

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON

IN THE MATTER OF THE FRANCHISE TO)
LEWIS COUNTY WATER AND SEWER DIST. NO. 5)
TO CONSTRUCT, OPERATE AND MAINTAIN WATER)
AND SEWER PIPELINES ON COUNTY ROAD RIGHT)
OF WAY, IN LEWIS COUNTY, WASHINGTON.)

RESOLUTION NO. 06018

WHEREAS, the Board of County Commissioners has reviewed a franchise to Lewis County Water and Sewer District No. 5, to construct, operate and maintain water and sewer pipelines on county road right of ways near Onalaska, in Lewis County, WA., and

WHEREAS, it appears to be in the best public interest to authorize the execution of said Franchise for Lewis County, Washington;

NOW, THEREFORE, BE IT RESOLVED that the aforesaid Franchise is hereby approved, and the Board of County Commissioners is authorized to sign the same.

DONE IN OPEN SESSION this 9 day of Jan, 2006.

ATTEST:



Karr Muir
Karr Muir, Clerk of the Board
of County Commissioners

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

Richard A. Thaler
Chairman

Dennis Hadaller
Member

Member

AFTER RECORDING RETURN TO:
Board of County Commissioners
Lewis County Courthouse
Attn: Clerk of the Board
Chehalis, WA. 98532

County road right of way - no parcel number

FRANCHISE

SECTION 1 - DEFINITIONS For the purpose of this franchise, the following terms, phrases, words, abbreviations and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- a. "Board" shall mean the Board of County Commissioners of Lewis County or its designee.
- b. "Company" or "Grantee" shall mean Lewis County Water and Sewer District No. 5.
- c. "County" shall mean the County of Lewis.
- d. "Franchise area" shall mean: Location A (water trunk line) Centralia Alpha Road, from a point opposite the Chehalis Pumping Station 100' +/- Northwest of North Fork Road, in Section 10, Township 13 North, Range 1 West, W.M., Southeasterly along the southerly margin of Centralia Alpha Road for a distance of 1350' +/- to a point 100' East of the west line of the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) of said Section 10..

Location B (sewer trunk line from Lewis County Water and Sewer District No. 5) Crossing Middle Fork Road between a point 30 feet West of the Southeast corner of Section 24, Township 13 North, Range 1 West, W.M., and a second point 60' East of the first point.

- e. "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- f. "County Road" shall mean any public road or right-of-way which is a part of the Lewis County road system by Order of Establishment, Dedication in a recorded plat or by maintenance pursuant to RCW 36.75.070.

SECTION 2 - GRANT OF AUTHORITY There is hereby granted by the County to the Company the right and privilege to erect, install, construct, repair, replace, reconstruct, maintain, and retain in, on, over, under, upon, across and along county road right of way in the above described franchise area, such ducts, conduit, vaults, manholes, attachments, and other property as may be necessary and appurtenant to install, operate and maintain a water line within Location A of the above described franchise area, and to install, operate and maintain a sewer line within Location B of the above described franchise area. This franchise is granted under authority of Chapter 36.55 RCW and is subject to the provisions of Ch. 12.20

Lewis County Code (Utility Installations Within Road Rights-of-Way).

SECTION 3 - NON-EXCLUSIVE GRANT This franchise shall not be deemed or held to be an exclusive grant or privilege, nor prohibit the County from granting other franchises rights of like or other nature to others, nor shall it prevent the County its use of or jurisdiction over the county roads within the area for which this franchise has been granted. All provisions, conditions, regulations, and requirements herein contained shall be binding upon the successors and assigns of the company and all privileges of the company shall inure to such successors and assigns as if they were specifically mentioned.

SECTION 4 - USE OF COUNTY ROADS

- A. At least seven working days prior to the start of any construction the holder of this Franchise will submit to the County Engineer a design pursuant to LCC 12.20.100 et seq. for approval; EXCEPT that in case of an emergency requiring immediate attention the holder shall take whatever emergency action is necessary and immediately notify the County Engineer thereof in accordance with LCC 12.20.310.
- B. Markers demarcating the pipeline's location shall be placed on the surface so as to provide clear warning of the presence of the pipeline but in a manner that does not interfere with public uses in that area. Additionally, Grantee shall place continuous underground markers demarcating the pipeline's location.
- C. Upon acceptance of this Franchise by Grantee, the Grantee shall file and thereafter maintain at all times with the Grantor, an "as-built" map showing the size, depth and location of all pipes, valves, gauges, other service appurtenances and facilities within the Franchise Area, as well as the location of all other known utilities, landmarks, and physical features.
- D. Grantee shall also provide all up-dates to Grantor within thirty (30) days of completing any maintenance or construction, or any other substantial activity within the Franchise Area.
- E. Road Openings or Obstructions. All transmission and distribution structures, lines, and equipment erected or installed by the Company within the franchise area shall be done in compliance with the standard specifications of all applicable federal, state and local laws, ordinances, traffic manuals and regulations, and specifically in compliance with Ch. 12.20 LCC. No hard surface pavement shall be cut or county road broken by the Company without first obtaining approvals by the County in accordance with Ch. 12.20 LCC. The Company shall install and maintain all such lines, wires, cables, conduits, fixtures and other equipment in such a manner that will not interfere with any installations of the County or other existing utilities serving the County in accordance with Ch. 12.20 LCC.

SECTION 5 - CONDITIONS OF ROAD OCCUPANCY

- A. Any and all damages or injury done or caused to any county roads or portions thereof within the franchise area in the construction, operation, maintenance or repair of Company's water and sewer lines and appurtenances thereto, shall be immediately repaired and reconstructed under the supervision and to the satisfaction of the County Engineer in accordance with LCC 12.20.290- .330; and in the event the holder shall fail, neglect or refuse to immediately repair and reconstruct said damage or injury to such roads, the same may be done by the County of Lewis, and expense and cost thereof shall immediately be repaid by the Holder to said county in

accordance with LCC 12.20.200. Such remedial action by the County may be taken in addition to any remedies the County may pursue under Ch. 12.20 LCC and under the law.

- B. Grantee shall be solely responsible for all necessary costs incurred in responding to any leak or other release from Grantee's facilities, including all remediation costs.
- C. Grantee shall notify Grantor of any uncontained leak or other release from its facilities within or affecting the Franchise Area as soon as possible after detection.
- D. If at any time during the term of this franchise the Grantor shall elect to vacate, alter, relocate or change the grade of any county road, the Company, upon reasonable notice by the Grantor, shall remove, relay or relocate its poles, lines, wires, cables, underground conduits, manholes, fixtures, and other related appurtenances to Company's water and sewer lines, at it's own expense in accordance with Ch. 12.20 LCC.
- E. Any poles or other fixtures placed on any county road by the Company shall be placed in such manner as not to interfere with the usual travel on such road in accordance with sections LCC 12.20.030, -.090, -.110, -.130, -.230 to .280, and -.310 to -.340.
- F. The Company shall have the authority, upon having first contacted the County and in accordance with LCC 12.20.270, to trim trees upon, or overhanging the right-of-way of county roads of the franchise area, except that at the option of the County, such trimming may be done by it or under its supervision and direction at the expense of the company.
- G. The Company shall, at its expense and in accordance with LCC 12.20.140, protect, support, temporarily disconnect, relocate in the same county road or remove from the county road any property of the Company when required by the County by reason of traffic conditions, public safety, road vacation, installation of sewers, drains, water pipes, power lines, gas lines, signal lines and tracks, or any other type of structures or improvements by public agencies; provided, however, that the Company shall, in all cases, have the rights and obligations of abandonment of property of the County, subject to LCC 12.20.140.
- H. Upon notification to Grantee of planned construction by another within ten (10) feet of Grantee's waterline facilities, Grantee shall flag the precise location of its facilities before the construction commences, provide a representative to inspect the construction when it commences, and periodically inspect thereafter to ensure that Grantee's facilities are not damaged by the construction.
- I. In the event that Grantor undertakes or approves the construction of or changes to the grade or location of any water, sewer or storm drainage line, street, sidewalk or other County improvement project or any governmental agency or any person or entity acting in a governmental capacity, or on the behalf of, under the authority of, or at the request of the Grantor or any other governmental agency, undertakes any improvement project and the Grantor determines that the project might reasonably require the relocation of Grantee's facilities, Grantor shall provide the Grantee at least one hundred and twenty (120) calendar days prior written notice or such additional time as may reasonably be required, of such project requiring relocation of Grantee's waterline and appurtenant facilities.
- J. Grantor shall provide Grantee with copies of pertinent portions of the plans and specifications for

the improvement project. Upon request, Grantee shall, at its cost and expense, determine and identify for Grantor the exact location of its waterline and facilities potentially affected by the improvement project.

- K. The County shall have the right to make additional use, for any public or municipal purpose, of any poles or conduits controlled or maintained exclusively by or for Company on any county road, provided such use by County does not interfere with the use by Company, in accordance with Ch. 12.25 LCC et seq (Telecommunications).

SECTION 6 - MINIMUM SAFETY REQUIREMENTS

- A. The Company shall at all times employ ordinary care and shall install and maintain in use all responsible methods and devices accepted within the particular industry for preventing and mitigating failures and accidents which cause damage, injuries or nuisances to persons or property.
- B. All pipelines, valves, pumps, connections, poles, structures, wires, cables, lines, conduits, connections and other equipment in, over, under and upon the county roads of the franchise area, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair in accordance with Ch. 12.20 LCC.
- C. During the term of this Franchise, Grantee shall have an emergency response plan and procedure for locating leaks and releases, and for shutting down the system as rapidly as possible.

SECTION 7 - INDEMNIFICATION OF COUNTY

- A. The Company shall at all times defend, indemnify and hold harmless the which may accrue to or be suffered or claimed by any person or persons arising out of or in any way connected to the performance of the Company in the ownership, construction, repair, replacement, maintenance and operation of said Company's water and sewer lines and by reasons of any license, copyright, property right or patent of any article or system used in the construction or use of said system in accordance with LCC 12.20.360. County shall give Company prompt notice of any such claims, actions, and suits, without limitation, in writing.
- B. The Company shall maintain in full force and effect during the life of this franchise, public liability insurance in a solvent insurance company authorized to do business in the State of Washington, at no less than in the following amounts:
- (1) \$1,000,000.00 property damage in any one accident;
- (2) \$1,000,000.00 for personal injury to any one person;
- (3) \$1,000,000.00 for personal injury in any one accident;
- provided that all such insurance may contain reasonable deductible provisions not to exceed \$1,000.00 for any type of coverage, and provided further, the County may require that any and all investigation of claims made by any person, firm or corporation against the County arising out of any use or misuse of privileges granted to the Company herein shall be made by, or at the expense of the Company or its insurer.

SECTION 8 - TERM OF FRANCHISE

- A. The franchise and rights herein granted shall take effect and be in force thirty (30) days after

passage hereof, providing, written acceptance of the Company is filed with the Board of Commissioners within such time period.

- B. In the event of any breach of conditions required to be kept or performed by the Company, the County may suspend or revoke this franchise in accordance with LCC 12.20.050, and under the applicable standards, procedures and penalties of LCC 12.40.100 to .130.
- C. In the event this franchise is not sooner terminated in whole or in part, those parts in effect shall continue in effect for a period of 20 years from the date of approval by the Board. County will consider renewing this Franchise, upon the written request of the Company, for one additional 20 year renewal period, at any time within two (2) years before the end of the Franchise's original term, unless either party expresses its intention in writing to terminate this Franchise at the conclusion of the original term.

SECTION 9 - APPROVAL OF TRANSFER The Company shall not sell or transfer its plan or system to another, other than a parent company or a wholly-owned subsidiary of the Company, nor transfer any rights nor working control under this franchise to another without Board approval. Provided, that no sale or transfer shall be effective until the vendee, assignee or lessee has filed in the office of the County Auditor an instrument duly executed reciting the fact of such sale, and agreeing to perform all the conditions hereof. Such Board approval will not be unreasonably withheld and neither this Section nor other Sections of this franchise shall preclude the mortgaging, hypothecating, or the assignment of certain rights in the system, or the pledge of stock by the Company for the purpose of financing.

SECTION 10 - PROCEDURE UPON TERMINATION Upon expiration of the franchise, if the Company shall not have acquired an extension or renewal thereof and accepted the same, it may have and it is hereby granted, the right to enter upon the county roads of such expired franchise area for the purpose of removing therefrom any or all of its property. In so removing such property, the company shall refill, at its own expense, any excavation that shall be made by it, and shall leave such roads in as good condition as that existing prior to the Company's removal of its property in accordance with the provisions of Ch. 12.20 LCC.

SECTION 11 - MISCELLANEOUS PROVISIONS

- A. When not otherwise prescribed herein, all matters herein required to be filed with the County shall be filed with the County Commissioners.
- B. In addition to the costs of administration under LCC 12.20.070, the Company shall assume the cost of publication of this franchise as such publication is required by law. A bill for publication costs shall be presented to the Company by the newspaper selected by the county to publish the notice of hearing on the issuance of this franchise.
- C. That all construction must conform to all applicable Federal, State and County laws and regulations and the Company shall upon request provide the County with a copy of all required permits.
- D. That the Company shall, within 30 days of receipt of an application for approving a service connection to the Company's sewer pipeline, provide the County with the location, the name of owner(s) and his/her/their mailing address for any sewer connection servicing by property or portions of property located outside Lewis County Water and Sewer District No. 5 boundary and outside of any County adopted Urban Growth Boundary (UGA), as such boundary now or in the

future shall exist, provide County with the applicant's name and address and proposed service location, and take no further action to provide such service connection unless approved by the County and the Lewis County Health Officer.

- E. That the Company shall, within 30 days of receipt of an application for approving a service connection to the Company's water pipeline, provide the County with the location, the name of owner(s) and his/her/their mailing address for any connection servicing by property or portions of property located outside Lewis County Water and Sewer District No. 5 boundary and outside of any County adopted Urban Growth Boundary (UGA), as such boundary now or in the future shall exist, provide County with the applicant's name and address and proposed service location, and take no further action to provide such service connection unless approved by the County.

SECTION 12 - CONSISTENT RULES AND REGULATIONS

- A. The Company shall at all times during the life of this franchise be subject to all lawful exercise of the police power and power of eminent domain by the County. The County reserves the right to adopt, from time to time, in addition to the provisions herein contained, such regulations as may be deemed necessary to the exercise of such police power and eminent domain power.
- B. The Company shall at all times be prohibited from utilizing this franchise for any service connection to the Company's water or sewer pipelines for property or portions of property located outside of any aforementioned UGA, where such connection has not first been determined by the Lewis County Board of County Commissioners to be in compliance with the Lewis County comprehensive plan and development regulations, and the laws of the State of Washington.

SECTION 13 - FORCE MAJEURE Company shall not be deemed in default of any provisions of this franchise or subjected to any penalty hereunder where performance or compliance is prevented by acts of God, civil emergencies, natural disasters or other such circumstances beyond Company's reasonable control.

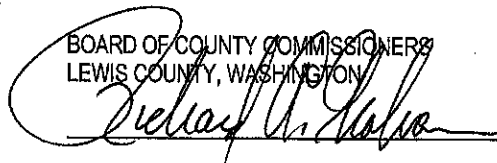
SECTION 14 - SEVERABILITY If any section, subsection, sentence, clause or phrase of this resolution is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board hereby declares that it would have passed this resolution and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this resolution shall not abate, reduce or otherwise affect any consideration or other obligation required of the Company or any grant of right by the County.

SECTION 15 - REGULATIONS The County may condition the granting of any permit or other approval that is required under this franchise, in any manner reasonably necessary for the safe use and management of the public right-of-way or the County's property including, by way of example and not limitation, bonding, maintaining proper distance from other utilities, protecting the continuity of pedestrian and vehicular traffic and protecting any rights-of-way improvements, private facilities and public safety.

DATED this 9TH day of JAN., 2006

ATTEST:

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON



Harri Muni
Clerk of the Board
of County Commissioners, Lewis County, WA

Approved as to form:
Jeremy Randolph, Prosecuting Attorney

By: [Signature]
Civil Deputy

ACCEPTED:
Lewis County Water and Sewer District No. 5.
Name of Company

By: [Signature]

Title Commissioner

Address: 921 N. 1st St. Park Rd
Onalaska WA

Telephone 360-524-3581

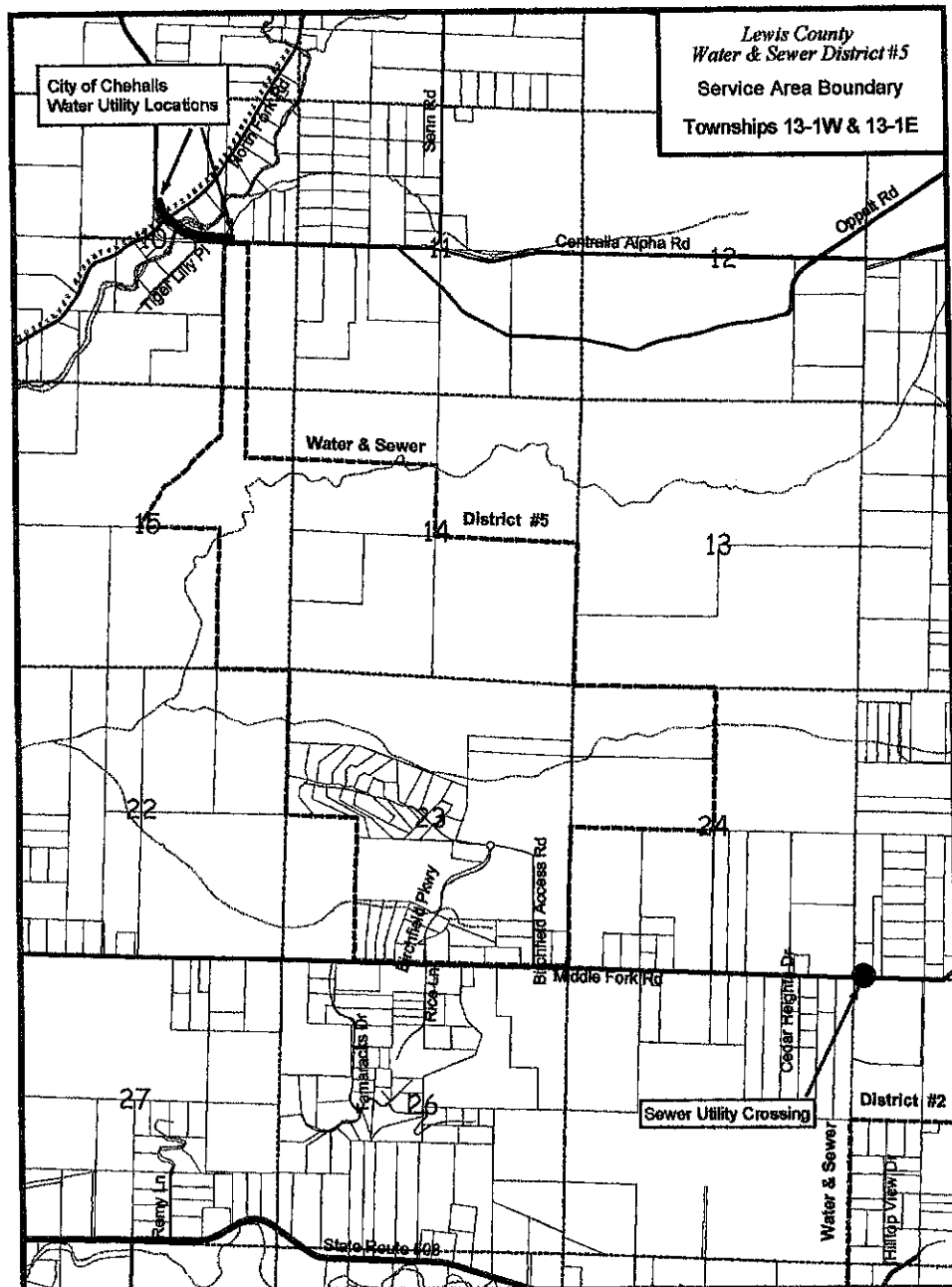
Chairman

Member

Dennis Hadaller

Member





HEARING: DATE 1-9-06
FRANCHISE w/SEWER #5

NOTICE: Unless otherwise noted, oral comment will be received during regularly scheduled Commissioner meetings between 10:05 and 10:15 AM. Written public comments may be submitted to the Commissioners on agenda or non agenda items (but excluding public hearing and bid award items) at any time following publication of the meeting agenda and before adjournment of the Commissioner meeting.

[illegible]

05-226

AFFIDAVIT OF PUBLICATION

STATE OF WASHINGTON }
COUNTY OF LEWIS } SS

Jeanne Rudeen, says that she is the legal clerk of

The Chronicle

a daily newspaper, which has been established, published in the English language, and circulated continuously as a daily newspaper in the City of Centralia, and in said County and State, and of general circulation in said county for more than six (6) months prior to the date of the first publication of the Notice hereto attached, and that the said Chronicle was on the 7th day of July 1941, approved as a legal newspaper by the Superior Court of said Lewis County.

And that the attached is a true copy and was published in regular issues (and not in supplement form) of said newspaper as Legal # 1243,

once each day for a period of 2

consecutive days,

commencing on the

15th day of December 2005

and ending on the

16th day of December 2005, and both dates inclusive, and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is the sum of

\$ 120.00

Jeanne Rudeen

Subscribed and sworn to before me this

15th day of December, 2005.

Anita S. Beeson

Notary Public in and for the State of

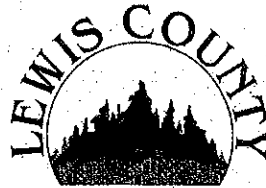
Washington, residing at

Centralia WA 98531

BEFORE THE BOARD OF
COUNTY
COMMISSIONERS OF
LEWIS COUNTY,
WASHINGTON
IN THE MATTER OF A
FRANCHISE TO LEWIS
COUNTY WATER AND
SEWER DIST. NO. 5 FOR
WATER AND SEWER
PIPELINES ON COUNTY
ROAD RIGHT OF WAY IN
LEWIS COUNTY,
WASHINGTON
Resolution No. 05-328
WHEREAS on October
10, 2005, an application for
franchise was received by
the Lewis County Public
Works Department to allow
Lewis County Water and
Sewer District No. 5, to
construct, operate, and
maintain a water pipeline on
Centralia Alpha Road, from
a point opposite the
Chehalis Pumping Station
100 feet +/- Northwest of
North Fork Road, in
Section 10, Township 13
North, Range 1 West,
W.M., Southeastern along
the southern margin of
Centralia Alpha Road for a
distance of 1980 +/- to a
point 100 feet East of the
west line of the Northeast
Quarter of the Southeast
Quarter (NE 1/4 SE 1/4) of
Section 24, Township 13
North, Range 1 West,
W.M., but not to exceed
that part of said road, lying
30 feet East and West of
said Southeastern Section
Corner, and
WHEREAS said
application and all related
materials have been
reviewed by the Board and
found appropriate for
further proceedings.

NOW, THEREFORE, BE
IT RESOLVED that the 8th
day of January, 2006 at or
after the hour of 10:00
a.m. in the Commissioners
Hearing Room in the
Historical Courthouse in
Chehalis, Washington, has
been fixed by said Board
as the time and place for
the hearing on said
franchise request when
and where all persons may
appear and be heard upon
the granting of said
franchise.
BE IT FURTHER
RESOLVED that the Clerk
of the Board is hereby
instructed to proceed with
all appropriate and
necessary notifications,
posting and publication as
required by RCW
36.55.040.
DONE IN OPEN SESSION
this 12th day of December,
2005.
BOARD OF COUNTY
COMMISSIONERS LEWIS
COUNTY, WASHINGTON.
ATTEST:
Kath Mulk, Clerk of the
Board of County
Commissioners
APPROVED AS TO FORM
JEREMY RANDOLPH,
Prosecuting Attorney
L#1243, December 15 &
16, 2005

Mark R. Cook, P.E.
Director / County Engineer



Department of Public Works

350 N. Market Boulevard
Chehalis, WA 98532-2626
(360) 740-1123
Fax: (360) 740-1479
TDD: (360) 740-1480
www.co.lewis.wa.us
publicworks@co.lewis.wa.us

EXECUTIVE SUMMARY

BOCC: DECEMBER 20, 2005
DEPARTMENT: PUBLIC WORKS
ITEM: IN THE MATTER OF A FRANCHISE FOR WATER AND
SEWER PIPELINES TO LEWIS COUNTY WATER AND
SEWER DISTRICT NO. 5
CONTACT:  LARRY UNZELMAN

This franchise is being granted pursuant to and in conformance with RCW 36.55 and LCC 12.20.060.

Lewis County Water and Sewer District No. 5 has made application to Lewis County to construct, operate and maintain 1350' +/- of water pipeline on Centralia Alpha Road right of way, southeast of Chehalis, and to cross Middle Fork Road with a sewer pipeline, northwest of Onalaska.. A complete description of roads is included in the franchise.

RCW 36.55 requires that no hearing be held on a proposed franchise grant until 5 days after the last publication date, and 15 days after posting of the notice thereof in three public places. Publication must be twice in the official newspaper for publication in the County. Publication occurred on December 15 and 16, 2005.

The accompanying franchise is for the hearing January 9, 2006 pursuant to publication and posting as statutorily required. The Applicant has reviewed the franchise and have shown their acceptance by signing. Once approved by the Board of County Commissioners, the Applicant will re-sign the final approved form.