

B37542

**STATE BOARD OF ACCOUNTS**  
**302 West Washington Street**  
**Room E418**  
**INDIANAPOLIS, INDIANA 46204-2769**

EXAMINATION REPORT  
OF  
JENNINGS NORTHWEST REGIONAL UTILITIES  
JENNINGS COUNTY, INDIANA  
January 1, 2007 to December 31, 2008



**FILED**  
09/22/2010



## TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Officials .....	2
Independent Accountant's Report.....	3
Financial Information:	
Schedules of Receipts, Disbursements, and Cash and Investment Balances .....	4
Notes to Financial Information .....	5
Supplementary Information:	
Schedule of Capital Assets.....	6
Schedule of Long-Term Debt .....	7
Examination Results and Comments:	
Annual Report Not Filed .....	8
Buyout of Employee Agreement.....	8-9
Noncompliance with Bond Ordinances .....	9-10
Approval of Claims .....	10
Accounts Receivable Not Reconciled .....	11
Exit Conference.....	12
Official Response .....	13-14

OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Office Manager	Dan Wooton	01-01-07 to 12-31-10
Utility Manager	Jeffrey Fish	01-01-07 to 12-31-10
Treasurer	David Brinkman Caddie Mathis	01-01-07 to 09-21-08 09-22-08 to 12-31-10
President of the Board	Edwin Whitaker	01-01-07 to 12-31-10



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE JENNINGS NORTHWEST  
REGIONAL UTILITIES, JENNINGS COUNTY, INDIANA

We have examined the financial information presented herein of the Jennings Northwest Regional Utilities (District), for the period of January 1, 2007 to December 31, 2008. The District's management is responsible for the financial information presented herein. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the financial information presented herein and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the financial information referred to above presents fairly, in all material respects, the financial information of the District for the years ended December 31, 2007 and 2008, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

The Schedule of Capital Assets and Schedule of Long-Term Debt, as listed in the Table of Contents, are presented for additional analysis and are not required parts of the basic financial information. They have not been subjected to the examination procedures applied to the basic financial information and, accordingly, we express no opinion on them.

STATE BOARD OF ACCOUNTS

August 3, 2010

JENNINGS NORTHWEST REGIONAL UTILITIES  
SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES  
ALL PROPRIETARY AND FIDUCIARY FUND TYPES  
As Of And For The Years Ended December 31, 2007 And 2008

	Cash and Investments 01-01-07	Receipts	Disbursements	Cash and Investments 12-31-07
Proprietary Funds:				
Water operating	\$ 142,396	\$ 814,623	\$ 829,659	\$ 127,360
Water customer deposit	19,472	353	3,089	16,736
Water bond and interest	52,026	153,971	154,289	51,708
Water debt service reserve	160,356	3,940	-	164,296
Wastewater operating	111,797	1,060,534	1,093,970	78,361
Wastewater customer deposit	27,205	653	4,730	23,128
Wastewater bond and interest	125,208	263,486	387,829	865
Wastewater debt service reserve	344,924	49,988	20,205	374,707
Clearing	6,797	1,794,469	1,792,583	8,683
Fiduciary Fund:				
Payroll	874	393,967	393,928	913
Totals	<u>\$ 991,055</u>	<u>\$ 4,535,984</u>	<u>\$ 4,680,282</u>	<u>\$ 846,757</u>
	Cash and Investments 01-01-08	Receipts	Disbursements	Cash and Investments 12-31-08
Proprietary Funds:				
Water operating	\$ 127,360	\$ 779,199	\$ 797,938	\$ 108,621
Water customer deposit	16,736	114	-	16,850
Water bond and interest	51,708	159,428	156,770	54,366
Water debt service reserve	164,296	1,988	-	166,284
Wastewater operating	78,361	1,098,603	789,775	387,189
Wastewater customer deposit	23,128	157	-	23,285
Wastewater bond and interest	865	27	-	892
Wastewater debt service reserve	374,707	8,477	224,352	158,832
Clearing	8,683	1,841,675	1,849,281	1,077
Fiduciary Fund:				
Payroll	913	472,284	460,027	13,170
Totals	<u>\$ 846,757</u>	<u>\$ 4,361,952</u>	<u>\$ 4,278,143</u>	<u>\$ 930,566</u>

The accompanying notes are an integral part of the financial information.

JENNINGS NORTHWEST REGIONAL UTILITIES  
NOTES TO FINANCIAL INFORMATION

Note 1. Introduction

The District was established under the laws of the State of Indiana. The District provides water treatment and wastewater treatment services.

Note 2. Fund Accounting

The District uses funds to report on its cash and investments and the results of its operations on a cash basis. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions or activities.

Note 3. Deposits and Investments

Deposits, made in accordance with Indiana Code 5-13, with financial institutions in the State of Indiana at year end were entirely insured by the Federal Depository Insurance Corporation or by the Indiana Public Deposit Insurance Fund. This includes any deposit accounts issued or offered by a qualifying financial institution.

State statute (IC 5-13-9) authorizes the District to invest in securities including, but not limited to, federal government securities, repurchase agreements, and certain money market mutual funds. Certain other statutory restrictions apply to all investments made by local governmental units.

JENNINGS NORTHWEST REGIONAL UTILITIES  
SUPPLEMENTARY INFORMATION  
SCHEDULE OF CAPITAL ASSETS  
For the Year Ended December 31, 2008

Capital assets are reported at actual or estimated historical cost based on appraisals or deflated current replacement cost. Contributed or donated assets are reported at estimated fair value at the time received.

<u>Primary Government</u>	<u>Ending Balance</u>
Business-type activities:	
Water Utility:	
Capital assets, not being depreciated:	
Land	\$ 4,010
Buildings	17,176
Improvements other than buildings	1,039,483
Machinery and equipment	<u>58,830</u>
Total Water Utility capital assets	<u>1,119,499</u>
Wastewater Utility:	
Capital assets, not being depreciated:	
Land	98,649
Buildings	21,727
Improvements other than buildings	3,519,995
Machinery and equipment	<u>188,104</u>
Total Wastewater Utility capital assets	<u>3,828,475</u>
Total business-type activities capital assets	<u>\$ 4,947,974</u>

JENNINGS NORTHWEST REGIONAL UTILITIES  
 SUPPLEMENTARY INFORMATION  
 SCHEDULE OF LONG-TERM DEBT  
 December 31, 2008

The District has entered into the following debt:

Description of Debt	Ending Principal Balance	Principal and Interest Due Within One Year
Business-type activities:		
Water Utility:		
Revenue bonds:		
Water utility acquisition	\$ 1,620,000	\$ 158,710
Total Water Utility	<u>1,620,000</u>	<u>158,710</u>
Wastewater Utility:		
Revenue bonds:		
Wastewater utility acquisition	1,015,000	99,765
Wastewater state revolving fund	<u>6,180,000</u>	<u>353,000</u>
Total Wastewater Utility	<u>7,195,000</u>	<u>452,765</u>
Total business-type activities debt	<u>\$ 8,815,000</u>	<u>\$ 611,475</u>

JENNINGS NORTHWEST REGIONAL UTILITIES  
EXAMINATION RESULTS AND COMMENTS

ANNUAL REPORTS NOT FILED

Annual financial reports for the years 2007 and 2008 were not filed with the Indiana State Board of Accounts.

IC 5-11-1-4(a) states in part:

"The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year . . . these reports shall be prepared, verified, and filed with the state examiner not later than thirty (30) days after the close of each fiscal year."

BUYOUT OF EMPLOYMENT AGREEMENT

The Board of Directors approved two payments totaling \$67,726 to Jeffrey Fish, Utility Manager, on December 17, 2007. These payments were in addition to compensation paid to Jeffrey Fish as Utility Manager. We noted the following regarding the additional compensation paid to Jeffrey Fish:

1. Jeffrey Fish was compensated as Utility Manager during the year 2007 in accordance with an employment agreement that was for the term June 1, 2006 to December 31, 2009.
2. The Board of Directors approved a resolution on November 19, 2007, to renegotiate an employment agreement with Jeffrey Fish to be effective for the period January 1, 2008 through December 31, 2011.
3. The following items were attached to the accounts payable vouchers to support the payments of additional compensation to Jeffrey Fish:

a. A memo, signed by the President of the Board, dated November 19, 2007, and attached to the accounts payable vouchers approved by the Board states in part the following:

". . . after many discussions between individual board members and Mr. Fish . . . the utility board concluded that the best course of action . . . would be to buy out Mr. Fish's current employment agreement and renegotiate a similar agreement that would not include a severance pay provision".

". . . effective Tuesday, January 1, 2008, Mr. Fish's current employment agreement will be mutually terminated and a new employment agreement will be enacted".

b. A letter dated November 19, 2007, from Mary Ann Gay, Attorney for the Utilities, stating she had reviewed the old agreement and the proposed new agreement and found no problem with the renegotiated agreement. However, the letter did not address the additional compensation paid to Jeffrey Fish.

c. A calculation sheet showing how the \$67,726.00 buy-out payments were calculated. The calculation included: (1) a year's compensation in the amount of \$57,158.40; (2) 80 hours sick leave in the amount of \$2,198.40; (3) 290 hours (200 hours earned January 1, 2008 and 90 carry-over hours) vacation leave in the amount of \$7,969.20; and (4) longevity pay in the amount of \$400.

JENNINGS NORTHWEST REGIONAL UTILITIES  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

4. Mary Ann Gay, Attorney for the Utilities, stated she was unaware of the buy-out payments and her November 19, 2007, letter mentioned in item "3." above did not render an opinion on the buyout payments.
5. No buyout agreement or other agreement signed by the Board and Jeffery Fish were presented for examination.
6. The additional compensation or buyout was not shown as discussed or approved in the Board minutes.
7. The checks were dated November 20, 2007; however, the accounts payable vouchers were not approved by the Board until December 17, 2007.
8. The payments were processed as vendor checks and were not processed through the Utilities payroll system. The Utilities did not report the additional compensation to the Internal Revenue Service or the Indiana Department of Revenue.

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution or salary schedule adopted by the governing body unless otherwise authorized by statute. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

IC 5-14-1.5-4(b) states in part: "As the meeting progresses, the following memoranda shall be kept: (1) The date, time, and place of the meeting. (2) The members of the governing body recorded as either present or absent. (3) The general substance of all matters proposed, discussed, or decided. (4) A record of all votes taken, by individual members if there is a roll call. . . ."

IC 5-11-10-1.6 (c) states in part: "The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless: . . . payment of the claim is allowed by the governmental entity's . . . board . . . having jurisdiction over allowance of payment of the claim."

Each governmental unit is responsible for compliance with all rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue. All questions concerning taxes should be directed to these agencies. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

#### NONCOMPLIANCE WITH BOND ORDINANCES

The District did not make the required transfers to the Bond and Interest Fund and Debt Reserve Fund for the years 2007 or 2008. As a result, the Bond and Interest Fund and Debt Reserve Fund were underfunded by \$150,030 and \$271,132, respectively, as of December 31, 2008.

Section 11 of the Wastewater Revenue Bond Ordinance 2002-04, dated August 15, 2002, states in part:

"(b) . . . there shall be credited on the last day of each calendar month from the Revenue Fund to the Bond and Interest Account an amount of the Net Revenue equal to at least one-twelfth of the principal of and at least one-sixth of the interest on all then outstanding bonds payable on the then next succeeding principal and interest payment dates . . ."

JENNINGS NORTHWEST REGIONAL UTILITIES  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

"(c) . . . the balance accumulated in the Reserve Account shall equal but not exceed the maximum annual debt service on the . . . Bonds . . . monthly deposits of Net Revenues shall be equal in amount and sufficient to accumulate the Reserve Requirement within five (5) years of the date of delivery of the Bonds."

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

A similar comment was reported in Report B31515.

APPROVAL OF CLAIMS

Claims were paid prior to being certified by the fiscal officer and prior to being allowed by the governing board. It is the District's practice to pay claims every two weeks. The claims are then included on the Accounts Payable Voucher Register presented to the Board at the next board meeting. The fiscal officer also signs the Accounts Payable Voucher Register in lieu of signing the individual claims.

IC 5-11-10-1.6 states:

"(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim. . . ."

"(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the, requirements of this section. The fiscal officer does not incur personal liability for disbursements:

- (1) processed in accordance with this section; and
- (2) for which funds are appropriated and available."

JENNINGS NORTHWEST REGIONAL UTILITIES  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

ACCOUNTS RECEIVABLE NOT RECONCILED

The accounts receivable trial balance, which is a detailed listing of utility customer accounts receivable balances, did not reconcile with the accounts receivable balance recorded on the general ledger at December 31, 2008. The following schedule shows the variance between the general ledger accounts receivable balance and the accounts receivable account for the water and wastewater utilities combined at December 31, 2008:

General Ledger	\$ 484,993
Accounts Receivable Trial Balance	<u>372,616</u>
Variance	<u>\$ 112,377</u>

At all times, the manual and computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

JENNINGS NORTHWEST REGIONAL UTILITIES  
EXIT CONFERENCE

The contents of this report were discussed on August 3, 2010, with Jeffrey Fish, Utility Manager; Caddie Mathis, Treasurer; Edwin Whitaker, President of the Board; Dan Wooton, Office Manager; and Mary Ann Gay, District's Attorney. The official response has been made a part of this report and may be found on pages 13 and 14.



3847 Country Manor West - P.O. Box 18 - North Vernon, Indiana 47265

Office: (812) 346-5500 - Fax: (812) 346-0838 - www.JNRU.org

August 17, 2010

Mr. Ron Robertson  
State Board of Accounts  
348 Muriel Dr.  
Scottsburg, IN 47170

Re: Jennings Northwest Regional Utilities  
Audit Years 2007, 2008

Dear Sir:

The Board of Directors of Jennings Northwest Regional Utilities ("JNRU") wishes to respond to an audit issue raised in your 2007, 2008 audit report, regarding buy-out of an employment agreement with the Utility Manager, Jeff Fish.

At the end of 2007, the members of the JNRU Board of Trustees were at their wits' end as to how to proceed with governing JNRU. The utility was running in the red; financing options, grants and loan possibilities had been investigated and were not forthcoming. JNRU was under an Agreed Order with the Indiana Department of Environmental Management ("IDEM") to make repairs to its sewer plant and its collection system. Additionally, IDEM was directing JNRU to expand service into out-lying areas of the District. Without options to proceed, the Board felt it had nowhere to go and announced plans to resign *en mass* and place these issues in the hands of the Jennings County Commissioners, who were responsible for appointing a new board of trustees.

At this time, Jeff Fish, Utility Manager, approached the Board with concerns about his job security if a new board were appointed. He and the Board Treasurer, David Brinkman (since deceased) came up with a plan for the Board to buy-out Mr. Fish's severance package in his employment agreement and enter into a new employment contract without a severance package.

In November, 2007, the Board executed a new four-year employment agreement with Mr. Fish. In December, 2007, the Board approved two line items in the claims dockets for payments to Mr. Fish of "Agreement Buy-Out." No negotiations or discussions were held with regard to the amount of the "Agreement Buy-Out." No figures, other than the claims dockets were presented to the Board. No buy-out agreement was ever negotiated, drafted or executed. Buy-out provisions were never discussed with the Board's attorney.

There appears to be confusion among the Board Members as to what the Board had approved. Two members believed that Mr. Fish was being terminated and rehired and that some monies would be paid to him. Two members believed the buy-out would only occur if the Board actually resigned. None of the Board were consciously aware of the actual sums paid.

The Board was unaware of how the monies were reported to the IRS, but have learned through the State Board of Accounts' audit that Medicare and FICA were not deducted. Additionally, a 1099 Form was never issued to Mr. Fish.



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Mr. Ron Patterson

August 17, 2010

Page 2

Re: Jennings Northwest Regional Utilities  
Audit Years 2207,2008

It is apparent that the Board was not exercising due diligence in this matter. At the same time, the claims docketed were the only items actually presented by Mr. Fish for the Board's attention.

It is hoped this clarifies the Board's participation in this matter.

Sincerely yours,

JNRU BOARD OF TRUSTEES

A handwritten signature in cursive script, appearing to read "Edwin Whitaker".

Edwin Whitaker, President

A handwritten signature in cursive script, appearing to read "Brian Roney".

Brian Roney, Vice President

A handwritten signature in cursive script, appearing to read "Cadie Mathis".

Cadie Mathis, Treasurer

A handwritten signature in cursive script, appearing to read "Dorothy Vaughn".

Dorothy Vaughn, Secretary

A handwritten signature in cursive script, appearing to read "Tom Trulock".

Tom Trulock, Member