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February 12, 2025

RHODE ISLAND WATER RESOURCES BOARD
c/o Kathleen Crawley, Acting General Manager
RI Division of Statewide Planning
235 Promenade Street, Suite 230
Providence, Rhode Island 02908

RE: Appeals of Water Service Extension Decisions;
Town of Jamestown Water and Sewer Commission

Dear Ms. Crawley,

In reply to your letter dated January 28, 2025, regarding the above-referenced matters, please see the attached Memorandum in Support of the Jamestown Board of Water and Sewer Commissioners' Response to the Chair of the Water Resources Board's inquiry.

Please contact me if you have any questions.

Sincerely,

/s/ Peter D. Ruggiero
Peter D. Ruggiero, Town Solicitor

Cc w/ attachment:

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**MEMORANDUM IN SUPPORT OF JAMESTOWN BOARD OF WATER AND SEWER
COMMISSIONERS' RESPONSE TO THE CHAIR'S INQUIRY**

IN RE: Andreoni Appeal of Jamestown Water Service Extension Decision;
Frechette Appeal of Jamestown Water Service Extension Decision;
Saletin Appeal of Jamestown Water Service Extension Decision;
Zimmiski and Gagnon Appeal of Jamestown Water Service Extension Decision

On January 28, 2025, the Acting General Manager of the Water Resources Board forwarded a request from the Chair of the Water Resources Board to the Board of Water and Sewer Commissioners for the Town of Jamestown ("Commission") requesting the following:

A more detailed written explanation of the Town of Jamestown's position regarding the existing language contained in the Water Resources Board "WRB" approved Town of Jamestown Water District's "JWD" 2018 Water Supply System Management Plan "WSSMP" as it applies to RIGL §46-15-2(b)(1), copied below for reference:

Notwithstanding any provision of this section to the contrary, a municipal water department, agency, or public water system governed under this section shall review applications for plans or work for the extension of supply or distribution mains or pipes in accordance with the following standards:

(1) The application must not be prohibited by the specific language of the latest water supply system management plan ("WSSMP") of the public water supply system;

In response, there first are a couple of points to be made. As previously identified in its *Memorandum*, it is the Commission's position that P.L.1968 Chap. 273, the Special Act creating the Jamestown Water District ("JWD") grants the Commission the authority to determine in the first instance whether to "**extend** and improve a water works systems" beyond the existing service area. P.L.1968 Chap. 273 ("*Special Act*"), § 4 (emphasis added). It is only after the determination has been made that there is requisite supply and ability to extend the system beyond the current service area that the § 46-15-2(b) standards would apply to any requests for a water main extension. See *Board of Water and Sewer Commissioners for the Town of Jamestown Memorandum in Support of Response to Appeals*. This is not only consistent with the settled rules of statutory interpretation requiring the harmonization of apparent conflicting statutory provisions, but it also is consistent with the legislative intent. That is, noticeably absent from § 46-15-2(b) is any requirement, determination or consideration of the availability of

sufficient water supply to accommodate a demand for the extension of the district. Quite simply, the standards outlined in 46-15-2(b) focus on the needs of an applicant and do not consider the impact on the overall system, placing risk on the availability of water to the existing users. However, the Special Act does grant the Commission the discretionary authority to “**extend** and improve a water works systems” beyond the existing service area. This authority permits the Commission in the first instance to take into consideration both the available water supply as well as the structural ability to extend services beyond its current services areas. The WSSMP along with the *Rules and Procedures for Water Supply System Management Planning*, promulgated in accordance with Chapter 42-35 pursuant to the Chapter 46-15.3 of the General Laws, has outlined the limitations and conditions warranting such expansion.

It should also be recognized that unlike municipal water departments such as Warwick, whose service area is citywide, the Jamestown Water District’s service area does not extend townwide. As identified in the Special Act as well as the WSSMP, the JWD is a former private water district with a limited geographic area. Although located within the Town of Jamestown, the water district, unlike other municipal districts, is limited to the service area, that is the Urban District.

With this in mind, the response to the Chairman’s question starts with the precise language of § 46-15-2(b)(1) which requires an applicant for a water main extension to first demonstrate that the proposed extension is not otherwise prohibited by the latest WSSMP of the water authority. Although it is difficult to ascertain what precise language of the WSSMP the Chairman is seeking comment on, it is noteworthy that some applicants have argued that they have met the first requirement of § 46-15-2(b)(1) because JWD’s 2018 WSSMP does not specifically state that extensions beyond the current service area are “prohibited.” However, it must first be recognized that the 2018 WSSMP was enacted and approved more than four (4) years *prior* to the amendment to § 46-15-2(b)(1). Therefore, the 2018 WSSMP was prepared without consideration of the amendments to § 46-15-2 and the precise language therein.

Nevertheless, applying the previously identified rules of statutory construction, including the cardinal rule to effectuate the legislative intent, there are various provisions of the 2018 WSSMP that support a finding of such a prohibition consistent with the authority of the Special Act and the conditions outlined in the *Regulations* in support of the denial of the instant applications. In the first instance, the WSSMP specifically recognizes that Jamestown Water District consists of a limited area that is **legally** obligated to only supply drinking water to this **Urban District**.¹ WSSMP § 2.9.3 (“The Town of Jamestown is obligated to supply drinking water to properties located within the Urban Water District”)(emphasis added). As further identified in the WSSMP, “[t]he JWD’s primary objective is to operate a water system for the benefit of, and to meet the legitimate needs of, **the customers in its service area.**” WSSMP § 1.1(emphasis added). In pursuit of the primary goal to operate a water system for the benefit of the “customers of the service area,” the WSSMP also identifies the specific goal to “[p]lan for future development such that **the water supply system is not extended** beyond its capacity, in order to provide safe, clean drinking water.” WSSMP § 1.1(4)(emphasis added). As reflected in the approved WSSMP, such planning only incorporates the anticipated needs and population growth of the **existing** service area – not the entire island. WSSMP, ES-3-ES-4, Table 1 (“Residential water use ... was projected based on a **service area population of 3268 people**”)(emphasis added).

With these goals in mind, the WSSMP further specifically states that because of the relatively small supply capacity of the system, “**no expansion of the Urban Water District is planned or anticipated at this time.**” WSSMP § 2.6.4 (emphasis added). As explained and approved in the WSSMP, the current and projected future maximum day demand (MDD) of the existing service area, as well as the average day demand (ADD) during the peak summer season, exceed the safe yield of the available supply. WSSMP § ES-5. The WSSMP further cautions that “the public water system is also currently drawing a **greater**

¹ As previously identified, the “urban district” consists of essentially the original service area of the privately owned water supply company and is identified within the WSSMP on Figure 2.3.

volume than the safe daily yield of North Pond, the primary supply source at certain times of year. This causes great fluctuations in the amount of usable stored water in the reservoir from year to year.” *WSSMP* § 9.2.2(*emphasis added*). By their very nature extensions, expansions, and new connections outside of the current water service area not only are not accounted for or planned in the current WSSMP but are injurious to and endanger the Commission’s obligations to provide safe and sufficient water supply to the “customers in its service area.” *WSSMP*, at § 1.1. As such, as noted, the WSSMP concludes that “no expansion of the Urban District is planned or anticipated at this time.” *WSSMP* at § 2.6.4.

It also must be recognized that the 2018 WSSMP, as approved by this Board, further identifies the specific goal to “**[r]egulate expansion of municipal service area.**” *Id.* at § 1.1(7) (*emphasis added*). Consistent with the WSSMP, the General Laws, as well as the Special Act’s authority to enact regulations and make the determination in the first instance whether to “extend and improve a water works systems,” the Commission has adopted Regulations that further the goals of the WSSMP, protect this resource and ensure its wise and responsible use. Consistent with the WSSMP’s recognition that “no expansion” is contemplated at this time, the Regulations specifically prohibit extensions of water mains outside the Urban District unless it is shown that the extension will improve the quality or quantity of water furnished to existing water uses. *Regulations*, §14B(b)(4) (“Extensions to and within the rural district shall be prohibited”). This is consistent with the approved WSSMP’s authority to “regulate expansion” as well as its approved conclusion that “no expansion of the Urban Water District is planned or anticipated at this time.” *WSSMP* §2.6.4 (*emphasis added*).

All Appellants are outside the existing service area and therefore are within the area where the WSSMP has determined that expansions are not planned or anticipated. To the extent the Chair’s requested inquiry focused on Appellants’ claim that the WSSMP does not “specifically prohibit” extensions,

Appellants' position ignores the actual language of the WSSMP and creates an absurd result.² Although the magic word of "prohibited" is not used in the WSSMP, a fair reading of the WRB's approved WSSMP demonstrates that the current conditions and capability of the system and the projected future uses of the existing service area do not allow for an expansion or an extension of the current system as requested by the Appellants. Not only does the Special Act's authority granted to the Commission to determine whether to extend the system, but the WSSMP recognizes the Commission's authority and priority to "regulate expansion of water services." Such regulations have been codified in the Commission's Regulations which prohibit extensions unless it can be shown that the extension will improve the quality or quantity of water furnished to existing water uses. *Regulations*, §14B(b)(4). Taking the position that they were not required to make any showing on improvements to the quality or quantity of services to the existing users, Appellants totally disregarded the same and did not make any showing that their extensions would result in any such improvement. Therefore, the applications for extensions were properly denied consistent with the Commission's statutory authority under the Special Act, the Regulations as well as the WSSMP.

The Jamestown Board of Water
and Sewer Commissioners
By their Attorneys,

/s/ Michael A. DeSisto

/s/ Kathleen M. Daniels

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²Giving words their plain and ordinary meaning "is not the equivalent of myopic literalism" especially where it creates an absurd result. *Ryan v. City of Providence*, 11 A.3d 68, 71 (R.I. 2011) (citations omitted).