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FILED

APR 14 2004

Clerk's Office
N.C. Utilities Commission

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April 14, 2004

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OFFICIAL COPY

VIA HAND DELIVERY

Ms. Geneva Thigpen
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

W-1230 Subd

**Re: Application for Certificate of Public Convenience and Necessity
Briar Chapel Utilities, LLC**

Dear Ms. Thigpen:

Enclosed herewith please find an original and nine copies of the Application for Certificate of Public Convenience and Necessity for Briar Chapel Utilities, LLC and for Approval of Rates to operate as a sewer utility (the "Application"), together with a check in the amount of \$25.00 for the filing fee. I would appreciate your filing this Application and returning two "filed" stamped copies to me via our courier.

Briar Chapel is filing this Application as a necessary requirement of its concurrent application to the North Carolina Department of Environment and Natural Resources ("DENR") for a non-discharge permit and approval of plans for the sewer system proposed in this Application. After receiving those environmental approvals, the application will be supplemented with the information provided in this filing. In the meantime, and as required by DENR, we respectfully request that the Commission issue an Order declaring utility status and granting interim approval but not authorizing any operations or granting, at this time, a Certificate of Public Convenience and Necessity. This request has been discussed with the Public Staff, and they do not oppose such an Order.

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Ms. Geneva Thigpen
April 14, 2004
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Thank you in advance for consideration of this request. If you have any questions or comments regarding the request, or the Application in general, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "M. Gray Styers, Jr." The signature is written in a cursive style with a large, stylized "M" and a long, sweeping underline.

M. Gray Styers, Jr.

Enclosures

pbb

cc: Mr. Andy Lee, Public Staff, Water Division (w/enclosures)

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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY **APR 14 2004**
AND FOR APPROVAL OF RATESINSTRUCTIONS

Notes or explanations placed in the margins of the application are acceptable. If additional space is needed, supplementary sheets may be attached. If any section does not apply, write "not applicable" or cross out the section.

Clerk's Office
NC Utilities CommissionAPPLICANT

1. Trade name used for utility business Briar Chapel Utilities, LLC
2. Name of owner (if different from trade name) NNP - Briar Chapel, LLC
3. Business mailing address 9404 Genesee Avenue, Suite 230
City and state LaJolla, California Zip Code 92037
4. Business street address (if different from mailing address) Same
5. Business telephone number 858/455-7503
6. If corporation, list the following:

President <u>Robert B. McLeod</u>	Sr. Vice President <u>Derek C. Thomas</u>	
Secretary <u>Martha K. Guy</u>	Treasurer <u>LaDonna K. Monsees</u>	
	<u>James H. McLennan</u>	

 Three (3) largest stockholders and percent of voting shares held by each
NNP-Briar Chapel, LLC - 100%
7. If partnership, list the owners and percent of ownership held by each
N/A

PROPOSED UTILITY SERVICE AREAS

8. Name of Subdivision or Service Area Briar Chapel
9. County (or Counties) Chatham County
10. Type of Service (Water and/or Sewer) Sewer Only

PROPOSED RATES

(Amount Applicant Proposes to Charge)

11. Metered Residential Service:

Water: <u>TBD</u>	
Sewer: <u>TBD</u>	
12. Flat Rate Residential Service:

Water: <u>TBD</u>	
Sewer: <u>TBD</u>	
13. Nonresidential Service (explain):

Water: <u>TBD</u>	
Sewer: <u>TBD</u>	
14. Tap-on fees:

Water: <u>TBD</u>	
Sewer: <u>TBD</u>	
15. Finance charge for late payment: TBD
 (NCUC Rule R12-9) specifies not more than one percent (1.0%) per month will be applied to the unpaid balance of all bills still past due 25 days after billing date.)
16. Reconnection charge if water service cut off by utility as specified in NCUC Rule R7-20: TBD
17. Reconnection charge if water service discontinued at customer's request: TBD
18. Reconnection charge if sewer service cut off by utility as specified in NCUC Rule R10-16: TBD
19. Other charges: TBD

TBD - To Be Determined. Information will be provided in subsequent filing.

PROPOSED BILLING

1. Frequency of billing shall be (monthly, quarterly, etc.) TBD
2. Billing shall be for service (in advance or arrears) TBD
3. Bills past due TBD days after billing dates: (NCUC Rule R12-9 specifies that bills shall not be past due less than fifteen (15) days after billing date).
4. Will regular billing be by written statement? (yes or no) TBD
5. Will the billing statement contain the following? (Indicate yes or no for each item)
 - (a) Meter reading at beginning and end of billing period TBD
 - (b) Date of meter readings TBD
 - (c) Gallons used, based on meter readings TBD
 - (d) Amount due for current billing period listed as a separate amount TBD
 - (e) Amount due from previous billing period listed as a separate amount TBD
 - (f) Amount due for each special charge (i.e., deposits, tap fees, etc.) listed as a separate amount .. TBD
6. Show how the following will appear on the billing statement:
 - (a) Mailing address of company: TBD
 - (b) Address where bill can be paid in person: TBD
 - (c) Name and phone number of alternative persons to contact for emergency service after business hours: TBD
7. Is service already metered? (yes or no) No
8. Does the Applicant understand the provisions for establishing credit and collecting customer deposits set forth in NCUC Rules and Regulations, Chapter 12? (yes or no) Yes
(Customer deposits must be refunded to customers having not more than two (2) bills overdue during a 12-month period and who are not then delinquent on the payment of their bills, per NCUC Rule R12-5.)

PRESENT RATES

9. Are you presently charging for service? If so, describe the rates being charged.
N/A
10. How long have these rates been in effect? N/A

PERSONS TO CONTACT

- | | <u>NAME</u> | <u>ADDRESS</u> | <u>TELEPHONE</u> |
|----------------------------|-------------|----------------|------------------|
| 11. General Manager | <u>TBD</u> | <u></u> | <u></u> |
| 12. Complaints or Billing | <u>TBD</u> | <u></u> | <u></u> |
| 13. Engineering Operations | <u>TBD</u> | <u></u> | <u></u> |
| 14. Emergency Service | <u>TBD</u> | <u></u> | <u></u> |
| 15. Accounting | <u>TBD</u> | <u></u> | <u></u> |
16. Are the names and phone numbers shown above listed in the phone book by each of the proposed service areas? (yes or no) Not yet. They will be.
 17. Can customers make phone calls for service without being charged for a long distance phone call? (yes or no) The answer will be yes.
 18. Do persons designated to receive phone calls for emergency service, after regular business hours, have authority to provide the needed repairs without first contacting owner? (yes or no) The answer will be yes.
 19. List the qualifications of the person in charge of the utility system:
TBD
 20. List the date(s) and describe any DENR violation(s) since the last application for franchise, transfer, or rate increase: N/A

SERVICE AREA

Fill in one column for each subdivision or service area.

	(1)	(2)	(3)
1. Name of subdivision or service area	Briar Chapel		
2. County (or Counties)	Chatham		
3. Type of service (water, sewer, etc.)	Sewer		
4. If water is purchased, list from whom	N/A		
5. Source of water supply (wells, etc.)	Chatham County Water Distribution System		
6. Number of wells in service	TBD		
7. Pumping capacity of each pump in service	TBD		
8. Elevated storage tank capacity (gals.)	TBD		
9. Pressure tank capacity (gals.)	TBD		
10. Types of water treatment (chlorine, etc.)	Via Chatham County		
11. Number of fire hydrants installed	TBD		
12. Is sewage disposal by septic tank or by sewer system?	Waste water treatment plant constructed to treat the sewage and surface apply to land via spray irrigation system		
13. If disposal is by sewer system, is sewage treated by utility company or by others?	Utility Company		
14. Capacity of Company's sewage treatment plant (gallons per day)	750,000 gallons per day		
15. Is service metered? (yes or no)	Yes		
16. Number of water meters in use	None at this time		
17. Number of service taps in use (list number of each size)	Water N/A		
	N/A		
	N/A		
	Sewer N/A		
	N/A		
	N/A		
18. Number of customers at the end of test year	Water None yet.		
	Sewer None yet.		
19. Number of customers that can be served by mains already installed (including present customers, vacant lots, etc.)	Water N/A		
	Sewer N/A		
20. Number of customers that can be served by pumping capacity	Water TBD		
21. Number of customers that can be served by storage tank capacity	Water TBD		
22. Number of customers that can be served by treatment plant capacity	Sewer 2,400 residential; 230,000 sq. feet of retail space; 250,000 sq. feet of office space; 2 schools w/1,300 students & staff; 2 recreational clubs/pools		
23. Name nearest water/sewer utility system	Chatham County System; sewer utility - Orange Water & Sewer Authority		
24. Distance to nearest water/sewer utility system			
25. Does any other person or utility seek to furnish the service(s) proposed herein? (yes or no)	No		
26. a. DENR System I.D. No.	Water TBD		
b. NPDES or Nondischarge Permit No.	Sewer TBD		

TBD - To be determined. Information will be provided in subsequent filing.

FINANCIAL STATEMENT

1. Will a separate set of books be maintained for the utility business?
Yes
2. Will a separate bank account be maintained for the utility business?
Yes
3. Are the revenues and expenses listed below based on past operations or are they estimated for future operations?
(actual or estimated) Estimated for future operations.

Note: If the Applicant already holds a public utility franchise, the proposed service area is new (i.e., there are no customers being served), and the proposed rates herein are the same as those previously approved, then the financial information below (lines 4 through 35) may be omitted.

REVENUES AND EXPENSES

For 12 Months Ended _____ (Date)

<u>Revenues</u>	<u>Water</u>	<u>Sewer</u>
4. Residential service (flat rate)	\$ TBD	\$ TBD
5. Residential service (metered rate)	\$ TBD	\$ TBD
6. Nonresidential service (flat rate)	\$ TBD	\$ TBD
7. Nonresidential service (metered rate)	\$ TBD	\$ TBD
8. Other revenues (describe in remarks below)	\$ TBD	\$ TBD
9. Total Revenues (Lines 4 thru 8)	\$ TBD	\$ TBD
10. Total salaries (except owner)	\$ TBD	\$ TBD
11. Salaries paid to owner	\$ TBD	\$ TBD
12. Administrative and office expense (except salaries)	\$ TBD	\$ TBD
13. Maintenance and repair expense (except salaries)	\$ TBD	\$ TBD
14. Transportation expenses	\$ TBD	\$ TBD
15. Electric power for pumping	\$ TBD	\$ TBD
16. Chemicals for treatment	\$ TBD	\$ TBD
17. Testing fees	\$ TBD	\$ TBD
18. Permit fees	\$ TBD	\$ TBD
19. Purchased water/sewer treatment	\$ TBD	\$ TBD
20. Annual depreciation	\$ TBD	\$ TBD
21. Taxes: State income taxes	\$ TBD	\$ TBD
22. Federal income taxes	\$ TBD	\$ TBD
23. Gross receipts (or franchise tax)	\$ TBD	\$ TBD
24. Property taxes	\$ TBD	\$ TBD
25. Payroll taxes	\$ TBD	\$ TBD
26. Other taxes	\$ TBD	\$ TBD
27. Interest on debt during year	\$ TBD	\$ TBD
28. Other expenses (describe in remarks below)	\$ TBD	\$ TBD
29. Total Expenses (Lines 10 thru 28)	\$ TBD	\$ TBD
30. Net Income (Line 9 minus Line 29)	\$ TBD	\$ TBD

Remarks

31. This information will be provided in subsequent amended application.
32. _____
33. _____
34. _____
35. _____

NUMBER OF CUSTOMERS SERVED

	<u>Water</u>		<u>Sewer</u>	
	<u>Flat Rate</u>	<u>Metered</u>	<u>Flat Rate</u>	<u>Metered</u>
36. Customers at beginning of year	TBD	TBD	TBD	TBD
37. Customers at end of year	TBD	TBD	TBD	TBD
38. Average gallons used per customer	N/A		per month	-

COST OF UTILITY SYSTEM

1. Is the cost of utility system listed below based on past operation, or is it estimated for future operation?
(actual or estimated) Estimated for future operations.
 2. Does the cost of utility system listed below represent the cost to the Applicant herein? (yes or no)
Yes.
- If no, list cost (purchase price to Applicant). _____

ORIGINAL COST OF UTILITY SYSTEM

As of Year Ended _____ (Date)

Note: List the total original cost to construct and establish the system, whether or not paid for by the present owner.

	<u>Utility Property in Service</u>	
	<u>Water</u>	<u>Sewer</u>
3. Land and rights-of-way	\$ <u>TBD</u>	\$ <u>TBD</u>
4. Structures and site improvement	\$ <u>TBD</u>	\$ <u>TBD</u>
5. Wells	\$ <u>TBD</u>	\$ <u>TBD</u>
6. Pumping equipment	\$ <u>TBD</u>	\$ <u>TBD</u>
7. Treatment equipment	\$ <u>TBD</u>	\$ <u>TBD</u>
8. Storage tanks	\$ <u>TBD</u>	\$ <u>TBD</u>
9. Mains (excluding service connections)	\$ <u>TBD</u>	\$ <u>TBD</u>
10. Service connections	\$ <u>TBD</u>	\$ <u>TBD</u>
11. Meters (including spare meters)	\$ <u>TBD</u>	\$ <u>TBD</u>
12. Office furniture and equipment	\$ <u>TBD</u>	\$ <u>TBD</u>
13. Transportation equipment	\$ <u>TBD</u>	\$ <u>TBD</u>
14. Other utility property in service (describe in remarks below)	\$ <u>TBD</u>	\$ <u>TBD</u>
15. Total utility property in service (Lines 3 thru 14)	\$ <u>TBD</u>	\$ <u>TBD</u>
16. Less: accumulated depreciation	\$ <u>TBD</u>	\$ <u>TBD</u>
17. Less: accumulated tap fees and other contributions in aid of construction	\$ <u>TBD</u>	\$ <u>TBD</u>
18. Less: customer advances	\$ <u>TBD</u>	\$ <u>TBD</u>
19. Net investment in utility property (Line 15 minus 16, 17, & 18)	\$ <u>TBD</u>	\$ <u>TBD</u>

	<u>Utility Property Not in Service</u>	
	<u>Water</u>	<u>Sewer</u>
20. Construction work in progress	\$ _____	\$ _____
21. Property held for future use	\$ _____	\$ _____
22. Other (describe in remarks below)	\$ _____	\$ _____

23. Remarks This information will be provided in subsequent amended application.
24. _____
25. _____
26. _____

TBD - To Be Determined. Information will be provided in subsequent filing.

RECOVERY OF PLANT COST

The utility proposes to recover the cost of the plant listed on Page 5, Line 15 as follows:

	<u>Water</u>	<u>Sewer</u>
1. Amount to be contributed by developer	\$ <u>TBD</u>	\$ <u>TBD</u>
2. Amount to be recovered through tap fees	\$ <u>TBD</u>	\$ <u>TBD</u>
3. Amount to be recovered through rates	\$ <u>TBD</u>	\$ <u>TBD</u>
4. Other (please describe below on Line 6)	\$ <u>TBD</u>	\$ <u>TBD</u>
5. Total cost of plant	\$ <u>TBD</u>	\$ <u>TBD</u>

6. Description of other:

ANNUAL DEPRECIATION

7. If annual depreciation is claimed using a composite rate for the entire system, show rate of depreciation used:

Water: TBD

Sewer: TBD

8. If annual depreciation is claimed using individual rates for each type of equipment, show rates of depreciation used: TBD

TBD - To be determined. Information will be provided in subsequent filing.

OTHER FINANCIAL INFORMATION

1. Please provide the following capital structure information for the Company prior to the purchase of the new water and/or sewer system(s):

a. Capital structure as of _____

b. Capital structure balances:

	<u>Amount</u>	<u>Percent Of Total Capital</u>
Long-term debt/loans	\$ <u>N/A</u>	_____
Preferred stock (if any)	\$ <u>N/A</u>	_____
Common equity:		
Common stock	\$ <u>N/A</u>	_____
Retained earnings	\$ <u>N/A</u>	_____
Total common equity	\$ <u>N/A</u>	_____
Total capital	\$ <u>N/A</u>	<u>100%</u>

2. The purchase price of the system will be financed as follows:

a. Long-term debt	\$ <u>N/A</u>
b. Short-term debt	\$ <u>N/A</u>
c. Common stock	\$ <u>N/A</u>
d. Retained earnings	\$ <u>N/A</u>
e. Other (please describe below on Line g)	\$ <u>N/A</u>
f. Total purchase price	\$ <u>N/A</u>

- g. Description of other: TBD - To be determined. Information, if applicable, will be provided in subsequent amended application.
- _____
- _____

3. Please provide the following for improvements/additions to be made in the first year:

a. Brief description: TBD

b. Financing:

(1) Long-term debt	\$ <u>TBD</u>
(2) Short-term debt	\$ <u>TBD</u>
(3) Common stock	\$ <u>TBD</u>
(4) Retained earnings	\$ <u>TBD</u>
(5) Other (please describe below on Line (7))	\$ <u>TBD</u>
(6) Total improvements/additions	\$ <u>TBD</u>

(7) Description of other: _____

To be determined. Information will be provided in subsequent filing.

1. Are there any major improvements/additions required in the next five years and the next ten years? Indicate the estimated cost of each improvement/addition, the year it will be made, and how it will be financed (long-term debt, short-term debt, common stock, retained earnings, and other (please explain)).

TBD

[illegible]

2. Are there any major replacements required in the next five years and the next ten years? Indicate the estimated cost of each replacement, the year it will be made, and how it will be financed (long-term debt, short-term debt, common stock, retained earnings, and other (please explain)).

TBD

[illegible]

3. Please fill out the attached addendum showing the projected cash flows and income statement for the first five years of operation of this system. This addendum should be for the utility system for which the subject application is being submitted, exclusively. Instructions are included on page 3 of the addendum. The following information may be provided instead of filing the addendum:

- (1) Audited financial statements for the utility and/or parent company.
- (2) Budgets, capital and operating, for the company's North Carolina utility operations for the next five years.
- (3) The most recent fiscal year budgets, capital and operating, and the actual amounts for that year for the utility's and/or parent company's North Carolina utility operations.

TBD - To be determined. Information will be provided in subsequent amended application.

EXHIBITS

THE FOLLOWING EXHIBITS SHALL BE ATTACHED TO THE APPLICATION:

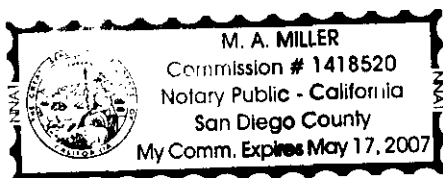
1. If the Applicant is a corporation, enclose a copy of the Articles of Incorporation on file with the North Carolina Secretary of State. (Not required if previously filed with the Commission.) **Attached.**
2. If the Applicants are doing business as a partnership, enclose a copy of the partnership agreement. (Not required if previously filed with the Commission.) **N/A**
3. If the Applicant is conducting business under a trade name or d/b/a, enclose a copy of the certificate filed with the register of deeds in each county where the Applicant will be conducting business as required by G.S. 66-68.
4. Enclose a copy of a letter from the Department of Environment and Natural Resources granting approval of the plans for each water system. **To be provided.**
5. Enclose a copy of a letter from the Department of Environment and Natural Resources granting approval of the plans for each sewer system. **To be provided.**
6. Enclose a copy of a Division of Environmental Health (DEH) report on a chemical analysis of untreated water from each well. (This should not be confused with the monthly samples submitted to DEH for bacteriological analysis. Contact DEH for instructions to obtain a sample for chemical analysis.) **To be provided.**
7. Enclose a copy of purchase agreements or contracts showing provision for ownership or control of the water or sewer systems, including sites for wells or treatment plants. **To be provided.**
8. Enclose a copy of contracts or agreements, including all attachments, exhibits, and appendices, between the utility and any other party (land developers, customers, etc.) regarding the proposed utility services, including contracts regarding tap fees, construction costs, easements, and rights-of-way, etc. (If none, write "none"). **Operating Agreement attached.**
9. Enclose a vicinity map showing the location of the proposed subdivisions or service areas in sufficient detail for someone not familiar with the county to locate the subdivisions. (A county roadmap with the subdivisions outlined is suggested.) **Other agreements and contracts will be provided as executed and entered into.**
10. Enclose maps of the subdivisions in sufficient detail to show the layout of streets, lots, the water or sewer mains, hydrants, wells, pumping equipment, treatment facilities, storage facilities, etc. **To be provided.**
11. Enclose a copy of the workpapers supporting the estimate of the plant costs, including a breakdown by type of plant item, showing the detail of how the estimated cost was determined, and indicating which plant items, if any, will be contributed to the utility. **To be provided.**
12. Enclose a copy of the most recent fiscal year financial statements, audited if available, for the Applicant. **None. Will be provided in future years.**
13. Enclose a copy of the most recent fiscal year financial statements, audited if available, for the parent company of the Applicant. **To be provided.**
14. If the information requested in Exhibits 12 and 13 is not available, enclose a copy of the most recent fiscal year financial statements or statement of net worth for the principals of the utility and/or parent company. **N/A**

FILING INSTRUCTIONS

15. Eight (8) copies of the application and exhibits shall be filed with the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325. One of these copies must have an original signature. (Applicants must also provide any copies to be returned to them.)
16. Enclose a filing fee as required by G. S. §62-300. A Class A company (annual revenues of \$1,000,000 or more) requires a \$250 filing fee. A Class B company (annual revenues between \$200,000 and \$1,000,000) requires a \$100 filing fee. A Class C company (annual revenues less than \$200,000) requires a \$25 filing fee. **MAKE CHECK PAYABLE TO THE NORTH CAROLINA UTILITIES COMMISSION.**

SIGNATURE

17. Application shall be signed and verified by the Applicant. **BRIAR CHAPEL UTILITIES, LLC**
Signature By: *LaDonna K. Monsees* **LaDonna K. Monsees**
Signature By: *James H. McLennan* **Sr. Vice President**
Date *April 13, 2004* **James H. McLennan**
Vice President and Chief Financial Officer
18. (Typed or Printed Name) **LaDonna K. Monsees** **James H. McLennan**
personally appearing before me and, being first duly sworn, says that the information contained in this application and in the exhibits attached hereto are true to the best of his/her knowledge and belief.



This the 13 day of April, 2004.
M. A. Miller
Notary Public
9904 GUNDELL AVE. SD, CA 92037
Address

My Commission Expires:

**RESOLUTION
OF
BRIAR CHAPEL UTILITIES, LLC**

I, Dolores Valle, Assistant Secretary of Briar Chapel Utilities, LLC, a Delaware limited liability company, ("LLC"), do hereby certify that the following Resolutions were duly adopted at a meeting of the LLC in La Jolla, California, to wit:

NOW, THEREFORE, BE IT RESOLVED that the persons listed below are hereby appointed as officers of the LLC; and, BE IT FURTHER RESOLVED that any officer is hereby authorized to enter into any contract, deed or agreement in the name of and on behalf of the LLC, and such authority may be general or confined to specific instances:

Robert B. McLeod, President
LaDonna K. Monsees, Sr. Vice President
Derek C. Thomas, Sr. Vice President
Martha K. Guy, Vice President and Secretary
James H. McLennan, Vice President and Chief Financial Officer
Laura C. Wending, Vice President
W. Don Whyte, Vice President
Dolores A. Valle, Assistant Secretary

The foregoing Resolutions were duly adopted by the LLC; and the foregoing Resolutions remain in full force and effect as of this date.

Dated: April 6, 2004



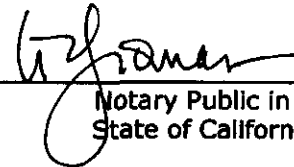
Dolores A. Valle, Assistant Secretary

**STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

On April 6, 2004, before me, Liz Groman, Notary Public, personally appeared Dolores A. Valle, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity and that by her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.





Notary Public in and for the
State of California

ADDENDUM TO APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR APPROVAL OF RATES

Statement of Cash Flows

Item	Year 1	Year 2	Year 3	Year 4	Year 5
Flows From Operating Activities					
ax operating income (loss):					
Total operating revenue					
Less: Operation and maintenance expenses					
Less: Taxes other than income					
ax operating income (loss)					
Income tax calculation:					
Less: Tax on operating income (loss)					
Plus: Contributions in aid of construction					
Less: Tax depreciation					
Less: Interest expense					
Less: Taxable income (loss)					
Less: Federal income tax					
Less: Federal income tax					
Less: Income taxes to be paid					
cash provided by (used in) operating activities					
Flows From Investing Activities					
Purchases of utility plant					
Cash bonds posted					
Less: Contributions in aid of construction					
Proceeds from disposal of utility plant					
cash used (provided) by investing activities					
Flows From Financing Activities					
Proceeds from issuing short term debt					
Principal repayment of short term debt					
Proceeds from issuing long term debt					
Principal repayment of long term debt					
Interest payment for short and long term debt					
Proceeds from issuing stock					
Dividends paid					
Funds provided by owner					
cash provided (used) by financing activities					
increase (decrease) in cash					
balance at beginning of year					
balance at end of year					

TBD

ADDENDUM TO APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR APPROVAL OF RATES

Instructions

e schedules should reflect all revenues, costs, investment, etc. associated with or to be associated with the utility system for which the subject franchise application is being submitted, exclusively.

urposes of forecasting future expenses, as a simplifying assumption, it may be assumed that increases in such costs due to increases in general price levels, (i.e., inflation) will on average be offset by concurrent rate increases. Thus, no
sion(s) for such offsetting changes will need to be made in forecasting costs.

ten detailed narrative explanation of all assumptions underlying the information and data contained in this addendum and five (5) copies of all workpapers developed in completing the addendum are to be filed with the Commission's Chief Clerk
urrent with the filing of the franchise application.

putations for Statement of Cash Flows (Page 2 of Addendum)

Line 2 should agree with Addendum Page 1 - Projected Income Statement, Line 8.

Line 3 should agree with Addendum Page 1 - Projected Income Statement, Line 20.

Line 4 should agree with Addendum Page 1 - Projected Income Statement, Sum of Line 22 thru Line 25.

Line 14 should equal Line 12 plus Line 13.

Line 15 should equal Line 5 less Line 14.

Line 30 should equal Line 15 less Line 20 plus Line 29.

Line 31 should equal the cash balance at the end of the prior year, except for the beginning balance for Year 1, which should be zero.

Line 32 should equal Line 30 plus Line 31.

To Be Determined.

Delaware

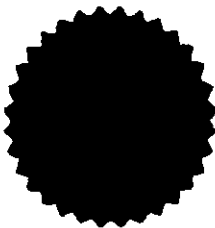
PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "BRIAR CHAPEL UTILITIES, LLC", FILED IN THIS OFFICE ON THE SIXTEENTH DAY OF MARCH, A.D. 2004, AT 3:41 O'CLOCK P.M.

3778024 8100

040195097

*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 2992011

DATE: 03-17-04

State of Delaware
Secretary of State
Division of Corporations
Delivered 03:41 PM 03/16/2004
FILED 03:41 PM 03/16/2004
SRV 040195097 - 3778024 FILE

CERTIFICATE OF FORMATION**OF****BRIAR CHAPEL UTILITIES, LLC**

The undersigned, an authorized natural person, for the purpose of forming a limited liability company (hereinafter called the "company"), under the provisions and subject to the requirements of the Delaware Limited Liability Company Act, hereby certifies that:

1. The name of the limited liability company is Briar Chapel Utilities, LLC
2. The address of the registered office and the name and the address of the registered agent of the limited liability company required to be maintained by Section 18-104 of the Delaware Limited Liability Company Act are National Registered Agents, Inc., 9 East Lockerman Street, Suite 1B, Dover, Delaware 19901.

Executed on March 12, 2004.


Dolores A. Valla
Assistant Secretary

**LIMITED LIABILITY COMPANY AGREEMENT
OF
BRIAR CHAPEL UTILITIES, LLC**

THIS LIMITED LIABILITY COMPANY AGREEMENT (the "Agreement") is made and entered into as of the Effective Date (as defined in Section 7 below), by NNP-Briar Chapel, LLC, a Delaware limited liability company (the "Member"), by which the Member forms BRIAR CHAPEL UTILITIES, LLC (the "Company").

RECITALS

WHEREAS, the Member owns certain real property in the State of North Carolina on which it is developing a single family residential community commonly known as Briar Chapel (the "Project"); and

WHEREAS, as a condition to obtaining the governmental approvals needed for the construction of the Project, the Member is required to construct a sewage treatment plant; and

WHEREAS, the Member desires to form the Company to construct, own and operate the required sewage treatment plant;

NOW THEREFORE, the Member hereby agrees as follows:

1. Formation of Company.

(a) The Member forms the Company as a limited liability company under and pursuant to the Delaware Limited Liability Company Act, 6 Del. C. § 18-101, et seq., as amended from time-to-time (the "Act").

(b) The Member shall cause to be filed a Certificate of Formation with the Delaware Secretary of State, pursuant to the provisions of the Act.

2. Name of Company. The name of the Company shall be BRIAR CHAPEL UTILITIES, LLC.

3. Management. The Company shall be managed by its Member. The Member shall have all of the powers and authority as outlined in Section 18-106 of the Act. The Member may delegate any or all of its powers to the officers of the Company, and the officers of the Company shall be responsible for the day-to-day operation of the Company, subject to the ultimate control of the Member.

4. Address and Registered Agent. The principal place of business of the Company shall be located at 9404 Genesee Avenue, Suite 230, La Jolla, California 92037, unless changed by the Member. The Company may also have one or more branch offices within the State of North Carolina. The Company's registered office shall be at 9 East Lookerman Street, Dover,

Delaware 19901, and the name of its initial registered agent at such address shall be National Registered Agents. The Company may change the registered office and/or the registered agent at such times and from time-to-time as the Member may deem advisable.

5. Officers. The Company may, in the sole and absolute discretion of the Member, have officers, but is not required to do so. Initially, the officers of the Company shall be a President, Secretary and a Chief Financial Officer. The Company may also have, in the sole and absolute discretion of the Member, one or more vice presidents, assistant secretaries, and such other officers as may be appointed in accordance with the provisions of this section. Any number of offices may be held by the same person. An officer need not be a Member. The officers of the Company shall be chosen by the Member, in its sole and absolute discretion, and each shall hold his office until he or she shall resign or shall be removed by the Member, in its sole and absolute discretion. The initial officers of the Company shall be as follows:

President: Robert B. McLeod
Secretary: Derek C. Thomas
Chief Financial Officer: LaDonna K. Monsees

6. The Member.

<u>Member</u>	<u>Percentage Interest</u>
NNP-Briar Chapel, LLC 9404 Genesee Avenue, Suite 230 La Jolla, California 92037	100%

7. Term of the Company. The term of the Company shall commence as of the date the Certificate of Formation is filed with the Delaware Secretary of State (the "Effective Date"), and shall continue until December 31, 2050, at which time it shall be dissolved and wound up unless such date is extended by the written consent of the Member or unless the Company is earlier dissolved by operation of law, consent of the Member or judicial decree.

8. Purposes.

(a) The purpose of the Company shall be to engage in the business of constructing, owning, holding, managing, operating, and disposing of a sewage treatment plant in connection with the Project. The Company shall have the authority to do all things necessary to conveniently accomplish its purpose and operate its business as described in this Section 8. The authority granted to the officers hereunder to bind the Company shall be limited to actions necessary or convenient to this purpose.

(b) The Company may execute, deliver and perform all contracts and other undertakings and engage in all activities and transactions as may in the opinion of the Member be necessary or advisable to carry out the foregoing objects and purposes.

9. Capital Contributions.

(a) The Member shall make capital contributions to the Company in such amounts and at such times as the Member determines in its sole and absolute discretion.

(b) To the extent applicable, capital accounts shall be maintained in accordance with Internal Revenue Code ("Code") Section 704(b). No Member shall have any obligation to restore any deficit balance in such Member's capital account.

10. Disposition of Membership Interest and Admission of Assignees and Additional Members.

(a) **Disposition.** The Member's Membership Interest is transferable either voluntarily or by operation of law. The Member may dispose of all or a portion of the Member's Membership Interest. Notwithstanding any provision of the Act to the contrary, upon the Disposition of the Member's Membership Interest, the transferee shall be admitted upon the completion of the transfer without further action. Upon the transfer of a Member's entire Membership Interest (other than a temporary transfer or transfer as a pledge or security interest) the Member shall cease to be a Member and shall have no further rights or obligations under this Operating Agreement, except that the Member shall have the right to such information as may be necessary for the computation of the Member's tax liability.

(b) **Admission of Additional Members.** The Member may admit Additional Members and determine the Contributions of such Additional Members.

11. Income and Losses. All income and losses of the Company shall be allocated to the Member. To the extent applicable, allocations of income and loss shall be made in a manner that complies with the Treasury Regulations under Code Section 704.

12. Distributions of Cash and Other Property. All distributions of cash or other property from the Company shall be made to the Member.

13. Indemnification. The Company shall indemnify and hold harmless the Member, the officers and their principals, employees and agents, from and against any claim, loss, liability or damage (including attorneys' fees incurred by any of them in connection with the defense of any action based on any such alleged act or omission, which attorneys' fees may be paid, as incurred, from Company funds) incurred by reason of an act performed, or omitted to be performed, by any of them in good faith on behalf of the Company and in a manner reasonably believed by them to be within the scope of the authority conferred upon them by this Agreement and in the best interests of the Company, provided that such indemnification is not prohibited by law or the act or omission does not amount to gross negligence or willful misconduct.

14. Events of Dissolution. The Company shall be dissolved upon the first to occur of the following events:

(a) The expiration of the term set forth in Section 7;

- (b) The sale of all or substantially all of the assets of the Company;
- (c) The written election of the Member; or
- (d) The entry of a decree of judicial dissolution under the Act.

Upon dissolution, after payment of all debts and liabilities of the Company, all remaining assets of the Company shall be distributed to the Member.

15. Amendment of the Agreement. This Agreement may be amended, in whole or in part, only upon the written consent of the Member.

16. Governing Law. This Agreement, and the rights of the Member hereunder, shall be governed by and construed in accordance with the laws of the State of Delaware.

17. Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties hereto.

IN WITNESS WHEREOF, the Member has executed this Agreement as of the date first written above.

MEMBER:

[Handwritten mark]

NNP-Briar Chapel, LLC, a Delaware limited liability company

By: *[Signature]*

Its: DOLORES A. VALLE
ASSISTANT SECRETARY

By: *[Signature]*

Its: LAURA C. WENDING
VICE PRESIDENT

