3.1 Operation and Business Entity

Of the various governance options examined, the Municipalities have chosen to seek formation of a regional services commission under the provisions of the *Municipal Government Act*. The Municipalities request the Government of Alberta to create the Elk Point / St. Paul Regional Water Commission ("EPSPRWC" or "Commission") and be authorized "*to provide a water supply system*." (See Appendix A for likely Order in Council)

At some point in the future, the Commission may consider including the Ashmont Regional Water System, presently under development by the County in the north west sector of the County, as part of the System under Commission jurisdiction.

3.2 Organization of the Commission and Governing Board

The appointment of the Board and the selection of Chair would be established by Commission Bylaw No. 1, to be adopted by the Board and submitted for approval of the Minister of Municipal Affairs (draft in Appendix B). The organization of the Commission and provisions relating to major aspects of the management and operation of the Commission would be set out in Commission Bylaw No. 2, to be adopted by the Commission Board (draft in Appendix B).

A six member Board would consist of three members of municipal council appointed by each of the two member municipalities. The Board would be *"responsible for the management and conduct of the affairs of the Commission."* A Chair and Vice Chair will be selected annually by the Board from among its members. Because of the role of the St. Paul in supplying treated water to the System, St. Paul is entitled to appoint a non-voting representative to the Board.

By Bylaw, the Board would be required to hold, at minimum, two meetings per year. During construction and initial operational stages of the System, the Board would meet more often as may be required.

3.3 Management

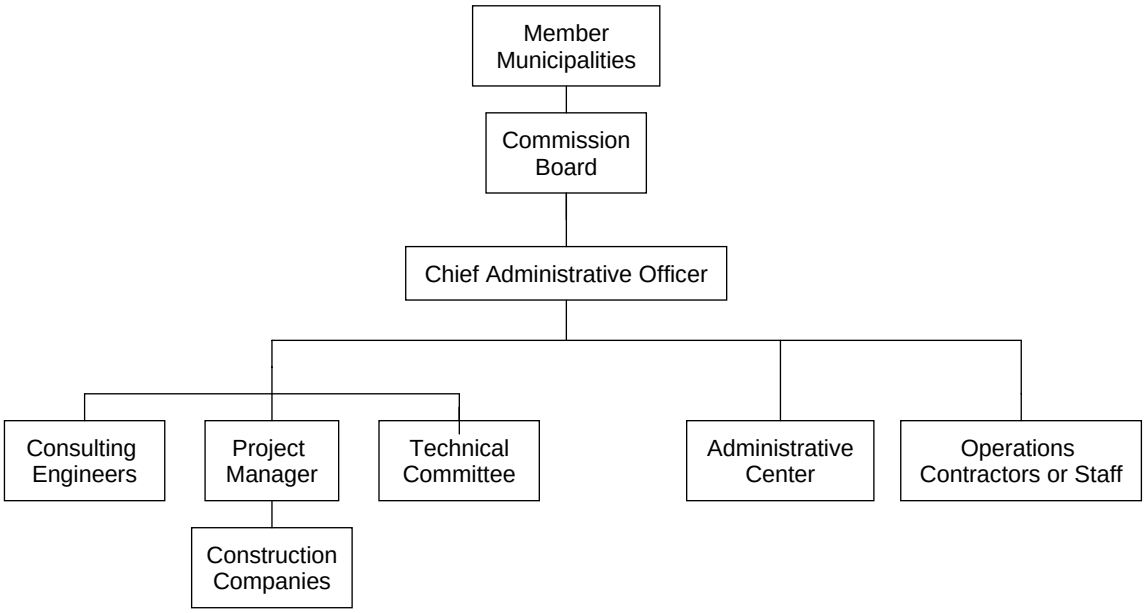
To oversee, coordinate and direct capital construction of the stages of the System, a Project Manager will be engaged. The Project Manager will direct the Consulting

Engineers engaged by the Board and any Project / Construction Manager or Managers that may be required. The Project Manager will also chair a technical committee of representatives from each of the Members and St. Paul. The committee will provide input and advice on the design and construction of the System, as well as provide liaison between the System and water facilities and staff of each of the Members and the St. Paul WTP.

The Commission will require the services of a Chief Administrative Officer (CAO) of the Commission, the position of which is provided under Bylaw No. 2, to act as the ongoing "*administrative head of the Commission*." The CAO will direct operational employees or contractors and the administrative center for the System. The Commission will engage the County on a contractual basis to provide the services of the CAO.

3.4 Organization Chart

Figure 3.1
St. Paul Regional Water Commission
Organizational Chart



3.5 Allocation of System Capacity and Costs

Each Member agrees that:

1. The system capacity is allocated to the Members is based on the 25 year treated water design capacity of the System and is set out in Table 3.1,

2. Governance and Administrative Costs will be split equally between the Members.

3. The net capital costs of the System will be allocated between the Members as set out in Table 3.1.

4. The annual operating costs will be recovered through uniform rates calculated for each sub system on actual volume of water delivered.

5. The Members agree that should this uniform rate, because of less than expected water volumes, fail to generate sufficient revenue to meet the total annual costs of a particular sub-system in a year, the shortfall of revenue, if it can not otherwise be met from financial reserves or accumulated surplus, would be recovered in subsequent years by an increase in uniform rates.

Table 3.1
Elk Point / St. Paul Regional Water System
Allocation of System Capacity Based on
25 Year Design Treated Water Volume

		Volume 2036	%
Town of Elk Point		305,958	83.3%
County of St. Paul	*	61,192	16.7%
		367,150	100.0%

* at 20% of Elk Point

3.6 Membership Agreements

Each Member will be required to enter into a Membership Agreement with the Commission which will, among other things, set out the:

a. Obligations of the Member for payment for:

i. Water services,

ii. Direct payment of annual debt payments, and

iii. Direct payment of an equal share of Commission Board and Administration Costs.

b. Provisions for termination of Membership or windup of the Commission,

c. Particular arrangements, obligations or provisions that may be particular to the Member,

d. Provisions for suspension and shutdown of the Members Connection, and

e. Process for Dispute Resolution.

3.7 Water Supply Agreement

Each Member requiring water services from the System will be required to enter into a Water Supply Agreement with the Commission which will, among other things, set out the:

a. Financial obligations of the Member for payment for:

i. Water services on a volume basis,

ii. Minimum annual charges required, if any,

iii. Subsequent recovery of revenue shortfall for previous years, and

iv. Special Services required by the Member, if any.

b. Particular arrangements, obligations or provisions with respect to the supply of services that may be particular to the Member,

c. Annual Quantities to be delivered to Member in each year.

d. Obligations for Minimum Annual Volumes,

e. Allowable Daily Volume and Maximum Rate of Delivery of water to the Member,

f. Obligations of the Member with respect to connection with the System, environmental compliance and indemnification, and

g. Process for Dispute Resolution.

A draft template of the Water Supply Agreement is set out in Appendix C.

3.8 Town of St. Paul

The Commission will enter into a 25 year term agreement with the Town, on terms and conditions mutually beneficial to the Commission and to the Town, for the supply of treated water to the Commission for the System. Among other things, the Agreement will include:

a. The provision of treated water for normal domestic and municipal purposes,

b. A process of setting quantities of water to be supplied each year to the Commission,

c. A maximum daily quantity that shall be supplied to the Commission,

d. A process to establish rates for treated water services, such rate to be common for both the System and the Town,

e. A process to adjust revenues and rates for variances between projected annual volumes and actual annual volumes and return excess revenues or recover insufficient revenues ("true up"),

f. Provisions to address emergency suspension of water services or temporary reductions in volume of water available,

g. A Joint Steering Committee of representatives of the Commission and the City to ensure strategic planning, consultation and communication, and

h. Processes for Dispute Resolution.

3.9 Withdrawal of Members from the Commission and Disestablishment of the Commission

1. Subject to the approval of the Minister of Municipal Affairs, a Member may withdraw from the Commission upon five years written notice. As a regional services commission requires two Members, the withdrawal of either Member would lead to the disestablishment of the Commission in which case the assets of System would accrue to the remaining Member.

2. The withdrawing Member may sell the equity contributed by the withdrawing Member during that Member's term of membership of the Commission to the remaining Member of the Commission for such compensation and on such terms as the two parties may agree. However, the remaining Member shall not be obligated to purchase the withdrawing Member's proportionate share of the system. The remaining Member shall not utilize the capacity of the system related to the withdrawing Member's equity or utilize the withdrawing Member's water volume allocation without fair compensation.

3. The withdrawing Member shall still be responsible for any respective proportion of outstanding debt principle for which the withdrawing Member is responsible and the withdrawing Member shall either pay the outstanding principle and any accrued interest to the remaining Member or agree to continue to pay the respective share of the annual payments on the debt. Any proceeds to the withdrawing Member from the sale of capacity under clause 1) shall be firstly applied to outstanding debt principle of the withdrawing Member.

3.10 Disposition of Assets

The Commission Board may dispose of assets of the Commission provided that:

a. Grants from the Government of Alberta and outstanding debt associated with that portion of the land, buildings, equipment or inventory to be sold is repaid or retired,

b. The sale would not have a significant adverse effect on the services the Commission provides,

c. The sale will be properly reflected in the rates subsequently charged to the customers of the Commission, and

d. Approval of the Minister is obtained for any disposition that has been funded by the Government of Alberta.

4. Project Capital Costs and Funding

4.1 Capital Costs

The projected capital costs and financing for the System's development in 2011 - 20123, based on the opinion of probable costs provided by the Commission's engineering consultant, Associated Engineering, are set on Table 4.1.

Table 4.1
Elk Point / St. Paul Regional Water System
Projected Capital Expenditures and Financing
By Component

Capital Costs	
Upgrade to St. Paul WTP	$4,100,000
St Paul to Elk Point Transmission Line	$7,300,000
Total Capital Cost	**$11,400,000**
Capital Funding	
Water for Life Grant Program	
Eligible Costs - Treatment	$4,100,000
Share - Treatment	100.00%
Eligible Costs - Transmission Line	$7,300,000
Share - Transmission	90.00%
Calculated Grant	$10,670,000
Commission Funding	$730,000
Total Capital Financing	**$11,400,000**

4.2 Capital Financing

The capital financing is set out in Table 4.1 and the sources of capital financing include, government grant funding, direct contributions by Members, if any, and debt financing by the Commission.

4.2.1 Government Grant Funding

The major share of government funding identified for financing the System's development is through the Government of Alberta Water for Life program. (WFL) Funding under this program would provide 100% for water treatment plant upgrades serving regional systems and 90% funding for regional water transmission lines. Total

funding from the WFL program, if approved, would total $10,670,000 or some 94% of the total project costs.

4.2.2 Direct Contributions by Members

As general principles:

a. If a Member requires the capacity of portions of the System to be increased beyond what would be normally attributable to the Member under common factors of growth and water demands, then the Member would be responsible to pay directly to the Commission at the time of construction, the difference in actual cost between providing for the normally attributed capacity and the actual capacity required, or

b. If all or part of the capacity of the System, which is to be attributed to a Member, be ineligible for grant funding, then the Member would be responsible to pay directly to the Commission at the time of construction, the difference in actual cost between providing for the capacity eligible for funding and the actual capacity required.

4.2.2.(a) Capacity Allocation to Rural Municipalities Under the Water for Life Program

The conditions of the Water for Life funding currently in place, limits the proportion of the capacity of a regional water system that can be attributed to the rural municipalities to 20%. For the System, the capacity available for the County considered eligible under Water for Life funding will be 20% of that allocated for Elk Point.

Should the County seek to increase capacity available for water services beyond that presently provided under eligible funding, the County will contribute 100% of the costs incurred in providing this additional or oversize capacity.

4.2.3 Debenture

The Commission will fund the net project costs (after the deduction of grant funding) with debenture borrowing from the Alberta Capital Financing Authority or long term borrowing from other sources if financially more favorable. The amortization term of the borrowing will be 25 years in reflection of the design life of the transmission lines.

For the purposes of the Plan, the interest costs are calculated at 5%. The rate paid would be that in effect at the time of borrowing. The 25 year debenture rate from Alberta Capital Finance Authority at mid January 2011 was 4.303%.

Borrowing to fund the System Construction is expected to be taken in two draws, the first in the latter part of 2011 and the second drawn in the first half of 2012, with payments beginning latter 2012. The debenture repayment costs will be payable semi annually. Payments for the first draw would commence in the first half of 2012 with the borrowing for the second drawn beginning in second half of 2012.

Because the County will not be drawing its 20% share of the System allocation for some number of years, the debenture payments allocated to the Members would be paid directly by the Members rather than included in rates.

The details of the debenture borrowing are set out in Table 4.2 following.

Table 4.2
Elk Point / St. Paul Regional Water System
Debenture Borrowing Details

Debenture

Total Principal to be Borrowed	$730,000
Total Interest	$556,919
Total to Repay	$1,286,919

Borrowing Timing

	2011	2012	2013	Total
Debenture Draw 1	$600,000			$600,000
Debenture Draw 2		$130,000		$130,000
				$0
Balance	**$600,000**	**$130,000**	**$0**	**$730,000**

Debenture Debt Principal Owing

	2011	2012	2013	2014	2015	2016
Debt Principal	$600,000	$716,203	$700,340	$683,675	$666,166	$657,082

Annual Borrowing Costs

25 year Amortization, Semi-Annual Payments

Current Alberta Capital Finance Rate	4.303%	
Rate for Calulations	**5.0%**	**Interest**
Annual Payment Factor	0.07051612	

	2011	2012	2013	2014	2015	2016
Annual Payment - Draw 1		$42,310	$42,310	$42,310	$42,310	$42,310
Annual Payment - Draw 2		$4,584	$9,167	$9,167	$9,167	$9,167
Total Annual Payment	**$0**	**$46,893**	**$51,477**	**$51,477**	**$51,477**	**$51,477**

Direct Contribution by Members

Town of Elk Point	$39,078	$42,897	$42,897	$42,897	$42,897
County of St.Paul	$7,816	$8,579	$8,579	$8,579	$8,579
Total County	$46,893	$51,477	$51,477	$51,477	$51,477

4.2.4 Debt Limit

Under the *Regional Services Commission Debt Limit Regulation* AR 76/2000, there are two limitations to the amount of debt, operating and capital that a commission can carry to develop the public utility:

a. Total debt cannot exceed two times the annual revenue, and

b. Total debt servicing cost (principal and interest payments) cannot exceed 35% of the annual revenue.

If the borrowing required exceeds the debt limit of the Regulation, the Minister of Municipal Affairs, upon presentation of an acceptable business plan, may authorize an extension of the debt limit.

As set out in Table 4.3 below, the total projected debenture borrowing needed to finance the Commission's share of the capital cost of the two stages is about $730,000 Million. A further $250,000 authorization for an operating line of credit is planned (Section 5.3.4) for a total borrowing of up to $980,000. At this amount, the total debt would be 2.7 times the projected 2013 revenue. With the 25 year amortization period, the annual debt servicing costs are 14% of revenue, under the 35% limit for debt servicing costs. The annual debenture payments will funded by direct contribution by the Members.

Upon its creation, the Commission will seek a debt limit extension to ~~$1.25~~ $1 Million. However should unforeseen project capital costs require the Commission to borrow funds beyond this limit, the Commission will seek to increase the debt limit accordingly.

Table 4.3
Elk Point / St. Paul Regional Water System
Debt Limit Extension

Total Project Costs	$11,400,000
Proposed Borrowing	$730,000
Operating Line of Credit	$250,000
Total Borrowing	$980,000
Debt Limit at 2 times annual revenue in 2013	$723,210
Debt as a a factor of Annual Revenue in 2013	2.7
Annual Debt Payments in 2013	$51,477
Annual Debt Servicing Limit at 35% of annual revenue in 2013	$126,562
Annual Payments as % of Annual Revenue in 2013	14%
Debt Limit Extension Requested	**$1,000,000**

5. System Operation

The operation of the System will evolve as the various phases are completed. The Commission Board will continue to examine the best alternatives for management, administration and system operations.

5.1 Management and Administration

At present, the duties attributable to the CAO are handled by County. The County provides administrative space and administrative and financial services. Upon provincial authority to form a regional services commission, expected in mid 2011, the Commission will engage Elk Point to provide management and administrative services for the System and to fulfill the duties of the CAO until December 31, 2016.

The firm C & J Van Co Services has been engaged as the Project Manager.

5.2 Operations

The Commission will be responsible to put in place arrangements for the operation of the System. Major aspects of such operational responsibility shall include, but not be limited to:

a. Operation, maintenance and repair of transmission pipelines, metering facilities, control systems and related facilities and lands for the System

b. Such monitoring and testing of the:

   i. Quality of treated water that may be necessary to ensure compliance with Provincial health requirements, and

   ii. Quantity of treated water delivered to the Members and Customers that may be necessary to ensure compliance with connection agreements.

c. Coordination of System operations with the water distribution systems of the Members,

d. Inspection of rights of way associated with the System and supervision of any activities on these lands that are relevant to or have the potential to affect the System, and

e. Management of any operations center that may be required.

The Commission will engage Elk Point to undertake on a contractual basis the operation of the System.

5.3 Financial Management

The Commission will set in place policies and procedures which ensure the proper management of the financial affairs of the Commission and System. The CAO will ensure that detailed records and books of account are kept and maintained in accordance with generally accepted accounting principles and meet the requirements of the provisions of Bylaw No. 2, *the Municipal Government Act* and any other relevant legislation.

The Commission has established in Bylaw No. 2, the principle of full annual cost recovery in setting rates and charges for services provided by the System and will make its financial decisions based on accomplishing this objective over a three year time frame. This is reflective of Section 602.21(1) of the *Municipal Government Act* which provides that *"If the total revenues and transfers of a commission over a 3-year period are less than the total expenditures and transfers of the commission for the same period, the operating budget for the commission for the year following the 3-year period must include an expenditure to cover the deficiency."*

5.3.1 Financial Plans and Budgets

The Commission's financial year is the calendar year. In accordance with requirements of Bylaw No. 2, a Financial Plan for the next three years will be prepared in the fall of each year. Included in this plan will be the operating and capital budgets for the next ensuring year. Initially, the timing of the preparation and adoption of this Financial Plan and budgets may be varied as necessary during the capital construction and initial startup phases of the System.

As provided under Section 602.2(1) of the *Municipal Government Act* and in Bylaw No.2, the Financial Plan and budgets will set out the:

a. Estimated expenditures for:

   i. Operation of the Commission Board and administration,

   ii. Operation of the System,

   iii. Capital development of the System,

iv. Repayment of debt obligations,

v. A return on equity or, if necessary, amounts for depreciation or depletion,

vi. Any other non cash expenditures, and

vii. Any amount needed to recover any deficiency.

b. Estimated amount and sources of revenue required to meet or exceed the estimated expenditures,

c. Rates and fees to be charged to Members and customers of the System,

d. Expected magnitude and timing of the contributions required of the Members, and

e. Rates of remuneration and expenses to be provided to the Directors of the Board.

5.3.2 Financial Reports

The CAO will prepare for the Commission Board quarterly financial reports for operations which will set out details of budgeted revenue estimates and expenditure appropriations, actual revenues and expenditures to date and in the case of the third quarter report, estimated final revenues and expenditures.

The CAO will prepare for the Commission Board ongoing financial reports for capital project activities which will set out details of authorized capital expenditure appropriations and expected capital financing, actual expenditures and financing to date and the estimated final expenditures and financing.

Bylaw No. 2 provides for the appointment of an auditor and the presentation of an audited financial statement at the Commission's Annual meeting to be held no later than April 30th of each year. The audited financial statements will be distributed to each Member within thirty (30) days of the Board's approval.

5.3.3 Cash Management and Authorization of Expenditures

The CAO will establish and maintain such accounts with a financial institution or institutions authorized by the Board that may be necessary to handle the financial transactions of the Commission related to capital construction and operation.

The Board will authorize such:

a. Interim and long term borrowing as may be required to meet the capital construction expenditures of the System, and

b. Interim borrowing as may be required to meet the operating expenditures of the System.

The CAO will manage the flow of cash to ensure that sufficient funds are in place in a timely fashion to meet the financial obligations of the Commission and that surplus cash is invested appropriately.

The Commission will require two signatures to make, sign, draw, accept, negotiate, endorse, execute and deliver any cheques, promissory notes, drafts, acceptances, bills of exchange, orders for the payment of money or other instruments, whether negotiable or not, on behalf of the Commission. One signature must be that of the Chair, or in the Chair's absence, the Vice-Chair and the second signature shall be the CAO or, in CAO's absence, any other person authorized by the CAO.

5.3.4 Operating Line of Credit and Interim Capital Borrowing

The Commission will seek to arrange with the Commission's financial agency, an ongoing operating line of credit in the amount of up to $250,000 to ensure adequate cash flow for operating purposes.

During the construction time frame 2010 to 2015, the Commission will seek to arrange with the Commission's financial agency, the ability to draw on a short term basis, interim capital borrowing necessary to meet capital expenditure obligations. With the timing of advances of grant funds and the receipt of the Commission's debenture borrowing funds, it is not expected to have to incur significant interim borrowing.

5.4 Insurance and Risk Management

The Commission will put in place sufficient types and levels of insurance coverage to ensure that the Commission corporately, as well as its Directors, Officers and staff are adequately protected, including, but not limited to:

a. General Umbrella Liability Insurance,

b. Liability Insurance for Directors, Officers and staff,

c. Environmental Impairment Insurance,

d. Property and Fire Insurance,

e. Stationary Machinery, Equipment and Boiler Insurance,

f. Vehicle and mobile Machinery and Equipment Insurance, and

g. Business Continuation Insurance.

The insurance coverage shall be sufficient in terms and quantity to hold harmless and otherwise indemnify the Members for any liability that might be incurred in relation to any activities on Commission property or actions by the Commission for which the Commission or other third party is solely responsible.

The Commission has already put in place the Liability Insurance for Directors and Officers of the Commission through Jubilee Insurance, a service provided through the Alberta Association of Municipal Districts and Counties of which the Commission is an associate member. The Commission will add insurance coverage progressively as the System components are constructed and activated.

The Commission will require of any contractor, agent or third party undertaking activities on Commission facilities or acting on behalf of the Commission to have sufficient liability and builders' insurance coverage to protect the interests of the Commission. The Commission will also require that such contractors, agents or third parties have in place, where it is appropriate to do so, such financial security and guarantees to ensure that any works or activities undertaken may be completed at no additional cost to the Commission.

5.5 Business Plan Review

The Commission will review the provisions of this Plan each year as part of the cycle for preparing the financial plans and annual budget for the Commission. The Commission will undertake a more extensive, full review of the Plan:

a. In the year following the year in which local elections are held, beginning in 2014, or

b. More frequently if the Commission determines a need to do so.

5.6 Policy Development

The Board will undertake, on an ongoing basis, the development and adoption of policies that may be necessary or appropriate to guide and govern the:

a. Decision making of the Board, and

b. The actions of the CAO in the administration, operation and capital development of the System.

In addition to those policy areas already addressed in this Plan, the Board will consider in the ensuing year, policies for:

a. The crossing of the System right of way and Commission lands by other infrastructure,

b. Freedom of Information and Protection of Privacy, and

c. The connection of customers to the System.

d. Water Conservation and Stewardship

6. Operating Costs and Revenue

6.1 Governance and Administrative Operations

The projected expenditures for the annual operation of the Board and Commission Administration for the five year period 2012 to 20136 are set in Table 6.1. Directors will be paid remuneration for attending meetings and time incurred in the service of the Commission by their respective Municipalities. Initially it is expected that the Commission would 4 times per year with this requirement dropping of to 2 meetings per year by 2016. An additional honorarium would be provided for the Chair of the Board and an allowance will be provided for out of pocket expenses incurred by Directors on Commission business.

The general administrative services expenditures reflect the assumption by Elk Point of the CAO position, primary administrative services and accounting/audit services.

The net cost of governance and general administration costs will be recovered equally from the Members.

Table 6.1
Elk Point / St. Paul Regional Water System
Governance and Administrative Operations
Projected Expenditures and Member Allocations
Years 2012 - 2016

		2012	2013	2014	2015	2016
Cost Escalation Factor			2.0%	2.0%	2.0%	2.0%
Board Expenditure						
Board Honorariums		$8,100	$8,232	$7,430	$7,549	$6,696
Board Expenses		$2,500	$2,550	$2,601	$2,653	$2,706
		$10,600	$10,782	$10,031	$10,202	$9,402
Administration						
CAO Contract		$6,000	$6,120	$6,242	$6,367	$6,495
Membership Fees		$1,000	$1,020	$1,040	$1,061	$1,082
Postage & Courier		$500	$510	$520	$531	$541
Telephone / Communications		$600	$612	$624	$637	$649
Professional Services		$2,500	$2,550	$2,601	$2,653	$2,706
Insurance		$3,000	$3,060	$3,121	$3,184	$3,247
Goods & Supplies		$3,000	$3,060	$3,121	$3,184	$3,247
		$16,600	$16,932	$17,271	$17,616	$17,968
Total Expense		$27,200	$27,714	$27,302	$27,818	$27,370
Allocation Among Members	%					
County of St. Paul	50%	$13,600	$13,857	$13,651	$13,909	$13,685
Town of Elk Point	50%	$13,600	$13,857	$13,651	$13,909	$13,685

6.2 System Operations

The projected expenditures for the annual operation of the System for the five year period 2012 to 2016 are set out in Table 6.2. The operational budget is based on assumption that the System will become operational by January 1, 2012 and operated by contract with Elk Point.

6.2.1 Projected Operating Expenditures and Required Revenues

The O & M expenditures for the System are based on the following assumptions and estimations:

a. Purchase of water from the St. Paul at an initial estimated rate of $.80 per m3 rising to $.90 per m3 by 2014 and then increasing by inflation thereafter. St. Paul has not confirmed this purchase price. Volumes purchased will reflect only the volumes for Elk Point for the first 2 years.

Beginning in 2014, new customers of the County are forecast to become connected representing 15% of the County allocation with continuing increases of draws for 2015 and 2016.

b. Personnel required for day to day operations would be provided under an Operations Services Contract,

c. An allowance for Professional Services is included for engineering, technical and other such services, and

d. Annual diversion of operating funds into Rate Stabilization, Emergency Response and O & M cash reserves. The amounts diverted annually will be re-assessed in 2014 and may be adjusted once the actual water volumes and operating expenses are better known through experience.

6.2.2 Capital Development

As the facilities will be newly constructed and because the County will be only drawing a small portion of the County's allocation in the initial 5 years, only a small amount of funds will be diverted to capital reserves in the years 2015 and 2016. It remains the objective of the Members to raise rates over time to recover the annual depreciation cost of the System.

Table 6.2
Elk Point / St. Paul Regional Water System
Projected System Operations Expenditures and Revenue to be Raised from Rates
Years 2012 - 2016

	2012	2013	2014	2015	2016
Inflationary / Growth Cost Allowance		2.0%	2.0%	2.0%	2.0%
Initial Months in Operation	12				
Purchase of Treated Water from St. Paul WTP					
Volume (Table 6.3)	214,031	217,242	227,115	232,760	238,523
Price / m3	$0.80	$0.85	$0.90	$0.92	$0.94
Purchase Cost	$171,225	$184,656	$204,404	$213,674	$223,344
Operations and Maintenance					
Maintenance Contract	$20,000	$20,400	$20,808	$21,224	$21,649
SCADA	$3,000	$3,060	$3,121	$3,184	$3,247
Repairs and Line Maintenance	$10,000	$10,200	$10,404	$10,612	$10,824
Small Tools and Equipment	$5,000	$5,100	$5,202	$5,306	$5,412
Engineering / Professional Services	$5,000	$5,100	$5,202	$5,306	$5,412
	$ 43,000	$ 43,860	$ 44,737	$ 45,632	$ 46,545
Capital Development					
Debt Payment	$0	$0	$0	$0	$0
To Capital Reserves		$0	$0	$25,000	$25,000
	$0	$0	$0	$25,000	$25,000
Transfer to Operating Reserves					
Rate Stabilization Reserve	$15,000	$25,000	$25,000	$0	$0
Emergency Response, O & M Reserve	$20,000	$20,000	$20,000	$20,000	$20,000
	$35,000	$45,000	$45,000	$20,000	$20,000
Total Expenditures	**$249,225**	**$273,516**	**$294,141**	**$304,306**	**$314,888**

6.3 Rates and Charges

6.3.1 Principles Governing the Establishment of Long Term Rates

Section 11 of Bylaw No. 2 provides that the Commission will establish such rates and charges for the System on a full cost recovery basis. The adoption of these rates and fees are required by a bylaw of the Commission Board.

The Commission will use a "postage stamp" approach in determining the rate for water services for the System with all Members being charged uniform rates per cubic meter for operation, maintenance, transmission, and treatment. This approach achieves:

a. Equity – Uniform rates provide the same operation, maintenance, transmission, and treatment rates per volume for each municipality regardless of their distance from the water treatment plant,

b. Simplicity – Easy to understand and to apply for the Committee, the simplicity of a postage stamp rate is one of its chief advantages,

c. Revenue Stability – The stability of revenues provide a stable financial base for the Committee which allows for a constant approach to long term planning, and

d. Conservation – A postage stamp rate structure will provide incentives for Members to reduce water demands and to conserve valuable water resources.

6.3.2 Calculation of Rates

The calculation of rates is set out in Table 6.3. The rate for at least the initial five years will be recover the costs of water purchase, System operation, diversions to operating reserves and to an accumulation of surplus for financial liquidity. This rate is set at $1.30 per m3 for the years 2012 and 2013, with an increase to $1.35 for the years 2014 – 2016.

Table 6.3
Elk Point / St. Paul Regional Water System
Rate Calculation for Water Services
Years 2012 - 2016

	2012	2013	2014	2015	2016
Estimated Volume					
Elk Point	214,031	217,242	220,500	223,808	227,165
County of St. Paul	-	-	6,615	8,952	11,358
Total	214,031	217,242	227,115	232,760	238,523
Cost to be Raised (Table 6.2)					
Purchase of Water	$171,225	$184,656	$204,404	$213,674	$223,344
Operation	$43,000	$43,860	$44,737	$45,632	$46,545
Capital Reserves	$0	$0	$0	$25,000	$25,000
Operating Reserves	$35,000	$45,000	$45,000	$20,000	$20,000
Total	$249,225	$273,516	$294,141	$304,306	$314,888
Rate / m3 Required	$1.16	$1.26	$1.30	$1.31	$1.32
Rate / m3 Established	$1.30	$1.30	$1.35	$1.35	$1.35
Rate Components					
Purchase of Water	$0.80	$0.85	$0.90	$0.92	$0.94
Operations	$0.20	$0.20	$0.20	$0.20	$0.20
Capital Reserves	$0.00	$0.00	$0.00	$0.11	$0.10
Operating Reserves	$0.16	$0.21	$0.20	$0.09	$0.08
Surplus	$0.14	$0.04	$0.05	$0.04	$0.03
Total Rate	**$1.30**	**$1.30**	**$1.35**	**$1.35**	**$1.35**
Revenue From Rates					
Elk Point	$278,240.74	$282,414.35	$297,675.59	$302,140.72	$306,672.83
County of St. Paul	$0.00	$0.00	$8,930.27	$12,085.63	$15,333.64
Total	**$278,240.74**	**$282,414.35**	**$306,605.86**	**$314,226.35**	**$322,006.47**

6.3.3 Minimum Volume Charges

The rate set out sub-section 6.3.2 is calculated assuming a certain volume of water annually from the Members. Members, however, will be charged on the actual volume of water delivered to the System. To ensure that the Commission is able to meet fixed costs for operation of the System, Members will be required in advance of each year to estimate the anticipated volume of water for the ensuring year. A Member will be charged for either the actual volume of water or 90% of the estimated volume whichever is higher.

6.3.4 Rate Comparisons

The comparison of rates among municipal and regional water services is to be approached with caution, given that the circumstances and context of each system can be quite different from one another. The conclusion that the cost of the service is reasonable and sustainable will often be based on the availability of alternatives. Each of the Municipalities must secure a long term source of quality water to ensure their respective viability and in some cases their very existence. The collective cost of each Municipality addressing this need on its own is prohibitively expensive. Financially the municipalities have no other option but to develop a common water supply and transmission system, as such, are to be prepared to accept the costs accordingly.

As well, in comparing rates a common basis of comparison is required. Some systems recover all costs of the system including, governance, administration, operations, debt payments and transfers to reserves in per unit rates. In others, some of these components are paid for directly by the Members. Such is the case with the System where governance and administration and debt payments are paid directly by the Members. If these costs were included in the unit rates, the System rate for 2012 would be $1.80. This per m3 rate would compare to the known or expected rates of the following regional water supply systems in Alberta:

a. Mountain View - $1.20 presently, rising to $1.37 in 2012,

b. Westlock - $1.25,

c. Shirley McLellan - $ 1.80,

d. North Red Deer - $1.92,

e. Highway 12/21 - $2.26,

f. Kneehill - $3.10, and

g. Highway 14 - $3.76

6.4 Financial Summary

A summary of the Income Statement and selected Balance Sheet items are set out in Tables 6.4 and 6.5 respectively. The initial valuations for the assets constructed by the Commission are the estimated capital costs. Depreciation is calculated on a 25 year straight-line basis. Table 6.6 identifies the contributions of each Member.

Table 6.4
Elk Point / St. Paul Regional Water System
Summary of Income Statement Items
Years 2012 - 2016

	2012	2013	2014	2015	2016
Revenue					
Rates (From Table 6.3)	$278,241	$282,414	$306,606	$314,226	$322,006
Contribution from Members					
Governance and Administrtion	$27,200	$27,714	$27,302	$27,818	$27,370
Debenture Debt	$46,893	$51,477	$51,477	$51,477	$51,477
Total Revenue	$352,334	$361,605	$385,385	$393,521	$400,853
Expenditure					
Governance and Administration	$27,200	$27,714	$27,302	$27,818	$27,370
Purchase of Water	$171,225	$184,656	$204,404	$213,674	$223,344
Operations and Maintenance	$43,000	$43,860	$44,737	$45,632	$46,545
Capital Reserves	$0	$0	$0	$25,000	$25,000
Transfer to Operating Reserves	$35,000	$45,000	$45,000	$20,000	$20,000
Debt Payments	$46,893	$51,477	$51,477	$51,477	$51,477
Total Expenditure	$323,318	$352,706	$372,920	$383,601	$393,735
Surplus (Deficit)	$29,016	$8,899	$12,465	$9,920	$7,118

Table 6.5
Elk Point / St. Paul Regional Water System
Summary of Selected Balance Sheet Items
Years 2012 - 2016

	2012	2013	2014	2015	2016
Capital Assets					
Treated Water Transmission Line	$7,300,000	$7,008,000	$6,716,000	$6,424,000	$6,132,000
Total Capital Assets	$7,300,000	$7,008,000	$6,716,000	$6,424,000	$6,132,000
Liabilities					
Long Term Debt	$716,203	$700,340	$683,675	$666,166	$657,082
Operating Reserves					
Rate Stabilization Reserve					
Opening Balance	$0	$15,000	$40,000	$65,000	$65,000
Additions	$15,000	$25,000	$25,000	$0	$0
(Withdrawals)					
Closing Balance	$15,000	$40,000	$65,000	$65,000	$65,000
Emergency Response, O & M Reserve					
Opening Balance	$0	$20,000	$40,000	$60,000	$80,000
Additions	$20,000	$20,000	$20,000	$20,000	$20,000
(Withdrawals)					
Closing Balance	$20,000	$40,000	$60,000	$80,000	$100,000
Capital Reserve					
Opening Balance	$0	$0	$0	$0	$25,000
Additions	$0	$0	$0	$25,000	$25,000
(Withdrawals)					
Closing Balance	$0	$0	$0	$25,000	$50,000
Accumulated Surplus					
Opening Balance	$0	$29,016	$37,914	$50,379	$60,300
Annual Surplus/(Deficit)	$29,016	$8,899	$12,465	$9,920	$7,118
Closing Balance	$29,016	$37,914	$50,379	$60,300	$67,418

Table 6.6
Elk Point / St. Paul Regional Water System
Summary of Contributions and Charges by Member
Years 2012 - 2016

	2012	2013	2014	2015	2016
Town of Elk Point					
Share of Governance and Administration	$13,600	$13,857	$13,651	$13,909	$13,685
Share of Debenture Debt Payments	$39,078	$42,897	$42,897	$42,897	$42,897
Estimated Charges for Water Services	$278,241	$282,414	$297,676	$302,141	$306,673
	$330,918	$339,169	$354,224	$358,947	$363,255
County of St. Paul					
Share of Governance and Administration	$13,600	$13,857	$13,651	$13,909	$13,685
Share of Debenture Debt Payments	$7,816	$8,579	$8,579	$8,579	$8,579
Estimated Charges for Water Services	$0	$0	$8,930	$12,086	$15,334
Total Revenue from Members	**$21,416**	**$22,436**	**$31,161**	**$34,574**	**$37,598**

7. Risks and Barriers

To meet the needs of the urban and rural communities for a long term assured supply of safe water, the Municipalities contemplate the staged development through the auspices of a regional services commission of the complete System, as expressed through this Plan. The project would is eligible to be considered anticipated under the Alberta Water for Life program and significant funding is anticipated under this program.

If a delay is experienced in receiving grant funding (or a similar magnitude of alternative funding from provincial or federal government sources) for the development of the System, Elk Point would need to continue to use its existing facilities. However for Elk Point, the existing raw water storage is near to becoming insufficient to meet current demands and a combination of events could lead to raw water shortages. Treated water would have to be hauled by truck from the St. Paul WTP at significant cost. Any investment in existing facilities needed to bridge the time gap in funding would most be lost investment and would need to be borne fully by Elk Point. As well a delay in the project would delay the availability of water for County development in the St. Paul – Elk Point corridor.

If major grant funding is not received, then the System as envisioned would be financially impossible for the Municipalities to consider. Elk Point would need to move ahead with upgrading its own facility which would be counter to the aims of Alberta Environment and Alberta Transportation and which would severely impact Elk Point financially.

8. Due Diligence

The Member municipalities have demonstrated due diligence in regards to their approach to this project and the decisions that have been made. The Members have:

a. Commissioned the preparation of detailed engineering studies and carefully considered the information presented,

b. Considered the options of including other municipalities in a regional approach,

c. Worked closely with:

   i. Alberta Environment to plan a system that would meet the environmental objectives of the Members and the Province of Alberta, and

   ii. Alberta Transportation to plan a system that would meet the objectives of the Water for Life Program and secure funding under that program.

d. Engaged a team of consultants well experienced in the design and construction of water systems and the development and operation of regional services commissions:

   i. Associated Engineering, and

   ii. C & J Vanco with principal John Van Doesburg.

This due diligence is further reflected in the scope and detail of this Plan which:

a. Sets out clearly the need and viability of this project, and

b. Will form a sound basis upon which this important regional service will proceed.

Appendix A
Elk Point / St. Paul Regional Water Commission Regulation (Likely Wording)

ALBERTA REGULATION XX/2010

Municipal Government Act

ELK POINT / ST. PAUL REGIONAL WATER COMMISSION REGULATION

Table of Contents

1 Establishment
2 Members
3 Services
4 Operating deficits
5 Sale of property
6 Profit and surpluses
7 Approval

Establishment

1 A regional services commission known as the Elk Point / St. Paul Regional Water Commission is established.

Members

2 The following municipalities are members of the Commission:

(a) Town of Elk Point;

(b) County of St. Paul No. 19

Services

3 The Commission is authorized to provide a water supply system.

Operating deficits

4 The Commission may not assume operating deficits that are shown on the books of any of the member municipalities.

Sale of property

5(1) The Commission may not, without the approval of the Minister, sell any of its land, buildings, equipment or inventory whose purchase has been funded wholly or partly by grants from the Government of Alberta.

(2) The Minister may not approve a sale under subsection (1) unless the Minister is satisfied

(a) as to the repayment of the grants from the Government of Alberta and outstanding debt associated with that portion of the land, buildings, equipment or inventory to be sold,

(b) that the sale would not have a significant adverse effect on the services the Commission provides, and

(c) that the sale will be properly reflected in the rates subsequently charged to the customers of the Commission.

Profit and surpluses

6 Unless otherwise approved by the Minister, the Commission may not

(a) operate for the purposes of making a profit, or

(b) distribute any of its surpluses to its member municipalities.

Approval

7 The Minister may make an approval under section 5 or 6 subject to any terms or conditions the Minister considers appropriate.

Appendix B
Elk Point / St. Paul Regional Water Commission
Bylaws (Drafts)

Bylaw No. 1

Being a By-Law of the Elk Point / St. Paul Regional Water Commission in the Province of Alberta (Commission) respecting the appointment of a Board of Directors and Chairperson,

WHEREAS pursuant to the provisions of the *Municipal Government Act,* R.S.A. 2000, c. M-26; the Board of the Commission must pass a Bylaw respecting the appointment of its Directors and the designation of its Chair, and

WHEREAS such Bylaw requires does not come into effect until the approved by the Minister of Municipal Affairs.

NOW THEREFORE the Board enacts the following:

1. **DEFINITIONS**

1.1 "Act" means the *Municipal Government Act*, R.S.A. 2000, c. M-26;

1.2 "Board" means the Board of Directors of the Commission;

1.3 "Chair" means the Chairperson of the Board;

1.4 "Commission" means the Elk Point / St. Paul Regional Water Commission;

1.5 "Director(s)" means the representative of a Member to the Board (the representatives of the Members to the Board) appointed in accordance with this Bylaw;

1.6 "Member(s)" means that Member (or those Members of the Commission) set out in the Regulation;

1.7 "Regulation" means *Alberta Regulation AR _____;*

2. **BOARD OF DIRECTORS**

2.1 The Board shall consist of six (6) Directors and composed of three (3) Directors representing each Member as appointed by the municipal council of the Member from among the Member's elected officials;

2.2 A Member may revoke its appointment of a Director and may appoint a replacement Director.

2.3 An alternate Director, as appointed by a Member, is entitled to act in the place of the Director in respect of who he is named as alternate when the original Director is absent or not able to attend a meeting of the Board.

2.4 When an alternate Director acts in place for a Director, the alternate Director is a member of the Board for all purposes.

2.5 The Directors shall elect, from amongst their number, the Chair and the Vice-Chair at the first Regular Meeting of the Board in November of each year.

2.6 The term of office of the Chair and Vice Chairman is one year.

3. AMENDMENTS

3.1 In accordance to section 191 (2) of the Act, a bylaw to amend this Bylaw does not come into force until the bylaw is passed by a majority of the Directors and approved by the Minister of Municipal Affairs.

3.2 Written notice of a proposed amendment to this Bylaw shall be provided to each Director and each Member not less than thirty (30) days in advance of the meeting at which the amendment is to be considered.

READ A FIRST TIME this _____ day of _____, 20__

READ A SECOND TIME this _____ day of _____, 20__

READ A THIRD TIME this _____ day of _____, 20__

_____
Chair

_____
Manager

Approved by the Minister of Municipal Affairs this _____ day of_____ 20__

_____
Minister of Municipal Affairs

Elk Point / St. Paul Regional Water Commission

Bylaw No. 2

Being a By-Law of the Elk Point / St. Paul Regional Water Commission in the Province of Alberta (Commission) respecting the Operation of the Commission and Provision of Services.

WHEREAS appointment of the Board of Directors and the selection of Chair and Vice Chair of the Board has been established under Bylaw No. 1, and

WHEREAS pursuant to the provisions of the *Municipal Government Act*, the Board of the Commission may pass Bylaws

1. respecting the provision of the commission's services;
2. governing the administration of the commission.

NOW THEREFORE the Board enacts the following:

1. DEFINITIONS

1.1 "Act" means the *Municipal Government Act*, R.S.A. 2000, c. M-26;

1.2 "Annual Meeting" means the Meeting of the Board and the Members to be held on a date and at a location to be determined by the Board in accordance with this Bylaw;

1.3 "Auditor" means the auditor of the Commission appointed by the Board pursuant to Section 9 hereof;

1.4 "Board" means the Board of Directors of the Commission;

1.5 "Budget" means the capital budget and the operating budget required by the Act;

1.6 "Chair" means the chairperson of the Board, selected in accordance with Bylaw No. 1;

1.7 "Commission" means the Elk Point / St. Paul Regional Water Commission established under the Regulation;

1.8 "Director" means the representative of a Member on the Board appointed in accordance with Bylaw No. 1;

1.9 "Financial Plan" means the financial plan for the Commission for the forthcoming three (3) financial years, as it exists from year to year;

1.10 "Manager" means the person appointed by the Board as Manager in accordance with this Bylaw;

1.11 “Member(s)” means the member(s) set out in the Regulation;

1.12 “Regulation” means *Alberta Regulation AR* _____;

1.13 “Regular Meeting” means the meetings of the Board to be held each year on dates and at locations to be determined by resolution of the Board pursuant to Section 6.1 hereof;

1.14 “System” means the water treatment plant, pipelines, reservoirs, pump stations and control systems operated by the Commission for the purpose of providing water to the members and customers of the Commission.

1.15 “Special Meeting” means a meeting of the Board called in accordance with Section 6.2 of this Bylaw;

1.16 "Water Services" means all treated water services provided by the Commission; and

1.17 All other words in this Bylaw are as defined or used in the Act or the Regulation.

2. OBJECTS

2.1 The object of the Commission is to operate a water supply system to provide wholesale treated water services to its Members;

3. MANAGEMENT

3.1 The management of this Commission shall be vested in the Board.

4. BOARD OF DIRECTORS

4.1 In addition to those Directors appointed in accordance with Bylaw No. 1, the Town of St. Paul, given its role in the supply of treated water to the System is entitled to appoint a non-voting representative to the Board of Directors to represent the interests of the Town of St. Paul.

4.2 The proceedings of the Board shall be conducted in accordance with the Act and this Bylaw.

4.3 The Board shall be responsible for the management and conduct of the affairs of the Commission, which responsibility shall include, but not be limited to, the following:

(a) to approve the Financial Plan for the forthcoming three (3) years and the Budget for the forthcoming year;

(b) to maintain the operations of the Commission in a manner which benefits the Members; and

(c) to cause the minute books and financial records of the Commission to be maintained and to make the same available to the Members.

4.4 The Directors shall receive for attending any Board meeting or for carrying out any Director's responsibilities, meeting fees and expenses including travel expenses as permitted by the rates and fees set out the Financial Plan and Budget.

5. OFFICERS

5.1 The Chair shall preside over each Regular Meeting, Special Meeting and the Annual Meeting and of any meetings of any committee of the Commission.

5.2 The Chair shall appoint all officials and committees as directed by the Board.

5.3 The Chair shall be an ex-officio member of all committees.

5.4 The Chair shall vote on all matters before the Board.

5.5 The Chair shall perform all other and such other duties as are usually performed by the Chair.

5.6 The Vice-Chair shall act and perform the duties of the Chair in his absence in the conduct of his office.

5.7 In the absence of the Chair at any meeting, the Vice-Chair shall preside over the meeting for that meeting only.

5.8 During the absence or inability of the Chair and Vice-Chair, a Director appointed by the Board for that purpose shall exercise the duties and powers of the Chair.

5.9 The Board in its discretion may appoint other Officers from time to time.

5.10 In addition to the duties set forth herein, the Officers shall have such duties as the Board may from time to time determine.

6. MEETINGS OF THE BOARD OF DIRECTORS

6.1 The Board, by resolution, may establish the date and number of Regular Meetings held during a year, however, there shall be not less than two (2) Regular Meetings per year.

6.2 The Chair:

(a) may call a Special Meeting at the discretion of the Chair; and

(b) shall call a Special Meeting upon receipt of written request by at least Three (3) Directors.

6.3 Notice of the time and place of every Board meeting shall be given to each Director personally, by telephone or by facsimile transmission or any electronic medium not less than forty-eight (48) hours before the time fixed for the holding of such Board meeting, provided that any Board meeting may be held at any time and place without such notice if:

(a) all the Directors are present thereat and signify their waiver of such notice at such meeting; or

(b) All the Directors present thereat signify their waiver of such notice and all the Directors that are absent have signified their consent to the meeting being held in their absence.

6.4 A Director may participate in a Board meeting or at a meeting of a committee of the Board by means of telephone conference or other electronic communications medium that permits each of the Directors to hear each of the other Directors and to be heard by each of the other Directors.

6.5 The Chair shall establish the agenda for any meeting of the Board. Directors shall be entitled to add items to the proposed agenda by submitting a written request to the Manager at least twenty-four (24) hours before the meeting.

6.6 The Board shall adopt the agenda at the beginning of the meeting and may, upon agreement of a majority of those Directors present at the meeting add or delete items from the agenda.

6.7 Any matter properly placed before a meeting of the Board shall be decided by a majority of the votes cast by the Directors present at the relevant Board Meeting.

6.8 A quorum of the Board shall be a majority of the Directors with a minimum of one Director present form each member of the Commission.

7. ANNUAL MEETINGS

7.1 The Board shall call an Annual Meeting which shall be held no later than April 30th of each year.

7.2 Written notice of the Annual Meeting shall be provided to each Member by mail postmarked not less than thirty (30) days prior to the date of the Annual Meeting.

7.3 At the Annual Meeting, the Auditor shall present the audited financial statements of the Commission and the Chair shall report on the activities of the past year of the Board and the future plans of the Commission.

8. MANAGER

8.1 The Manager shall act as the administrative head of the Commission and the without limiting the foregoing, the Manager shall:

(a) ensure that the policies and programs of the Commission are implemented;

(b) advise and inform the Board on the operations and affairs of the Commission;

(c) maintain custody of the seal of the Commission and when required on any instrument requiring the seal of the Commission, affix the same together with one of the Chair or the Vice-Chair;

(d) perform the duties and exercise the powers assigned to the Manager in this Bylaw

(e) perform the duties and exercise the powers required of the Manager in the Act or any other applicable legislation;

(f) cause the funds of the Commission to be received and disbursed in accordance with the directions of the Board, subject to this Bylaw;

(g) cause to be kept detailed accounts of all income and expenditures including proper vouchers for all disbursements of the Commission;

(h) cause to be rendered to the Board at Regular Meetings or whenever required by the Board an account of all transactions of the Commission and the financial position of the Commission;

(i) cause all facts and minutes of all proceedings to be kept on all meetings of the Commission;

(j) cause all notices to be given to Members and to Directors required by this Bylaw;

(k) cause to be kept all books, papers, records, correspondence, contracts and other documents belonging to the Commission and shall cause the same to be delivered up when required by the *Act*

or when authorized by the Board to such person as may be named by the Board; and

(l) shall carry out any lawful direction of the Board from time to time.

8.2 The Board may select as Manager:

(a) an individual that is an employee of the Commission;

(b) an individual, municipality, or firm engaged on a contractual basis;

on such terms and conditions as may be acceptable to the Board.

8.3 Any one of the Chair or Vice-Chair, together with the Manager are authorized to execute and deliver any cheques, promissory notes, bills of exchange and other instruments, whether negotiable or not, on behalf of the Commission.

8.4 The Board may, from time to time, appoint an acting manager who shall be authorized, in the absence the Manager, to perform such duties of the Manager as the Board may prescribe.

8.5 Members shall have the right to inspect and may obtain extracts or copies of all books and records of the Commission.

9. AUDITOR

9.1 The Board shall appoint an Auditor who shall report to the Board on the annual financial statement of the Commission and on the financial procedures and activities of the Commission.

9.2 The Board shall appoint the Auditor at the first meeting of the Board following the Annual Meeting for the ensuing year.

10. VOLUME OF WATER SUPPLIED

10.1 The Commission shall undertake to provide capacity within the system to supply the volume of water annually requested by each member, ultimately providing the following the 25-Year projected consumption volumes in cubic meters per year:

Town of Elk Point	305,958
County of St. Paul No. 19	61,192
	367,150

10.2 The Commission may at its discretion, provide to Members volumes of water exceeding these allocations.

10.3 Members shall provide the Commission in the fall of each year, a request for water for the next ensuing year, based on a reasonable estimate of the volume of water expected to be required to meet the needs of the Member's customers in that next year, together with a forecast of volumes anticipated to be required by the member for the second through fifth ensuing years.

10.4 Where the capacity of the system is insufficient to deliver the water requested by the Members, the Members shall be allocated the available capacity proportionately based on the previous year's volumes, until such time as the Commission is able to fully supply the volume required.

11. FINANCIAL

11.1 The financial year of the Commission shall be the calendar year.

11.2 Without limiting the requirements for the Budget pursuant to the Act, the Board in fall of each year will prepare the Financial Plan for the forthcoming three (3) financial years and Budget for the next financial year which will set out the:

(a) expected consumption requirements of the Members;

(b) estimate expenditures for the:

(i) operations of the Board and Manager;
(ii) operations of the system;
(iii) purchase of water;
(iv) repayment of debt obligations;
(v) non cash expenditures; and
(vi) return on equity and investments;

(c) estimated revenue requirements to meet the expenditures of the Commission and the rates and fees to be charged to Members and customers of the Commission;

(d) second and third year projections of operating expenditure, revenue requirements and rate trends;

(e) capital projects planned and expected to completed in the forthcoming financial year and the second and third financial years of the Financial Plan;

(f) estimated costs and sources of revenue for each year of the Financial Plan;

(g) rates of remuneration and expenses to be provided to the Directors.

11.3 Subject to and in accordance with the Act and the Budget, the Commission may:

(a) accumulate operating surplus funds to an amount up to but not exceeding 50% of the annual operating expenditures in any year; and

(b) accumulate capital reserve funds to an amount up to but not exceeding the total expected capital expenditures in the three years of the Financial Plan and Budget.

11.4 Each Director shall be entitled to vote on the Budget and on the Financial Plan

11.5 Upon receipt of authorization from the Board to distribute the proposed Budget and Financial Plan, the Manager shall distribute to each Member a complete copy of the proposed Budget and Financial Plan for the relevant financial year.

11.6 Any Member may submit comments and questions to the Board in writing in relation to the Budget and the Financial Plan within thirty (30) days immediately following the date of distribution of the Budget and the Financial Plan.

11.7 After the thirtieth (30th) day immediately following the date of distribution of the Budget and the Financial Plan, the Directors shall finalize and approve the Budget and the Financial Plan for the relevant financial year. For the purposes of this paragraph, approval of the Budget and the Financial Plan shall require a majority of those votes cast to be in favour

11.8 If the Budget and Financial Plan are not both approved by majority vote as aforesaid, the Manager shall, as soon as reasonably practicable thereafter, deliver to each Member a revised Budget and Financial Plan for approval in accordance with this paragraph and such process shall continue until the Budget and the Financial Plan for the relevant financial year have both been approved.

11.9 Subject to the Act, the Manager may, during any financial year, present to the Members amendments to the Budget and the Financial Plan for the then current financial year. Any amendments to the Budget and the Financial Plan shall be made in accordance with the procedure for approval of the Budget and the Financial Plan set forth in paragraphs 11.5, 11.6 and 11.7, herein.

11.10 The Commission shall set out in the annual Budget and Financial Plan, the rate to be charged by the Commission for providing Water Services to the Members and customers and such rates and fees shall be adopted by the Commission by Bylaw.

11.11 The estimated costs of the system shall be determined on a cost of service basis utilizing the principles set out in the American Water Works Association (AWWA) manuals of practice dealing with water rates and charges, as revised and updated from time to time, and in accordance with the findings and directives of the Alberta Utilities Board, such approach being commonly referred to as the "utility rate model" and shall include full recovery of the annual costs of the Commission for those cost components set out in clauses 11.2 and 11.3.

11.12 The rate for water services to Members shall be a common rate, calculated by dividing the estimated costs of the system determined under clause 11.11, by the total volume of water requested under Clause 10.3 by the Members and anticipated to be sold to customers.

11.13 For those Members purchasing water from the Commission, the Members shall pay to the Commission the product of the actual volume of water purchased by the Member in a year times the rate set out in clause 11.10. Notwithstanding the actual volume of water purchased, the Member shall be responsible for a minimum payment to the Commission of 90% of the volume requested by the Member under Clause 10.3 times the rate set out in clause 11.10.

12. CUSTOMERS AND RESTRICTIONS IN USE OF WATER

12.1 The Commission shall not sell Water Services to a Member and a Member shall not resell Water Services to any customer for the purpose of the supply of Water Services for water flood injection into any geological subsurface structure or formation for oil and gas recovery.

12.2 The Commission may terminate the supply of water services to any Member for failure to pay for water services received from the Commission.

12.3 Water Services provided by the Commission will be sold at a uniform rate to each Member. The Commission shall be entitled to terminate supply of water services to a Member if the Commission determines that the Member is selling water under the Commission's uniform rate.

13. CHANGE IN MEMBERSHIP

13.1 The Board may agree to the addition of a municipality as a Member of the Commission if sufficient capacity for the supply of water can be made available.

13.2 A new Member shall be required to pay an amount to be calculated at the time of application.

13.3 Any contribution received by the Commission under Clause 13.2 shall inure to the benefit of the existing Members in the proportion to the contribution of the existing members to the Commission from the date of inception of the Commission to the date of entry of any new member.

13.4 A Member may withdraw from membership of the Commission upon five (5) years notice. The withdrawing Member may sell the equity contributed by the Member during the Member's term of membership of the Commission to any other Member of the Commission for such compensation and on such terms as the parties may agree subject to the approval of the Board. However, the Commission or any Member shall not be obligated to purchase the withdrawing Member's proportionate share of the system. The Commission shall not utilize the capacity of the system related to the withdrawing Member's equity or utilize the withdrawing Member's water volume allocation without fair compensation.

13.5 The withdrawing Member shall still be responsible for any respective proportion of outstanding debt principle for which the Member is responsible and the Member shall either pay the outstanding principle and any accrued interest to the Commission or agree to continue to pay the respective share of the annual payments on the debt. Any proceeds to the Member from the sale of capacity under clause 1) shall be firstly applied to outstanding debt principle of the Member.

13.6 Notwithstanding Section 13.4, if there are only two Members of the Commission, the withdrawal of either Member would lead to the disestablishment of the Commission in which case the assets of System would accrue to the remaining Member.

13.7 In the case of disestablishment, the withdrawing Member may sell the equity contributed by the withdrawing Member during that Member's term of membership of the Commission to the remaining Member for such compensation and on such terms as the two parties may agree. However, the remaining Member shall not be obligated to purchase the withdrawing Member's proportionate share of the system. The remaining Member shall not utilize the capacity of the system related to the withdrawing Member's equity or utilize the withdrawing Member's water volume allocation without fair compensation.

13.8 The withdrawing Member shall still be responsible for any respective proportion of outstanding debt principle for which the withdrawing Member is responsible and the withdrawing Member shall either pay the outstanding principle and any accrued interest to the remaining Member or agree to continue to pay the respective share of the annual payments on the debt. Any proceeds to the withdrawing Member from the sale of capacity under

clause 1) shall be firstly applied to outstanding debt principle of the withdrawing Member.

13.9 The addition of any new Member or the withdrawal of any Member shall be subject to the approval of the Government of Alberta.

14. AMENDMENTS

14.1 An amendment to this Bylaw may be passed by the Board by a majority of the Directors of the Board.

14.2 Written notice of a proposed amendment to the Bylaw shall be provided to each Director and each Member not less than thirty (30) days in advance of the meeting at which the amendment is to be considered.

READ A FIRST TIME this _____ day of _____, 2010

READ A SECOND TIME this _____ day of _____, 2010

READ A THIRD TIME this _____ day of _____, 2010

_____
Chair

_____
Manager

Appendix C – Water Supply Agreement Template (Draft)

THIS AGREEMENT made effective as of the _____ day of _____, 20___.

WATER SUPPLY AGREEMENT

Elk Point / St. Paul Regional Water Commission
(the "Commission")

- and -

(the "Member")

Introduction:

WHEREAS the Member desires to enter into an agreement with the Commission for the supply of water from the Elk Point / St. Paul Regional Water System (System) to the Member to provide water services to its customers;

AND WHEREAS the Member wishes to purchase Water from the Commission and the Commission wishes to sell and deliver Water to the Member;

AND WHEREAS the Member and the Commission recognize that conservation of water resources is an important goal;

IN CONSIDERATION of the mutual and other promises described in this Agreement, the Commission and the Member covenant and agree as follows:

1. Definitions

In this Agreement, each of the following words shall have the meaning for that word described below unless expressly stated otherwise:

(a) **Agreed Variance** means the standard for accuracy for the Meter being tested as specified in the latest edition of the American Water Works Association 700 Series Standards;

(b) **Agreement** means this Water Supply Agreement including the Introduction clauses, all attached Schedules and all documents produced or delivered according to the terms of this Agreement;

(c) **Annual Quantity** means for each calendar year the quantity of Water for that year determined according to the provisions of attached Schedule “C”;

(d) **Best Efforts** means, in relation to the performance of an obligation, efforts that are

sensible and practical, and involve the exercise of reasoned and sound judgment having regard to all of the relevant circumstances;

(e) **Bylaws** mean the Bylaws of the Commission that together set out the establishment and operation of the Commission.

(f) **Commission** means the Elk Point / St. Paul Regional Water Commission as established by Alberta Regulation AR _____

(g) **Cross Connection** means any physical connection to the System or to the Member's Distribution System by which Water may become contaminated;

(h) **Delivery Pressures** means for each calendar year the Minimum Pressure and the Normal Pressure Range for that year;

(i) **Effective Date** means the date of this Agreement;

(j) **Equipment** means all necessary valves, pressure and flow controls, associated equipment and pipes required within a Meter Chamber, except the Meter;

(k) **Maximum Daily Quantity** means for each day during a calendar year, the maximum quantity of Water for that day determined according to the provisions of the attached Schedule "C";

(l) **Members** mean those Members of the Commission.

(m) **Members's Boundaries** means [either]

(i) the legal municipal boundary of the Member [in the case of Elk Point]

[or]

(ii) the boundary of a specified area of the County as shown in the attached Schedule "B";

(n) **Meter** means the consumption measuring device owned by the Commission which is located in a Meter Chamber;

(o) **Meter Chamber** means the physical structure which houses the Equipment and the Meter at which the Commission measures the quantity of Water delivered to the Member,

(p) **Minimum Pressure** means for each calendar year, the minimum pressure for delivery of Water at the Point of Delivery for that year determined according to the provisions of the attached Schedule "D";

(q) **M^3** means cubic meters;

(r) **Normal Pressure Range** means for each calendar year, the normal pressure range for delivery of Water at the Point of Delivery for that year determined according to the provisions of the attached Schedule "D";

(s) **Points of Delivery** means the places described in the attached Schedule "B" where

Water is sold and delivered to the Member by the Commission;

(t) **Rate** means the price for Water established from time to time by the Commission according to the provisions of the attached Schedule "E";

(u) **Schedules** means those Schedules attached hereto which form part of this Agreement including:

(i) Schedule "A" - The Member's Boundaries

(ii) Schedule "B" - Points of Delivery and Meter Chambers

(iii) Schedule "C" - Annual Quantity and Maximum Daily Quantity

(iv) Schedule "D" - Delivery Pressures

(v) Schedule "E" - Calculation of Rate and Minimum Payment

(vi) Schedule "F" - Dispute Resolution Process

(v) **System** means the Elk Point / St. Paul Regional Water System operated by the Commission for the supply of Water

(w) **Water** means treated water which is safe for human consumption

(x) **Watermain** means a water pipe line under pressure used to supply or deliver Water.

2. Supply and Use of Water

(a) The Commission agrees to sell and deliver Water to the Member according to the terms of this Agreement.

(b) The Member agrees to buy and accept delivery of Water from the Commission according to the terms of this Agreement.

(c) The Member, during the term of this Agreement, shall obtain all of its water requirements from the Commission.

(d) Subject to Sub-Clause (e) following, the Member may use or resell any or all of the Water delivered by the Commission to the Member for users and customers located:

(i) within the Member Boundaries; and

(ii) outside of the Member's Boundaries that have been authorized by the Commission to receive Water from the Member.

(e) The Commission shall not sell Water Services to the Member and a Member shall not resell Water Services to any customer for injection into any geological subsurface structure or formation.

(f) The Member and the Commission shall not allow or permit any Cross Connections.

3. Points of Delivery and Metering of Water

(a) The Commission shall determine the Point or Points of Delivery that the Commission requires to deliver Water from the System to the Member. The location of each Point of Delivery shall be described in Schedule "D".

(b) The Member may require additional Points of Delivery beyond those required and provided by the Commission and, where authorized by the Commission at the request of the Member, Schedule D of this Agreement shall be amended to identify the additional Point of Delivery.

(c) Each Point of Delivery will require a Meter Chamber through which the delivery of Water to the Member is controlled and measured.

(d) For each Point of Delivery required by the Commission, the Commission at its sole expense shall be responsible for the construction, operation and upgrading of the Meter Chamber. The Commission shall retain ownership of the Meter Chamber and shall keep safe, maintain, repair and replace such Meter Chamber.

(e) For each additional Point of Delivery required by the Member, the Member at its sole expense shall be responsible for the construction, operation and upgrading of the Meter Chamber except the Meter. With the exception of the Meter, the Member shall retain ownership of the Meter Chamber and shall keep safe, maintain, repair and replace such Meter Chamber.

(f) The Commission shall provide, care for, maintain, repair and replace the Meters.

(g) Once a year, the Commission may test a Meter for accuracy. The Commission shall pay for such tests and shall provide the results of the test to the Member.

(h) Upon written request of the Member, the Commission shall test for accuracy any meter at the Points of Delivery to the Member. If the test indicates that the accuracy of a Meter exceeds the Agreed Variance, the Commission shall pay for the test. If the test does not indicate that the accuracy of a Meter exceeds the Agreed Variance, the Member shall pay for the test.

(i) If at any time a Meter Chamber or a Meter is out of service or is being repaired so that the measurement of the volume of Water being delivered is not being recorded accurately within the Agreed Variance, or if a test determines that a Meter is not registering accurately within the Agreed Variance, the Meter Chamber or Meter shall be repaired or adjusted as soon as practical. The measurement shall be corrected for a period definitely known or agreed upon, or if not known or agreed upon, for one-half of the period since the last Meter test, and the measurements shall be determined or adjusted, as the case may be, to correct for the degree of inaccuracy using the best available data in the following priority:

(i) by using any check measuring equipment if installed and if accurately registering within the Agreed Variance;

(ii) by correcting the error, if the percentage of the error is ascertainable by calibration, test or mathematical calculation; or

(iii) by estimating the volume based upon deliveries under similar conditions

during a period of time when the Meter Chamber and Meter were working accurately.

(j) The Member shall allow the Commission reasonable access to all Meter Chambers at reasonable times for the purposes of performing its obligations to care for, maintain, repair, replace and test the Meters.

4. Volume and Pressure

(a) The Commission and Member shall determine an Annual Quantity of Water estimated to be required by the Member in accordance with Schedule C.

(b) The Member shall be entitled to the Annual Quantity determined and the Commission shall undertake to provide the Water within the System to supply the Annual Quantity. In fulfilling this obligation, the Commission shall use Best Efforts to:

(i) make Water available to the Member each year as required by the Member to a maximum amount equal to the Annual Quantity for that year;

(ii) subject to clause (c) following, make Water available to the Member each day as required by the Member up to a maximum amount equal to the Maximum Daily Quantity for that day;

(iii) deliver Water to the Points of Delivery at all times during each year at a pressure equal to at least the Minimum Pressure for that year, and for the majority of the time during such year at a pressure falling within the Normal Pressure Range for that year; and

(iv) avoid situations where it is unable to supply to the Member the quantity of Water required by the Member.

(c) The Member and the Commission shall work cooperatively and each of them shall use Best Efforts to manage and control the peak hour rates of draw so as to optimize the operation of the System while providing Water to the Member under this Agreement.

(d) Provided there is sufficient quantity of Water available from the System and provided the Commission's ability to meet its obligations to other Members and customers is not jeopardized, the Commission shall use Best Efforts to provide additional quantities of Water above the Annual Quantity if required by the Member.

(e) Where the availability of raw water or the capacity of the System is insufficient to deliver the Annual Quantity, the Members shall be allocated a proportion of the total available System volume based on a ratio of the Member's previous year's actual volume to the total previous year volume of all Members and customers, until such time as the Commission is able to fully supply the volume required.

5. Purchase of Water and Determination of Rates

(a) The Member shall purchase and pay for all Water measured by the Commission at the Points of Delivery.

(b) The Member shall purchase and pay for all Water at the Rate established by the

Commission and in effect from time to time in accordance with the attached Schedule "E".

(c) The Member shall pay for Water by way of monthly payments based upon billings prepared by the Commission. The Commission shall provide to the Member monthly billings setting out the actual volume of Water purchased from the Commission, the applicable Rate and amount payable to the Commission at least thirty (30) days in advance of the due date for payment. If the Member fails to pay by the due date, then the Member must pay the late payment charge specified in the monthly billing.

(d) Notwithstanding paragraph 5(a), should the actual volume of water delivered to the Member by the Commission for a calendar year be less than 90% of the Annual Quantity for that year, the amount that the Member payable to the Commission under paragraph 5(b) shall be 90% of the Annual Quantity times the Rate, with such adjustment to be made on the final monthly billing issued under paragraph 5(d).

(e) Annually, by October 31st, the Commission shall forward to the Member, the rate to be charged for water supplied by the Commission under this Agreement to become effective on January 1st of the following year.

(f) The rate to be charged shall be calculated in accordance with the provisions of Schedule "E" of this Agreement.

(g) The Member shall provide the Commission with such information as the Commission may reasonably request from time to time in respect of the Member's actual consumption of water.

6. <u>Repairs, Maintenance and Replacements</u>

(a) The Commission may interrupt or curtail Water service for period of time as it may reasonably require for the purpose of effecting any repairs, maintenance, replacement, upgrading or other work related to the System providing service under this Agreement provided that:

(i) the Commission has given the Member at least forty-eight (48) hours prior notice or, in the event of unforeseen circumstances, the Commission gives notice of such interruption or curtailment as soon as is reasonably possibly possible; and

(ii) the Commission acts reasonably in using Best Efforts to restore services as soon as reasonably possible.

(b) The Commission shall use Best Efforts to coordinate the repairs, maintenance, replacement, upgrading and other work referred to in sub clause (a), above, with the Member so as to minimize to the extent reasonable the inconvenience to the Member of interruptions and curtailments.

(c) During periods of interruption or curtailment provided for in sub clause (a), above, the Commission may reduce the level, quality or quantity of service provided to the Member under this Agreement, provided that the Commission shall treat all of its customers affected by the interruption or curtailment, including the Member, fairly, equitably, and without preference, consistent with any operating constraints then in effect. The Commission and the Member shall use Best Efforts to keep each other apprised of and up-to-date in respect of the relevant circumstances during each

interruption or curtailment.

7. General Terms

(a) This Agreement may not be assigned without the prior written consent of the other party, which consent shall not be unreasonably withheld.

(b) This Agreement is for the benefit of and binds the Commission and the Member and their respective successors and permitted assigns.

(c) Any term of this Agreement which is determined to be void, unenforceable or illegal shall be severed from this Agreement. The remaining terms shall be effective and enforceable.

(d) The headings are for reference only and shall not be used to interpret or construe this Agreement.

(e) Time is of the essence for every part of this Agreement.

(f) The Member and the Commission are individually responsible for obtaining, at their sole expense, all necessary consents, approvals or orders from any level of government, board, tribunal, or other regulatory authority which is or are required in order for each of them to enter into this Agreement or to perform and satisfy their respective obligations described herein. The Member and the Commission shall cooperate with each other and shall provide reasonable assistance to each other, when requested.

(g) Any notice, consent or communication required by this Agreement must be in writing and shall be delivered by hand or by courier to the following addresses or shall be telecopied (faxed) to the following telecopier (fax) numbers, as the case may be:

(i) To the Commission:

Elk Point / St. Paul Regional Water Commission
Attention: Commission Manager
Office Address: PO Box 448
Elk Point, AB T0A 1A0
Telecopier (Fax) No.: (780) 724-2762

(ii) To the [Member] :

Attention: Chief Administrative Officer

Telecopier (Fax) No:

(h) This Agreement shall be governed by and construed according to the laws in force in the Province of Alberta and Bylaws of the Commission.

(i) All changes of gender and number shall be made where required.

(j) The term of this Agreement is Thirty (30) years commencing from the Effective Date. This Agreement may only be renewed by further written agreement between the

parties.

(k) This Agreement is the only agreement between the parties in relation to the subject matter hereof, and supercedes and replaces all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof. This Agreement may only be amended or modified by a further written agreement of the parties.

8. Force Majeure

(a) The Commission shall not be liable for any failure of or delay in performance of its obligations hereunder or be deemed to be in breach of this Agreement if such failure or delay arise from "force majeure".

(b) For the purposes of this Agreement, "force majeure" shall mean any cause not reasonably within the Commission's control and shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, storms, floods, high waters, washouts, inclement weather, orders or acts of evil or military authorities, civil disturbances, or any other causes, whether of the kind herein enumerated or otherwise, not within the reasonable control of the Commission and which, by the exercise of due diligence, the Commission is unable to overcome, provided that lack of funds shall not be a cause beyond control.

(c) The Commission shall give the Member prompt notice of such circumstances and shall take all reasonable steps to remove such disability. The Commission shall not be entitled to the benefit of this force majeure clause to the extent the failure to provide Water was caused by the Commission having failed to remedy the force majeure condition where it was reasonably able to do so and to resume the supply of water with reasonable dispatch.

(d) The Commission may impose reasonable restrictions on the delivery of Water, provided that the Commission shall treat all of its customers affected by the force majeure, including the Member, fairly, equitably and without preference, consistent with any operating constraints then in effect.

(e) The parties agree that the settlement of strikes, lockouts, and other industrial disturbances shall be entirely within the discretion of the particular party involved therein and such party may make settlement thereof in such time and on such terms and conditions as it may deem to be advisable and no delay in making such settlement shall deprive such party of the benefits of this section.

(f) A force majeure event shall merely suspend contractual obligations, and not bring this Agreement or any portion thereof to an end.

9. Liability, Damages and Mutual Indemnity

(a) Unless the cause is proven to be due directly to the negligence of the Commission, its employee's or agents, the Commission shall have no liability to the Member whatsoever for any damage, loss, cost or expense resulting from, arising out of or associated with:

(i) a break of any Watermain, service pipe or collapse of any ditch or trench.

(ii) the interference or suspension of the supply of Water due to maintenance work to, repair work to or replacement work for the Commission's water system or an emergency situation regarding any part of the Commission's water system, and

(iii) any accident to or failure of any part of the Commission's water system;

(b) Notwithstanding any other provision of this Agreement, neither the Member nor the Commission shall be liable to the other for:

(i) any losses or costs arising from third party claims or causes of action, including claims or causes of action of the other's customers; or

(ii) any indirect, consequential or punitive damages, including loss of profits or revenues or other similar damages.

(c) Each party (the "indemnifying party") agrees to indemnify and save harmless the other party (the "indemnified party"), its agents and employees from and against any and all damage, injury, loss, costs, causes of action, including legal costs on solicitor and own client basis, and claims suffered or incurred by the indemnified party, its agents or employees which are in any way connected with the performance or nonperformance of this Agreement and which are caused either directly or indirectly or contributed to in whole or in part by any act or failure to act of the indemnifying party, its agents and employees, in respect of which indemnifying party, its agents or employees is liable or otherwise responsible in law, provided that such indemnity shall be limited to an amount in proportion to which the indemnifying party, its agents and employees are at fault or otherwise held responsible in law.

10. <u>Arbitration and Remedies</u>

(a) If a dispute arises between the Member and the Commission regarding the interpretation, application, operation or breach of this Agreement or any part of it the dispute must be submitted to the dispute resolution process described in the attached Schedule "F" before either party may take any other action or step or pursue any available remedy in relation to the dispute regardless of whether such action, steps or remedy involves the courts, the Alberta Utilities Commission or any successor tribunal or entity, provided however that either party may file a complaint or other document required to be filed with the courts, Board or any successor tribunal or entity and take any other action or step prior to submitting any dispute to the dispute resolution process if such filing, action or step is necessary to preserve its right to pursue the dispute in the event that the dispute resolution process is unsuccessful in resolving the dispute.

Notwithstanding that the dispute resolution process is involved, the parties shall continue to perform their obligations described in this Agreement until such time as the dispute resolution process is complete.

(b) Subject to Sub-clause (a), above, if a party breaches this Agreement, then the other party shall have all available legal, equitable and other remedies.

In witness whereof the parties have signed this Agreement to be effective from and after the Effective Date notwithstanding the actual date(s) of execution.

ELK POINT / ST. PAUL REGIONAL WATER COMMISSION

Per: _____

Per: _____

[MEMBER]

Per: _____

Per: _____

SCHEDULE "A"

The Member's Boundaries

To be set. In the case of an urban municipality the Member's Boundaries for the purposes of this Agreement shall be the established corporate boundaries of the Member as may be adjusted from time to time. In the case of a rural municipality a description or map of the service area will be included.

SCHEDULE "B"

Points of Delivery and Meter Chambers

Map and Diagrams of Points of Delivery and Meter Chamber Locations to be included

SCHEDULE "C"

PART I - Annual Quantity

1. The Annual Quantity of Water for a calendar year shall be determined or re-determined, as the case may be, as follows:

   (a) Prior to October 31st in each year of this Agreement, the Member shall provide to the Commission:

      (i) a request for water for the next calendar year which the Member proposes as the Annual Quantity of Water, together with a forecast of volumes anticipated to be required for the second through fifth ensuing calendar years (the "forecast"); and

      (ii) engineering and other information supporting the forecast, including without restriction information regarding the Member's forecast population, business and industrial growth.

   (b) If the Commission does not agree that the quantity requested by the Member as the Annual Quantity of Water or any other forecasted volumes are reasonable, the Member and the Commission shall work together in good faith to reach agreement on the Annual Quantity of Water or other forecasted volumes.

2. For greater certainty, each of the Commission and the Member shall act reasonably in preparing and reviewing each forecast, and in all discussions and negotiations in relation to each forecast and the establishment of an Annual Quality of Water. The Member shall use best efforts in the preparation of each forecast to ensure to the extent reasonably possible that it is not over-estimating or otherwise inflating its Water needs. The Commission shall exercise sound engineering judgement and, where appropriate, consult with the Member when reviewing the technical aspects of the Member's forecast.

PART 2 - Maximum Daily Quantity

The Maximum Daily Quantity for each day shall be equal to the quantity (expressed in M^3) determined as follows:

Maximum Daily Quantity = _____AQ / 365

Where AQ equals the Annual Quantity for the calendar year in which that day falls.

SCHEDULE "D"

Delivery Pressures

To be determined when technical aspects of pipeline operation is determined.

SCHEDULE "E"

Calculation of Rate and Minimum Payment

1. **Determination of Rate**

The rate to the Member shall be a rate common to all Members and shall be calculated by dividing the estimated annual costs of the System by the total volume of water requested by the Members.

The estimated annual costs of the System shall be calculated on a cost of service basis utilizing the principles set out in the American Water Works Association (AWWA) manuals of practice dealing with water rates and charges, as revised and updated from time to time, and in accordance with the findings and directives of the Alberta Utilities and may include:

(i) operations of the Board and Manager;

(ii) operations of the System including those costs related to the operation of the raw water supply facilities, treatment plant, transmission pipeline system and meter chambers;

(iii) purchase of water from an outside source, if any;

(iv) repayment of debt obligations;

(v) non cash expenditures; and

(vi) return on equity and investments;

(vii) allocations for present of future capital expenditures

(viii) prior year's or years' operating deficit

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Principles and practices to be applied to determine Rates may be changed from time to time by way of negotiated agreement between the Members or as a result of a decision or order of the Alberta Utilities Commission, or a successor tribunal or authority.

2. **Minimum Payment to the Commission**

Under this agreement the Member shall pay to the Commission the product of the actual volume of water purchased by the Member in a year times the rate set out by the Commission. Notwithstanding this, where the actual volume of water purchased is less than 90% of the Annual Quantity, the Member shall be responsible for a minimum payment to the Commission of 90% of the Annual Quantity times the rate set by the Commission.

SCHEDULE "F"

Dispute Resolution Process

The Member and the Commission acknowledge that in any business relationship a difference of opinion or interpretation or a divergence of interest may arise. The Member and the Commission are committed to resolving any disputes in a non-adversarial, informal, and cost efficient manner. Therefore the Member and the Commission agree as follows:

1. The Member and the Commission shall attempt to resolve any dispute through direct negotiation.

2. Failing successful negotiation they shall resort to mediation as follows:

   (a) Either party may by written notice to the other, request that the parties select a mediator. The parties shall endeavor to select a mediator agreeable to both form a list of suitable mediators maintained by the Alberta Arbitration and Mediation Society.

   (b) Within 7 days of the Mediator's selection, the Mediator shall designate a time for a meeting among the Mediator and a representative of each of the Member and the Commission. Each representative must have authority to agree to a resolution of the dispute.

   (c) Subject to paragraph 10(b) of the Agreement, for a 45 day period of time from the written notice requesting the selection of a mediator, neither the Member nor the Commission shall take any action or step or pursue any available remedy other than to use its Best Efforts to participate in the mediation process.

   (d) The cost and expense of the Mediator and the mediation process shall be paid for equally by the Member and the Commission.

   (e) The mediation process, including all discussions, proposals and written materials made or prepared, shall be strictly confidential and cannot be used or referred to in any subsequent action, step or proceedings.

   (f) The Mediator cannot be called by either party as a witness in any subsequent action, step or proceeding.

3. Notwithstanding Clause 2 (c), either party may take such legal or regulatory action as may be necessary to preserve the right to any legal or regulatory remedy should a resolution of the dispute under the process in Section 2 of this Schedule be unsuccessful.