INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
We make Indiana a cleaner, healthier place to live.

Joseph E. Kernan
Governor

Lori F. Kaplan
Commissioner

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Indianapolis, Indiana 46206-6015
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Notice of Decision

You are hereby notified that the Commissioner of the Indiana Department of Environmental Management signed on November 4, 2004, the final Order creating the Elkhart County Regional Sewer District pursuant to IC 13-26-2-10, and based upon the Findings of Fact and Recommended Order of the hearing officer in this matter.

The final Order, as well as the hearing officer's Findings of Fact and Recommended Order, are on file at the Elkhart Public Library, Osolo Branch, 3429 E. Bristol Street, Elkhart, Indiana. Additionally, upon effectiveness of the final Order, these documents will be on file at the principal office of the District: Elkhart County Commissioners Office, 117N. 2nd Street, Goshen, IN, 46526.

Pursuant to IC 13-26-2-11, IC 4-21.5-3-2, and IC 4-21.5-5-5, the Final Order becomes effective thirty-three (33) days after service through the United States mail, unless a petition for judicial review is filed before or on the thirty-third (33rd) day. If you wish to challenge this decision, standing and substantive requirements of the verified petition for review are specified in IC 4-21.5-5-3 and IC 4-21.5-5-7, respectively. Pursuant to IC 4-21.5-5-9, a person seeking judicial review of the final Order may, by filing a verified petition, request an order of the court staying the Order pending a decision by the court.

Contact person:

Ms. Lynne Newlon

800 – 451 – 6027

STATE OF INDIANA	)	BEFORE THE INDIANA DEPARTMENT
	) SS:	OF ENVIRONMENTAL MANAGEMENT
COUNTY OF MARION	)	

IN THE MATTER OF:	)
THE FORMATION OF THE	)
ELKHART COUNTY	)
REGIONAL SEWER DISTRICT	)

FINDINGS OF FACT AND RECOMMENDED ORDER

OF THE HEARING OFFICER

FINDINGS OF FACT

1. On or about November 5, 2003, the Elkhart County Council and the Elkhart County Commissioners petitioned the Indiana Department of Environmental Management (IDEM) for an Order to establish a regional sewer district (RSD) in Elkhart County.

2. The proposed name of the regional sewer district is the Elkhart County Regional Sewer District (Elkhart County RSD).

3. The petition complies with the provisions of IC 13-26-2-3.

4. A public hearing was held on August 3rd, 2004 in the Hillcrest United Methodist Church, 4206 E. Bristol Street, Elkhart, Indiana.

5. Notice of the hearing was given during the weeks of July 19-26th and July 26-30th, 2004, by publication in the following newspapers of general circulation: 1) The Goshen News and 2) The Elkhart Truth. Notice was given by mail to each eligible entity involved. Notice was also given by mail to freeholders within the Elkhart County RSD's boundaries.

6. The principle office of the Elkhart County RSD shall be located at Elkhart County Commissioners Office, 117 N. 2nd Street, Goshen, Indiana 47638. The Elkhart County RSD Board of Trustees (Elkhart County RSD Board), upon formation, may relocate the office upon written notice to IDEM.

7. The sanitary sewage needs of those residents now residing within such Elkhart County RSD are currently being met with septic systems, many of which are failing.

8. Upon formation, Elkhart County RSD may construct and operate a system that will collect and treat the sanitary sewage of the residents of the Elkhart County RSD. The Elkhart County RSD may contract with a municipality or municipalities to meet the sewage treatment needs of the residents of the Elkhart County RSD. The RSD may implement a septic maintenance / management program as needed.

9. The residents of the Elkhart County RSD currently obtain their water for drinking and other purposes from municipal water supplies, cisterns, or individual wells. Contamination from failing septic systems may detrimentally affect the water quality and public health in the Elkhart County RSD.

10. The Elkhart County RSD has incurred no indebtedness to organize and accomplish the purpose proposed by the Elkhart County RSD.

11. The purpose to be accomplished by the formation of the Elkhart County RSD is the reduction of pollution to the environment by elimination of inadequate septic systems and the construction of a sanitary sewer collection system and appropriate treatment of collected sewage.

12. The current method of collection and disposal of the sanitary sewage of some of the residents of the Elkhart County RSD detrimentally affects the water quality and public health within the proposed district.

13. The Elkhart County RSD shall be governed by a Board of five (5) voting members to be appointed as follows:

    A. The Elkhart County Commissioners shall appoint two (2) members. Their terms shall expire December 31st, 2006.

    B. The Elkhart County Council shall appoint one (1) member. Their term shall expire December 31st, 2007.

    C. The Osolo Township Trustee and Advisory Board shall appoint one (1) member. Their term shall expire December 31st, 2005.

    D. The executive of the municipality utilized shall appoint one (1) member. Their term shall expire December 31st, 2008.

    E. All appointment terms, subsequent to expiration of the initial terms described above, shall be for a period of four (4) years.

    F. In the event a vacancy occurs on the Elkhart County RSD Board, the appointing authority for that trustee shall appoint a new board member within thirty (30) days to complete the term of the vacant board member position(s).

14. The estimated monthly sewage rate is projected to be approximately $38.00 to $69.00; provided, the Elkhart County RSD pursues and receives all public funding.

15. The Elkhart County RSD shall apply for available public funding as needed.

16. The source of funds to provide for the operating and maintaining costs of the Elkhart County RSD will be derived from monthly sewer user fees.

17. The Elkhart County RSD appears capable of accomplishing the purposes for which it was formed, in an economically feasible manner; provided, it maximizes all practicable public funding options and receives anticipated grants.

18. The territory must be situated so that the public health, safety, convenience, or welfare will be promoted by the establishment as a district of the territory described. The boundary description for the Elkhart RSD is as follows:

A part of Sections 13, 14, 23 & 24, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, being more particularly described as follows:

Beginning at the northeast corner of the West Half of Section 24; thence South along the east line of said West Half to the north boundary of the Indiana East-West Toll Road; thence west along said north boundary to the west line of the West Half of Section 24; thence north along said west line to the southeast corner of the Northeast Quarter of Section 23; thence west along the south line of said quarter section to the southeast corner of the West Half of the Northeast Quarter of Section 23; thence west along the south line of said West Half 660 feet; thence north parallel to the east line of the said West Half of the Northeast Quarter to the south line of Section 14; thence east along said south line to a point 570.72 feet west of the southeast corner of Section 14; thence north at right angles 270 feet; thence east parallel with the south line of Section 14 to the west line of Section 13; thence continuing east parallel to the south line of said Section 13 to the east line of the Southwest Quarter of Section 13; thence south along said east line to the Point of Beginning.

19. The Elkhart County RSD Board shall provide sufficient bond for all officers, trustees or employees who have any power to disburse funds of the Elkhart County RSD.

20. That within nine (9) months from the date of this Order, on or before August 30th, 2005, the Elkhart County RSD shall file with the Commissioner of IDEM, a detailed plan for the construction and operation of Elkhart County RSD's facilities.

21. There were two options for the treatment of wastewater and three options for collecting wastewater that were studied in the engineering report for the district. The complete engineering report is on file with IDEM.

22. Establishment of the District will be conducive to the public health, safety, convenience and welfare to the residents of the District as the District plans to collect, dispose and treat sewage that is currently being provided by individual septic tanks or other on-site systems.

23. The plan for financing the cost of operations of the Elkhart County RSD until it is in receipt of revenue from its operation or proceeds from the sale of bonds

includes a 40 year loan from United States Department of Agriculture - Rural Utility Services and private contributions.

24. There are no eligible entities providing sewers in the territory of the Elkhart County RSD.

RECOMMENDED ORDER

The Hearing Officer recommends the following:

1. That a Regional Sewer District, to be known as the Elkhart County Regional Sewer District (Elkhart County RSD) be organized as an independent political entity of the State of Indiana as a body corporate and politic.

2. The purpose to be accomplished by the formation of the Elkhart County RSD is the reduction of pollution to the environment by elimination of inadequate septic systems and the construction of a sanitary sewer collection system and appropriate treatment of collected sewage.

3. The territory must be situated so that the public health, safety, convenience, or welfare will be promoted by the establishment as a district of the territory described. The boundaries for the Elkhart County RSD is as follows:

A part of Sections 13, 14, 23 & 24, Township 38 North, Range 5 East, Osolo Township, Elkhart County, Indiana, being more particularly described as follows:

Beginning at the northeast corner of the West Half of Section 24; thence South along the east line of said West Half to the north boundary of the Indiana East-West Toll Road; thence west along said north boundary to the west line of the West Half of Section 24; thence north along said west line to the southeast corner of the Northeast Quarter of Section 23; thence west along the south line of said quarter section to the southeast corner of the West Half of the Northeast Quarter of Section 23; thence west along the south line of said West Half 660 feet; thence north parallel to the east line of the said West Half of the Northeast Quarter to the south line of Section 14; thence east along said south line to a point 570.72 feet west of the southeast corner of Section 14; thence north at right angles 270 feet; thence east parallel with the south line of Section 14 to the west line of Section 13; thence continuing east parallel to the south line of said Section 13 to the east line of the Southwest Quarter of Section 13; thence south along said east line to the Point of Beginning.

4. The Elkhart County RSD shall be governed by a Board of five (5) voting members to be appointed as follows:

   A. The Elkhart County Commissioners shall appoint two (2) members. Their terms shall expire December 31st, 2006.

   B. The Elkhart County Council shall appoint one (1) member. Their term shall expire December 31st, 2007.

C. The Osolo Township Trustee and Advisory Board shall appoint one (1) member. Their term shall expire December 31st, 2005.

D. The executive of the municipality utilized shall appoint one (1) member. Their term shall expire December 31st, 2008.

E. All appointment terms, subsequent to expiration of the initial terms described above, shall be for a period of four (4) years.

F. In the event a vacancy occurs on the Elkhart County RSD Board, the appointing authority for that trustee shall appoint a new board member within thirty (30) days to complete the term of the vacant board member position(s).

5. The Elkhart County RSD Board shall provide sufficient bond for all officers, trustees or employees who have any power to disburse funds of the Elkhart RSD.

6. That within nine (9) months from the date of this Order or no later than (August 30th, 2005), Elkhart County RSD shall file with the Commissioner of the Indiana Department of Environmental Management, a detailed plan for the construction and operation of Elkhart County RSD's facilities.

7. The Elkhart County RSD shall apply for all available public funding as needed.

8. Establishment of the District will be conducive to the public health, safety, convenience and welfare to the residents of the District as the District plans to collect, dispose and treat sewage that is currently being provided by individual septic tanks or other on-site systems.

9. That there are no publicly or privately owned treatment works in the proposed District for treatment of sanitary sewage.

Dated: October 24, 2004 Hearing Officer Lynne L. Newton

STATE OF INDIANA	)	BEFORE THE INDIANA DEPARTMENT
	) SS:	OF ENVIRONMENTAL MANAGEMENT
COUNTY OF MARION	)	

IN THE MATTER OF:	)
THE FORMATION OF THE	)
ELKHART COUNTY REGIONAL	)
SEWER DISTRICT	)

ORDER ADOPTING THE FINDINGS OF FACT
AND RECOMMENDED ORDER OF THE HEARING OFFICER
FOR THE ORGANIZATION OF THE
ELKHART COUNTY REGIONAL SEWER DISTRICT

Notice is hereby given that the Hearing Officer has filed with the Commissioner of the Indiana Department of Environmental Management (Commissioner) the "FINDINGS OF FACT AND RECOMMENDED ORDER" relative to the petition requesting organization of the Elkhart County Regional Sewer District. Said FINDINGS and RECOMMENDED ORDER is attached to this ORDER, and consists of five (5) pages.

And the Commissioner, having reviewed the attached "FINDINGS OF FACT AND RECOMMENDED ORDER" of the Hearing Officer, now determines that the organization of the proposed RSD complies with the conditions of Indiana Code 13-26 et seq., and that the proposed RSD appears capable of accomplishing its purpose in an economically feasible manner.

IT IS NOW ORDERED BY THE COMMISSIONER that the Elkhart County Regional Sewer District be organized as an independent municipal corporation pursuant to the terms and conditions set forth in the attached "FINDINGS OF FACT AND RECOMMENDED ORDER" which are adopted and approved, and deemed incorporated in this ORDER, as though set out in full.

Pursuant to IC 13-26-2-11, IC 4-21.5-3-2 and IC 4-21.5-5-5, this ORDER becomes effective thirty-three (33) days after service through the United States mail, unless a petition for judicial review is filed before or on the thirty-third (33rd) day. Standing and substantive requirements of the verified petition for review are specified in IC 4-21.5-5-3 and IC 4-21.5-5-7, respectively. Pursuant to IC 4-21.5-5-9, a person seeking judicial review of this ORDER may, by filing a verified petition, request an order of the court staying this ORDER, pending a decision by the court.

All of which is ORDERED at Indianapolis, Indiana this 4th day of November, 2004.

Lori F. Kaplan

Lori F. Kaplan, Commissioner

Indiana Department of
Environmental Management