IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

Count \_\_ of the indictment charges the defendant with Casting Away, Destroying, or Interfering with Floating Material. Casting Away, Destroying, or Interfering with Floating Material occurs when a person does the following to any floating craft, lumber, timber or material which belongs to another, intending to injure, defraud, or damage the owner or intending to cause such vessel or material to become adrift or float away without the owner’s consent: takes, carries away, removes, injures, destroys, breaks, cuts, detaches, unties, loosens, impairs, weakens, or otherwise interferes with any rope, line, fastening, connecting or other appliance used to tie, moor, attach, or fasten to a bank of any stream any such craft or material.

Therefore, in order to find the defendant guilty of Casting Away, Destroying, or Interfering with Floating Material, the State must overcome the defendant’s presumption of innocence and prove beyond a reasonable doubt that:

1. the defendant,

2. on or about the \_\_ day of [insert month], [insert year],

3. in [insert county] County, West Virginia,

4. took, carried away, removed, injured, destroyed, broke, cut, detached, untied, loosened, impaired, weakened, or otherwise interfered with

5. a rope, line, fastening, connecting, or other appliance used to tie, moor, attach, or fasten to the bank of a stream,

6. a floating craft, lumber, timber or material, which belonged to another,

7. with intent to injure, defraud or damage that other person, or

8. to cause such floating craft, lumber, timber or material to become adrift, or to float away without the consent of the owner.

If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find the defendant guilty as charged in Count \_\_ of the indictment. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant not guilty.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

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JUDGE