

STATE OF WEST VIRGINIA

RANDOLPH COUNTY COMMISSION SS:

At a regular session of the County Commission in and for the aforesaid County and State, at the James F. Cain Courthouse Annex, on the 7<sup>th</sup> day of January 2021 at 1: 30 p.m.

Present: David Kesling, President of the Randolph County Commission and Mark Scott and Chris See, Commissioners thereof.

Meeting was called to order by President Kesling

PUBLIC COMMENT:

Richard Debias appeared before the Commission. He said he was there to talk about the dash cams again. He would like to get it on the Agenda under items for discussion. He said when he was arrested the officer was so unprofessional and lied about stuff. Mr. Debias said his record is ruined. He said there is no justice in this County. He wants the officers to have dash cams. He said other counties have them and used the Cares Act funds to get them. He said the people in charge in this town shouldn't be in charge.

Julia Elbon appeared before the Commission. She said she was there in response to the 8 rivers presentation that she thought they were going to do today. She said it is regarding the proposed NIOSH Safety and Health laboratory. She said it is not a mine. She said all the issues regarding the water pollution, etc. have all been resolved and debunked. She said the people running this laboratory makes all the rules and regulations so they know what they are doing. She said after looking for 6 years all over our Country, and other foreign Countries, they chose this sight. She said the only thing that will be able to be seen will be the office building. She said there will be 4 years of employment for some people in our area and after that it will be 12-14 permanent employees. She said they will also be doing firefighter training at the site.

Commissioner Scott said he has been speaking to several people about this project and even did a TV station interview. He said the Commission is waiting on the final report to review before they make any decisions regarding this.

MINUTES:

Commissioner Scott moved to approve the minutes from the regular meeting that was held on December 17, 2020, as submitted. All yes – Motion passed unanimously

REPORTS:

Randolph County Assessor, Phyllis Yokum said all but one employee has returned to work after being on quarantine from the COVID-19 virus. She said they are getting ready to send out 650 increase in tax notices next week.

Randolph County Prosecuting Attorney, Michael Parker said his office is at half staff with people out on quarantine.

Sheriff Rob Elbon said he is having the same issue. He said one deputy tested positive and now more deputies are out on quarantine. He said he wanted to do a new schedule with 24 hour shifts but he is not able to do that now because of this. He said he is dealing with it and everything is going fairly smooth. He said he found out that the Task Force memorandum of understanding was out of date and there needs to be some adjustments made to it, so they are just extending the old one for 90 days until they can work on it. He said he would also like to find some county space for the task force office. He said they are paying \$1,000.00 month rent where they are now.

Randolph County Clerk, Brenda Wiseman said she has one employee off on quarantine because her husband tested positive.

CORRESPONDENCE: None

ANNOUNCEMENTS:

Commissioner Kesling announced that the next County Commission meeting will be held on January 21, 2021 at 1:30 p.m.

ITEMS FOR DISCUSSION/ACTION:

ELECTION OF COUNTY COMMISSION PRESIDENT

Commissioner See moved to nominate Commissioner Scott as Randolph County Commission President for 2021.

All yes – Motion passed unanimously

Commissioner Scott thanked David Kesling for his leadership in the last year. He said they got a lot accomplished and have more planned for this year. He also welcomed newly elected Sheriff Rob Elbon.

Commissioner Scott took over the meeting as President at this time.

CONSIDER APPROVAL OF HOLIDAYS FOR 2021 (See attached copy)

Commissioner Kesling moved to approve the holidays for 2021, as submitted.

All yes – Motion passed unanimously

RATIFY SIGNATURE FOR BOARD OF EQUALIZATION DATES (See attached copy)

Commissioner Scott said Assessor, Phyllis Yokum presented a list of dates to them and it had to be sent to Charleston before the meeting. He said they just need to ratify the signature on the board of review and equalization dates, as submitted. Commissioner See moved to ratify the signature of the Commissioner President on the Board of Review and Equalization dates, as submitted. All yes – Motion passed unanimously

CONSIDER HIRE OF NEW ATTORNEY IN PROSECUTING ATTORNEY'S OFFICE (See copy attached)

Randolph County Prosecuting Attorney, Michael Parker appeared before the Commission. He said his office has a vacancy for an Assistant Prosecuting Attorney due to April Mallow being elected as the Pendleton County Prosecuting Attorney. He said he advertised online for the position and received several resumes. He said after reviewing the resumes and the qualifications of each one, he has chosen Colin Henning. He would like Mr. Henning to begin working on January 11, 2021 with a starting salary of \$60,000.00 per year along with full time benefits. He will be placed on 90 days probationary period. Mr. Parker said a background check was done which came back fine. Commissioner Kesling moved to approve the hiring of Colin Henning as an Assistant Prosecuting Attorney in the Randolph County Prosecuting Attorney's Office with an effective date of hire of January 11, 2021 and with a starting salary of \$60,000.00 per year will full county benefits and he will be placed on a 90 day probationary period. All yes – Motion passed unanimously

CONSIDER ADOPTION OF SECTION 504 GRIEVANCE PROCEDURE

Commissioner Scott said this is something the Commission needs to do for Federal grant purposes. He said since they are applying for federal grants for the pool/splash pad project this needs to be done. Commissioner Kesling moved to approve the Section 504 Grievance Procedure, as presented. All yes – Motion passed unanimously

CONSIDER SIGNING RESOLUTION REAFFIRMING EQUAL OPPORTUNITY EMPLOYER STATUS (See copy attached)

Commissioner Scott said this is also a requirement for the federal grants. Commissioner See moved to approve the signing of the Resolution that Randolph County Commission is an equal opportunity employer. All yes – Motion passed unanimously

CONSIDER APPROVAL OF ABCA LICENSE

Commissioner Scott said there is a new business going into Helvetia and they need a ABCA License to be able to sell alcohol. He said this is going to be a store called Swiss Roots, LLC. He said they need a letter from the Commission that there are no zoning regulations outside of city municipalities. Commissioner

Kesling moved to approve sending a no zoning letter for Swiss Roots, LLC to be able to get a ABCA License to sell alcohol. All yes – Motion passed unanimously

#### CONSIDER PURCHASE OF DISINFECTANT SPRAYER

Commissioner Scott said we have had several instances of COVID positive tests in the offices. He said the Commission has been having to hire someone to come in and spray the offices down and it is very expensive. He said the Commission contacted Wendlings and received a quote for a sprayer and germicide. He said the cost is \$1,540.14. He said the maintenance personnel will be able to use it in the offices as they have been observing the others when they spray. Commissioner Kesling moved to approve the purchase of the disinfectant sprayer and germicide from Wendlings at a cost of \$1,540.14. All yes – Motion passed unanimously

#### CONSIDER 2021 COMMITTEE ASSIGNMENTS (See attached copy)

Commissioner Scott read the committee assignments for each Commissioner out loud. Commissioner See moved to approve the committee assignments for 2021, as submitted. All yes – Motion passed unanimously

#### CONSIDER NEW RATE FOR MILEAGE REUMBURSEMENT

Commissioner Scott said the Commission did a Resolution last year or the year before to go by the IRS issued standard mileage rate. He said this year that rate is 56 cents per mile. Commissioner Kesling moved to approve the IRS issued standard mileage rate of 56 cents per mile for 2021. All yes – Motion passed unanimously

#### CONSIDER NEW HIRE IN THE COUNTY COMMISSION OFFICE (See attached copy)

Commissioner Scott said their administrative assistant, Kathy Weese, recently took a job in the County Clerk's Office. He said they advertised for the position and interviewed 5 or 6 candidates. Commissioner See moved to hire Brooke A. Hinzman as full time administrative assistant in the County Commission Office with an effective date of hire of January 8, 2021 and with starting pay of \$15.13 per hour and she will be placed on a 90 day probation period.

Commissioner See voted yes Commissioner Scott voted yes Commissioner Kesling voted no  
Motion passed

#### CONSIDER FIDUCIARY COMMISSIONER'S RECOMMENDATION ON THE ESTATE OF DOROTHY MONTONEY (See attached copy)

Randolph County Fiduciary Commissioner, John J. Wallace, IV appeared before the Commission. He said this is an old estate from back in 2015 that he has been working on trying to get closed. He said there is a waiver of final settlement form in the file but it was signed by a Power of Attorney which is not allowed. He said the executrix died and he has been trying to get a hold of Rockwood Montoney, III with no success. Mr. Wallace recommends that this estate be placed on the list of delinquent estates that the County Clerk will be presenting to the Commission to be administratively closed pursuant to House Bill 2746. Commissioner Kesling moved to approve the recommendation of the Fiduciary Commissioner on the estate of Dorothy Montoney. All yes – Motion passed unanimously

#### RATIFY SIGNATURE FOR THE ENGINEERING OF THE POOL/SPLASH PAD PROJECT

Commissioner Scott said the County has applied for a federal grant for the pool/splash pad project. E.L. Robinson was chosen as the engineering firm, he said. The cost for the engineering firm is \$119,400.00 and the coal severance re-allocation funds will be used for this. He said the contract was signed already and they just need to ratify that signature today. Commissioner See moved to ratify the signature on the contract with E.L. Robinson for the engineering of the pool/splash pad. All yes – Motion passed unanimously

#### FINAL SETTLEMENTS/ANNUAL ACCOUNTINGS:

Commissioner Kesling moved to approve the nine (9) final settlements/annual accountings on the following estates:

Anthony Eksterowicz

Robert Ralph Furnier

Loretta Hart

Bailey Elbert Huffman

Rose Elizabeth McPherson

Donald Woodrow Smith

Leona Grace Thompson

Ronald W. Vandevender

Richard Allen Yokum All yes – Motion passed unanimously

BUDGET REVISIONS: (See attached copies)

Commissioner Kesling moved to approve an In-House Budget Revision for the County Clerk's Office in the amount of \$2,000.00 from equipment to contract services. All yes – Motion passed unanimously

Commissioner Kesling moved to approve a State Budget Revision for the Sheriff's Office in the amount of \$800.00. This is the money from the sale of the guns to Mark Brady. It is going from miscellaneous income to law enforcement equipment.

Commissioner Kesling voted yes, Commissioner Scott voted yes, Commissioner See voted yes – Motion passed

Commissioner Kesling moved to approve an In-House Budget Revision in the amount of \$50,000.00 from Courthouse Contractual to Audit Fees. All yes – Motion passed unanimously

DIVISION OF PROPERTY/ERRONEOUS ASSESSMENTS:

Commissioner Kesling moved to approve the division of property and erroneous assessments, as submitted. All yes – Motion passed unanimously

DISTRESSED PROPERTIES: None

FIRE FEE ADJUSTMENTS:

Commissioner See moved to approve the eleven (11) fire fee adjustments, as submitted. All yes – Motion passed unanimously

PAYMENT OF BILLS:

Commissioner Kesling moved to pay the bills, as submitted. All yes – Motion passed unanimously

ADJOURN THE MEETING:

Commissioner See moved to adjourn the meeting. All yes – Motion passed unanimously

Attest: \_\_\_\_\_

## 2021 HOLIDAYS

NEW YEARS DAY – FRI  
1/1

MARTIN LUTHER KING  
DAY – MON 1/18

PRESIDENTS' DAY –  
MON 2/15

GOOD FRIDAY – FRI 4/2

MEMORIAL DAY –  
MON 5/31

WEST VIRGINIA DAY –  
FRI 6/21

INDEPENDENCE DAY –  
FRI 7/5

LABOR DAY – MON 9/6

FOREST FESTIVAL –  
FRI 10/8

COLUMBUS DAY –  
MON 10/11

VETERANS DAY –  
THURS 11/11

THANKSGIVING –  
THURS 11/25

THANKSGIVING -- FRI  
11/25

CHRISTMAS – FRI 12/24

NEW YEARS EVE – FRI  
12/31 (1/2 DAY)

**BOARD OF REVIEW AND EQUALIZATION**

THE RANDOLPH COUNTY COMMISSION WILL SIT AS A BOARD OF REVIEW AND EQUALIZATION ON THE FOLLOWING DATES AND TIMES

February 2, 2021	10:00 AM to 12:00 PM
February 5, 2021	10:00 AM to 12:00 PM
February 9, 2021	10:00 AM to 12:00 PM
February 11, 2021	4:00 PM to 6:00 PM
February 17, 2021	10:00 AM to 12:00 PM
February 18, 2021	10:00 AM to 12:00 PM

The purpose of this meeting is to establish a meeting and appointment schedule for those persons having objections to their Assessments. Therefore, individuals must contact the Assessor's Office to schedule an appointment before the time period expires:

**TELEPHONE NUMBER 304-636-2114**

**8:00 AM – 4:30 PM**

Chapter 11, Article 3, Section 24 of the WV Code states the following: "if any person fails to apply for relief at this meeting, he or she shall have waived their right to ask for corrections in their assessment for the current year, and shall not thereafter be permitted to question the correctness of his or her list as final fixed by the County Commission, except on appeal to the Circuit Court.

Brenda Wiseman

Randolph County Clerk

Please advertise on January 12, 2021 & January 19, 2021

2x8 Block Ad

4 Randolph Avenue  
2<sup>nd</sup> Floor Courthouse Annex  
Elkins, WV 26241



Telephone: (304) 636-2053  
Facsimile: (304) 636-4198

**OFFICE OF THE PROSECUTING ATTORNEY**  
RANDOLPH COUNTY, WEST VIRGINIA  
**Michael W. Parker, Prosecuting Attorney**

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**Assistant Prosecutors:**  
Christina W. Harper, Esquire  
April D. Mallow, Esquire  
Leckta L. Poling, Esquire  
Richard W. Shryock, Jr., Esquire

**Investigator/Paralegal:**  
Susan E. Gainer  
**Victim Service Coordinator:**  
Allyson S. Smoak

**Legal Assistants:**  
Casey J. Stiles, Circuit Court Coordinator  
Jennifer R. Collier, Magistrate Coordinator  
Jackie K. Hall, Juvenile Coordinator

**File Clerk:**  
Melanie C. Ratliff

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January 7, 2021

Randolph County Commission  
2 Randolph Ave.  
Elkins, WV 26241

RE: Hiring of Colin Henning as Assistant Prosecuting Attorney

Dear Randolph County Commissioners:

As you are likely aware, the Randolph County Prosecuting Attorney's Office has a vacant position assistant prosecuting attorney following the election of April Mallow as Prosecuting Attorney for Pendleton County, West Virginia. We recently advertised online and received several resumes. After reviewing the resumes and the respective qualifications of each of the candidates, I am requesting that the Randolph County Commission approve the hiring of Colin Henning as an assistant prosecuting attorney for my office. If approved, Mr. Henning will begin work on January 11, 2021, at a salary of \$60,000.00 per year along with a full-time benefits package, which is already included in my budget. Consistent with county policy, Mr. Henning would be hired pursuant to a 90-day probationary period.

Should you have any questions or concerns, please do not hesitate to contact me at your convenience. I thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in black ink that reads "Michael W. Parker". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael W. Parker

MWP:cjs

cc: Kitty Poling

# Randolph County Commission



## Commissioners

David L. Kesling

Chris See

Mark D. Scott

## RESOLUTION

The **Randolph County Commission** (WV), met on January 7, 2021 with a quorum present and passed the following resolution:

Be it resolved that the **Randolph County Commission** hereby certifies that it is an **Equal Opportunity Employer** and takes steps to affirmatively further fair housing in all public notices, ads, and publications.

A handwritten signature in cursive script that reads "Brenda Wiseman".

Randolph County Clerk





## COMMITTEE ASSIGNMENTS 2021

### Commissioner Scott

Whitmer Water Board 2<sup>nd</sup> Tuesday @ 7:00  
Randolph County Development Authority - 1st Wednesday @ 4:00 p.m.  
Fire Association - 1st Thursday on odd months  
Forest Festival – 4<sup>th</sup> Tuesday  
Airport Authority - 2nd Tuesday @ 5:00 p.m.  
Ambulance Authority – last Tues. @ 5:00  
Elkins Welcome Center Board of Directors – 1st Tuesday @ 5:15  
Corridor H Authority  
Huttonsville PSD – 2nd and 4th Monday @ 10:00 am

### Commissioner See

Chamber of Commerce – 4<sup>th</sup> Tues @ noon  
Solid Waste Authority - 1<sup>st</sup> Tuesday @ 5:00 p.m.  
Extension Service Committee - (called only)  
Fire Association - 1st Thursday on odd months  
Local Emergency Planning Comm. – 2<sup>nd</sup> Wednesday @ noon  
Domestic Training - every other month on second Tuesday, time varies  
Region VII - quarterly 4<sup>th</sup> Monday @ 12:00  
Randolph County CVB- Third Tuesday every other month @4:00 p.m.  
Norton PSD - 2nd Monday @ 7:00  
Fire Board—2<sup>nd</sup> Thursday @ 6:00

### Commissioner Kesling

Community Corrections - Varies from month to month  
Fire Association 1<sup>st</sup> Thursday on odd months  
Leadsville PSD – 3<sup>rd</sup> Wednesday @ 1:00 pm.  
Main Street Elkins – 2<sup>nd</sup> Tuesday @ 4:00 p.m.  
Recreation Board - 2nd Tuesday @ 6:00 p.m.  
Beverly Heritage Center CVB -  
Midland PSD - 4th Tuesday @ 5:00 p.m.

### Employee Assignments

Chris- 911/OEM  
Mark - Dog Warden

David - Custodians/Maintenance, Community Corrections

# Randolph County Commission



## Commissioners

David L. Kesling

Chris See

Mark D. Scott

January 7, 2021

The Commission has hired Brooke A. Hinzman as a full-time Administrative Assistant in the County Commission with full county benefits.

Her starting salary pay will be \$15.13 per hour, and she will begin working on January 8, 2021. A 90-day probationary period will apply.

Thank you,

Mark Scott, President

Randolph County Commission

BEFORE THE COUNTY COMMISSION OF RANDOLPH COUNTY, WEST VIRGINIA

FIDUCIARY COMMISSIONER'S DECEMBER 2020  
REPORT ON DELINQUENT FILINGS

The Estate of Dorothy Rose Montoney (DoD August 14, 2015)

- a. Delinquent documents:
  - i. Final Settlement or Waiver of Final Settlement

Peggy Neale, decedent's sister, was appointed her Executrix. Ms. Neale apparently handled the estate, made distribution and produced a partially executed waiver of final settlement to the prior fiduciary commissioner. However, Rockwood Montoney, II did not sign the Waiver of Final Settlement. Rather, it was signed by Rockwood Montoney, III as "power of attorney" for Rockwood Montoney, II. The issue is that Rockwood II was deceased at the time Rockwood III signed the document. A power of attorney does not confer any legal rights upon the agent after the principal's death.

Rockwood Montoney, III is a resident of Texas. The undersigned attempted to contact Rockwood Montoney, III in May of 2020. His wife, Zoe Montoney, indicated she would give Rockwood, III a message to return the call. He did not. I tried to contact him again on December 22, 2020, to no avail. The Executrix, Peggy Neale, died February 2, 2019.

W.Va. Code §44-4-2 & 3 require annual accountings by the personal representative, or accountings every three years in the case of small estate. The Executrix of the above named estate has failed to file an accounting since the estate's inception in 2015.

W.Va. Code §44-2-1(b) requires the personal representative file a waiver of final settlement or report of receipts and disbursements "within a reasonable time after the date of recordation of the appraisalment." The Executrix of the above named estate has to make the appropriate filings within a reasonable time.

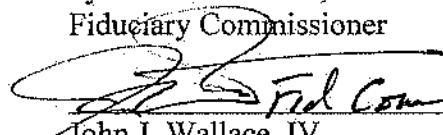
W.Va. Code §44-4-14A(a)-(e) requires the personal representative to close the estate within five years. The Executrix of the above named estate has failed to do so and in fact there is no current personal representative who can close the estate.

No continuance has been requested or granted.

Accordingly, the undersigned is of the opinion that the County Commission should direct Rockwood Montoney, III to file a statement to show cause why the county commission should,

- a. not appoint the Sheriff of Randolph County as Administrator, administratively close the estate, or take such other action as may be proper.

Respectfully submitted this  
30<sup>th</sup> day of December 2020  
by: John J. Wallace, IV  
Fiduciary Commissioner



John J. Wallace, IV

WV Bar #9730  
P.O. Box 7  
Elkins, WV 26241  
(304)637-3800

#### CERTIFICATE OF SERVICE

I, John J. Wallace, IV, Fiduciary Commissioner, hereby certify that the foregoing *Report on Delinquent Filings* was served upon counsel of record on this 30<sup>th</sup> day of December, 2020 by depositing a true and correct copy in the United States Mail, postage prepaid, in an envelope addressed as follows:

Ms. Betty L. Dickey  
1309 Rowland Dr.  
Dataw Island, SC 29920-3083  
*Heir*

Rockwood Montoney, III  
17206 Ingrahm Lane  
Cypress, TX 77433

Cathy Vermillion  
105 Wright Lane  
Moyock, NC 27958

**IN-HOUSE BUDGET REVISION**

**REVENUES:**

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED		REVISIED AMOUNT
		AMOUNT	INCREASE	
TOTAL INCREASE / (DECREASE) REVENUES:		0		0

**EXPENDITURES:**

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED		REVISIED AMOUNT
		AMOUNT	INCREASE	
001 402 459 00	CO CLERK EQUIPMENT			
001 402 230 00	CO CLERK CONTRACT SERVICES		2,000	2,000
TOTAL INCREASE / (DECREASE) EXPENDITURES:			2,000	2,000

Reason for Revision: TO COVER CARPETING EXPENSES

1-7-2021  
 DK - moved  
 DK - yes  
 MS - yes CS - yes

# Office of the SHERIFF OF RANDOLPH COUNTY

**Law Enforcement**  
32 Randolph Avenue  
Suite 201  
Elkins, WV 26241



**Tax Office**  
4 Randolph Avenue  
Suite 100  
Elkins, WV 26241

Web: RandolphSheriff.WV.Gov  
Phone: (304) 636-2111  
Fax (304) 630-0467

**Mark T. Brady, Sheriff**

Web: wvpropertytaxes.com  
Phone: (304) 636-2100  
Fax (304) 636-2093

12/23/2020

The Sheriff's Office respectfully requests the following budget revisions. Supporting documentation is attached.

**STATE BUDGET REVISION**

**Reason for Revision:** Increase LE Equipment budget by amount paid by outgoing Sheriff Brady for the purchase of two service weapons.

**REVENUES:**

ACCOUNT NUMBER	Account Name	PREVIOUSLY APPROVED AMOUNT	INCREASE	DECREASE	REVISED AMOUNT
001-366-900	Misc Income		\$ 800.00		

TOTAL INCREASE/(DECREASE) REVENUE: \$0.00 \$800.00 \$0.00 \$800.00

**EXPENDITURES:**

ACCOUNT NUMBER	Account Name	PREVIOUSLY APPROVED AMOUNT	INCREASE	DECREASE	REVISED AMOUNT
001-700-4-59-00	LE Equipment	\$ 8,500.00	\$ 800.00		\$ 9,300.00

TOTAL INCREASE/(DECREASE) EXPENDITURES: \$8,500.00 \$ 800.00 \$ - \$800.00

REVENUE CHANGE LESS EXPENDITURE CHANGE \$0.00

Respectfully,

*Mark T. Brady*  
Mark T. Brady  
Sheriff/Treasurer

1-7-2021  
CS moved  
CS yes  
DK yes  
MS yes

**In-House BUDGET REVISION      12/23/20**

Reason for Revision:      Audit Fees

**REVENUES:**

ACCOUNT NUMBER	Account Name	PREVIOUSLY APPROVED AMOUNT		DECREASE		REVISIED AMOUNT	
		INCREASE	DECREASE	INCREASE	DECREASE	INCREASE	DECREASE

**EXPENDITURES:**

ACCOUNT NUMBER	Account Name	PREVIOUSLY APPROVED AMOUNT		DECREASE		REVISIED AMOUNT	
		INCREASE	DECREASE	INCREASE	DECREASE	INCREASE	DECREASE
001-424-230.00	Courthouse Contractual				\$50,000.00		
001-401-2-24.00	Audit Fees	\$50,000.00					
TOTAL INCREASE/(DECREASE) EXPENDITURES:		\$50,000.00		\$50,000.00	\$50,000.00		

TOTAL INCREASE/(DECREASE) EXPENDITURES: \$50,000

*1-7-2024  
DK-moved  
DK-yes  
m-r-1105 p5-485*