



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

NANCY A. MALOLEY, Commissioner

OCT 29 1987

105 South Meridian Street

P.O. Box 6015

Indianapolis 46206-6015

Telephone 317-232-8603

STATE OF INDIANA)

COUNTY OF MARION)

SS:

BEFORE THE INDIANA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:)

TURKEY CREEK REGIONAL SEWER
DISTRICT)

CAUSE NO. B-436

NOTICE OF DECISION ON THE PETITION OF TURKEY CREEK
REGIONAL SEWER DISTRICT TO ADD TO ITS ORIGINAL PURPOSE

TO: Mr. Richard A. Green
Attorney at Law
116 East Main Street
Syracuse, Indiana 46567
No. P 395 650 896

Notice is hereby given that Turkey Creek Regional Sewer District has filed a petition with the Indiana Department of Environmental Management (Department) to add to the purpose for which it was originally created as follows: to enable Turkey Creek Regional Sewer District to own and operate facilities with which to provide a water supply for domestic, industrial and public use to users inside and outside the district.

The Decision of the Commissioner of the Indiana Department of Environmental Management (Commissioner) relative to this petition follows, in the form of Findings of Fact, Conclusions of Law and Order. Pursuant to IC 4-21.5-3-5(f), the Order becomes effective fifteen (15) days after it is served.

A party affected or aggrieved by this Decision may appeal and must do so within fifteen (15) days of service or notice by publication by filing a request for an adjudicatory hearing with the Commissioner at the address given at the end of the Order. Any appeal request must be filed in accordance with IC 4-21.5-3-7 and must include facts demonstrating that the party requesting appeal is the applicant, a person aggrieved or adversely affected by this Decision, or otherwise entitled to review by law.

Pursuant to IC 4-21.5-3-5(d), the appointed Administrative Law Judge will provide parties who request an appeal with notice of pre-hearing conferences, preliminary hearings, hearings, stays or orders disposing of all proceedings. Non-parties may receive such notices without intervening and formally becoming parties by providing the Department with a written request that describes the subject matter of the notice requested with reasonable particularity, and is delivered to the Department at least seven (7) days prior to the date that the notice is issued.

FINDINGS OF FACT

1. Turkey Creek Regional Sewer District was originally created by Order of the Indiana Stream Pollution Control Board on October 18, 1977, in Cause No. B-436, with the following purpose stated in the Order:

* * *

"2. That the purpose to be accomplished by said district is to provide for the collection and disposal of sewage."

* * *

2. On or about August 24, 1987, Turkey Creek Regional Sewer District, by counsel and after authorization by its board, filed a petition requesting an order to add to its original purpose to enable it to own and operate facilities with which to provide a water supply for domestic, industrial and public use to users inside and outside the District.
3. The basis for the petition is that Turkey Creek Regional Sewer District is in the initial stages of purchasing the facility known as Wawasee Sewer and Water Company, Inc., and that: (a) it would not be economically feasible to separate the sewage collection and treatment portion from the water supply portion of this facility; (b) such a separation would impose a hardship on the customers served by both portions of this facility; (c) it would be more cost effective for Turkey Creek Regional Sewer District to purchase both portions of the Wawasee Sewer and Water Company, Inc.; and (d) it was the original intent of Turkey Creek Regional Sewer District to purchase both portions of the facility owned by Wawasee Sewer and Water Company, Inc.
4. Under IC 13-3-2-2: "Any area may be organized as a regional water, sewage, or solid waste district under this chapter for one (1) or more of the following purposes: (1) To provide a water supply for domestic, industrial, and public use to users inside and outside the district..."

CONCLUSIONS OF LAW

1. The Commissioner is legal successor to the former Indiana Stream Pollution Control Board in this matter which may be considered a continuation of proceedings previously initiated under Cause No. B-436.
2. The Commissioner has jurisdiction under IC 13-3-2-9 to issue a decision on the petition filed herein by Turkey Creek Regional Sewer District to modify and add to its original purpose.
3. The purpose which Turkey Creek Regional Sewer District seeks to have added is authorized by IC 13-3-2-2(1), and Turkey Creek Regional Sewer District has established a sufficient factual basis in its petition for modifying its original purpose.

ORDER

IT IS THEREFORE ORDERED that the purpose for which Turkey Creek Regional Sewer District was originally created is hereby modified to read as follows, with this ORDER becoming effective fifteen (15) days after it is served:

That the purposes to be accomplished by Turkey Creek Regional Sewer District are to provide for the collection, treatment, and disposal of sewage inside and outside the district and to provide a water supply for domestic, industrial, and public use to users inside and outside the district, by owning and operating facilities and performing all acts necessary and incident to the cited purposes which are not otherwise prohibited by law.

Dated at Indianapolis, Indiana, this 27th day of October, 1987.

Nancy A. Maloley
Nancy A. Maloley, Commissioner
Indiana Department of Environmental
Management
105 South Meridian Street
Indianapolis, Indiana 46225

RICHARD A. GREEN
ATTORNEY AT LAW
116 EAST MAIN STREET
SYRACUSE, INDIANA 46567

TELEPHONE (219) 457-3222

August 19, 1987

RECEIVED

AUG 24 1987

Indiana Dept. of Environmental Mgmt.
105 South Meridian Street
Post Office Box 6015
Indianapolis, Ind. 46206-6015
Attn: Nancy Maloley, Commissioner

INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

Re: Turkey Creek Regional Sewer District

Dear Commissioner Maloley:

I am enclosing herewith for filing with the Department of Environmental Management, pursuant to I.C. 13-3-2-9, the Petition to Increase and Add to Purpose of Turkey Creek Regional Sewer District.

I am also enclosing herewith the Certificate of Official Action executed by V. Logan Love, Secretary of Turkey Creek Regional Sewer District, which has attached to it a Resolution adopted by the Board of Directors of Turkey Creek Regional Sewer District on August 10, 1987, authorizing the filing of this Petition.

Each document is submitted in duplicate.

I request that this matter be considered filed with the Department upon receipt by you and that the necessary steps for its approval be initiated immediately.

I believe the allegations contained in the Petition sufficiently describe the necessity for the Petition. If you need any other background or further documentation in order to process this, please advise me.

I would also request that you advise me of the procedure to be followed in obtaining approval of this, so that the District will be in technical compliance with its statutorily authorized purposes once it acquires and begins to operate the water supply portion of the facilities of Wawasee Water and Sewer Company, Inc. If there are regulations in existence which govern the procedure, I would appreciate receiving a copy. If not, I would appreciate receiving a narrative description of the steps which need to be taken.

Respectfully submitted,



Richard A. Green
Attorney for Turkey Creek
Regional Sewer District

RAG:sls


cc: Sue Shadley, legal counsel office

CERTIFICATION OF OFFICIAL ACTION

V. Logan Love, being first duly sworn, states that he is the duly elected and acting Secretary of Turkey Creek Regional Sewer District and that as such he is keeper of the records of said District and is familiar with the actions taken by the District.

Said V. Logan Love hereby further certifies that the attached Resolution was unanimously approved by the Board of Trustees of Turkey Creek Regional Sewer District at its regular meeting held at 7:30 p.m. on August 10, 1987, a quorum of said Board being present and participating in said meeting.

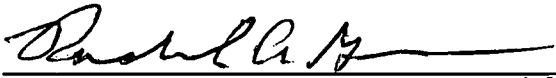
Dated this 10th day of August, 1987.


V. LOGAN LOVE, Secretary
Turkey Creek Regional
Sewer District

STATE OF INDIANA)
) SS:
COUNTY OF KOSCIUSKO)

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 10th day of August, 1987.

My commission expires:
March 11, 1989


RICHARD A. GREEN, Notary Public
Resident of Kosciusko County, Ind.

RESOLUTION

WHEREAS, Turkey Creek Regional Sewer District (District) was created by Order of the Indiana Stream Pollution Control Board for the purpose of providing for the collection and disposal of sewage, said Order being dated October 18, 1977;

WHEREAS, that in order to accomplish the above stated purpose it is necessary and desirable to purchase, own, and operate the physical facilities of Wawasee Sewer and Water Company, Inc., which facilities include a water supply facility; and

WHEREAS, in order to purchase, own, and operate said water supply facility it is necessary that District file its Petition To Increase And Add To Purpose Of District with the Indiana Department of Environmental Management.

NOW BE IT, THEREFORE, RESOLVED by the Board of Trustees of District that District immediately file its Petition To Increase And Add To Purpose Of District with the Indiana Department of Environmental Management, which petition has been presented to the Board of Trustees of District and reviewed fully at its regular meeting on August 10, 1987, and that signatories of District, legal counsel, and engineers employed by District be, and they hereby are authorized to execute all documents and take all acts necessary to file said Petition To Increase And Add To Purpose of District so as to enable District to purchase, own, and operate a water supply facility for the purpose of providing a water supply for domestic, industrial, and public use to users inside and outside the District.

Adopted this 10th day of August, 1987.



ROBERT JONES, President

Attest:




V. LOGAN LOVE, Secretary

CERTIFICATION OF OFFICIAL ACTION

V. Logan Love, being first duly sworn, states that he is the duly elected and acting Secretary of Turkey Creek Regional Sewer District and that as such he is keeper of the records of said District and is familiar with the actions taken by the District.

Said V. Logan Love hereby further certifies that the attached Resolution was unanimously approved by the Board of Trustees of Turkey Creek Regional Sewer District at its regular meeting held at 7:30 p.m. on August 10, 1987, a quorum of said Board being present and participating in said meeting.

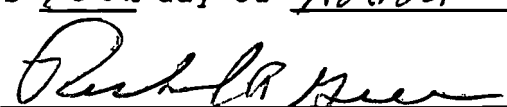
Dated this 10th day of August, 1987.


V. LOGAN LOVE, Secretary
Turkey Creek Regional
Sewer District

STATE OF INDIANA)
) SS:
COUNTY OF KOSCIUSKO)

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 10th day of AUGUST, 1987.

My commission expires:
March 11, 1989


RICHARD A. GREEN, Notary Public
Resident of Kosciusko County, Ind.

RESOLUTION

WHEREAS, Turkey Creek Regional Sewer District (District) was created by Order of the Indiana Stream Pollution Control Board for the purpose of providing for the collection and disposal of sewage, said Order being dated October 18, 1977;

WHEREAS, that in order to accomplish the above stated purpose it is necessary and desirable to purchase, own, and operate the physical facilities of Wawasee Sewer and Water Company, Inc., which facilities include a water supply facility; and

WHEREAS, in order to purchase, own, and operate said water supply facility it is necessary that District file its Petition To Increase And Add To Purpose Of District with the Indiana Department of Environmental Management.

NOW BE IT, THEREFORE, RESOLVED by the Board of Trustees of District that District immediately file its Petition To Increase And Add To Purpose Of District with the Indiana Department of Environmental Management, which petition has been presented to the Board of Trustees of District and reviewed fully at its regular meeting on August 10, 1987, and that signatories of District, legal counsel, and engineers employed by District be, and they hereby are authorized to execute all documents and take all acts necessary to file said Petition To Increase And Add To Purpose of District so as to enable District to purchase, own, and operate a water supply facility for the purpose of providing a water supply for domestic, industrial, and public use to users inside and outside the District.

Adopted this 10th day of August, 1987.



ROBERT JONES, President

Attest:



V. LOGAN LOVE, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF THE)
PETITION OF TURKEY CREEK)
REGIONAL SEWER DISTRICT)
TO INCREASE AND ADD)
TO ITS PURPOSE)

CAUSE NUMBER B-436

PETITION TO INCREASE AND
ADD TO PURPOSE OF TURKEY
CREEK REGIONAL SEWER DISTRICT

The Turkey Creek Regional Sewer District, hereinafter referred to as "District", respectfully petitions the Indiana Department of Environmental Management to increase and add to the purposes of District and in support of said petition hereby alleges and says:

1. That District was created by order of the Indiana Stream Pollution Control Board by its order of October 18, 1977, in Cause Number B-436, a copy of which order is attached hereto as Exhibit A and made a part hereof by this reference.

2. That the purpose of District, as stated in paragraph 2, page 4 of said order is: "to provide for the collection and disposal of sewage."

3. That District has filed its plan with Department setting forth the manner in which it intends to accomplish its purpose and in pursuance of said plan has applied for grants from the United States Environmental Protection Agency and the State of Indiana and has employed engineers, legal counsel, and appraisers.

4. That the proposed and ongoing project has been assigned EPA Project Number C181069 02.

5. As evidenced by allegations contained in the Petition for Organization of a Regional Sewage District, filed in 1977 before the Indiana Stream Pollution Control Board, predecessor functioning agency of Department, District made its intent clear that it would of necessity have to acquire the physical assets of Wawasee Sewer and Water Company, Inc., which would become part of the system proposed by the District. Said petition resulted in the above-referenced order creating District.

6. That Wawasee Sewer and Water Company, Inc. existed prior to the filing of said petition and existed as a water and sewer

utility at all times after its inception.

7. That District is in the initial stages of purchasing the facilities of Wawasee Sewer and Water Company, Inc.

8. That it is desirable and necessary that District purchase, own and operate the water supply facilities as well as the sewage collection and treatment facilities presently owned by Wawasee Sewer and Water Company, Inc. for the following reasons:

(a) It is not economically feasible for either the sewage collection and treatment facilities or the water supply facilities of Wawasee Sewer and Water Company, Inc. to operate separate from each other;

(b) A separation of the water supply facilities from the sewage collection and treatment facilities presently owned by Wawasee Sewer and Water Company, Inc., would impose a hardship on the customers served by both portions of said facility;

(c) The purchase of the entire physical facility of Wawasee Sewer and Water Company, Inc., including the water supply facilities and the sewage collection and treatment facilities would be more cost effective than to purchase only the sewage collection and treatment facilities; and

(d) It was always the original intent of District to purchase both the water supply facilities and the sewage collection and treatment facilities owned by Wawasee Sewer and Water Company, Inc.

9. That the definition of the purpose of District as stated in the above-referenced order did not specifically include the purchasing, owning, or operating a water supply facility to provide a water supply for domestic, industrial, and/or public use to users either inside or outside the District.

10. That I.C. 13-3-2, et seq. (previously 19-3-1.1 et seq.), at Section 2, provides, in part:

"Sec. 2. Any area may be organized as a regional water, sewer, or solid waste district under this Chapter for one or more of the following purposes:

(1) To provide a water supply for domestic, industrial, and public use to users inside and outside the district.

*

*

*

"

11. That it is in the best interests of District, Department, and potential users of sewage collection and treatment facilities and water supply facilities to be owned and operated by District.

12. That the purpose of District be increased and added to to include the purpose of providing a water supply for domestic, industrial, and public use to users inside and outside the District, which increase and addition to purpose is provided for by I.C. 13-3-2-9.

WHEREFORE, District respectfully prays of Department:

(a) That Department approve this petition;

(b) That Department issue its order increasing and adding to the purpose of District to enable District to own and operate facilities with which to provide a water supply for domestic, industrial and public use to users inside and outside the District; and

(c) For all other relief being suitable and proper by the Indiana Department of Environmental Management to affect and approve the purpose of this petition.

TURKEY CREEK REGIONAL
SEWER DISTRICT

By: Robert Jones
ROBERT JONES, President

Attest: V. Logan Love
V. LOGAN LOVE, Secretary

Richard A. Green
Attorney for District
116 East Main Street
Syracuse, Indiana 46567
Phone: (219) 457-3222

CERTIFICATION OF OFFICIAL ACTION

V. Logan Love, being first duly sworn, states that he is the duly elected and acting Secretary of Turkey Creek Regional Sewer District, and that as such is the keeper of the records of said District and familiar with the actions taken by said District.

Said V. Logan Love hereby further certifies that the attached Resolution was unanimously approved by the Board of Trustees of Turkey Creek Regional Sewer District at a special meeting held pursuant to legal notice at 5:00 o'clock p.m. on September 4, 1987, a quorum of said Board being present and participating in said meeting.

Dated this 4th day of September, 1987.



V. LOGAN LOVE, Secretary
Turkey Creek Regional Sewer
District

STATE OF INDIANA)
) SS:
COUNTY OF KOSCIUSKO)

Subscribed and sworn to before me, a Notary Public, in and for said County and State, this 4th day of September, 1987.



RICHARD A. GREEN, Notary Public
Resident of Kosciusko County,
Indiana

My commission expires:
March 11, 1989

RESOLUTION

WHEREAS, Turkey Creek Regional Sewer District ("District") is currently engaged in U. S. Environmental Protection Agency Project Number C-181069 02, which Project anticipates the acquisition of the physical assets of Wawasee Water & Sewer Co., Inc., an Indiana corporation ("Corporation"), which assets are used in the operation of the sanitary sewage collection and disposal system and water supply and distribution system operated by Corporation; and


WHEREAS, the acquisition of said assets for the purpose of incorporating them into the sewer system to be built pursuant to said project can best be accomplished by execution of the attached "Option for Acquisition of Common Stock".

NOW BE IT, THEREFORE, RESOLVED by the Board of Trustees of District that District enter the attached Option for Acquisition of Common Stock and that the official signatories of District are hereby authorized and directed to execute the same.

Adopted this 4th day of September, 1987.

TURKEY CREEK REGIONAL
SEWER DISTRICT

By: _____


ROBERT JONES, President

Attest: _____


V. LOGAN LOVE, Secretary

OPTION FOR ACQUISITION OF COMMON STOCK

THIS AGREEMENT made and entered into by and between M. D. UMBAUGH and WILLIAM SALIN, hereinafter referred to collectively as "Optionor", and TURKEY CREEK REGIONAL SEWER DISTRICT, a municipal subdivision of the State of Indiana, hereinafter referred to as "Optionee",

WITNESSETH:

WHEREAS, Optionee is an active participant in U.S. Environmental Protection Agency Project Number C-181069 02, hereinafter referred to as "Project", which involves the installation and operation of a sanitary sewer system within the boundaries of Optionee, which boundaries encompass the area occupied and serviced by the physical assets of Optionor;

WHEREAS, Optionor is the owner of one hundred percent (100%) of the outstanding common stock of Wawasee Water and Sewer Co., Inc., an Indiana corporation, hereinafter referred to as "Corporation";

WHEREAS, it is desirable, necessary, and in the best interests of the parties hereto, the customers served by Optionor, and all other persons within the geographical boundaries of Optionee, that certain of the physical assets owned and operated by Optionor be acquired by Optionee for the purpose of including said assets, as they now exist or as hereafter modified, within the sanitary sewer system to be installed by Optionee, said acquisition to become necessary only upon the successful completion of Project to the funding stage by Optionee;

WHEREAS, the acquisition of said assets can best be accomplished by the acquisition by Optionee from Optionor of one hundred percent (100%) of the common stock of Corporation;

WHEREAS, Optionor, having been fully advised of its rights relating to the procedure for completion of said acquisition, desires to grant to Optionee the exclusive right and option to acquire all of the outstanding common stock of Corporation;

WHEREAS, the parties acknowledge that the fair market value of and/or just compensation for said assets owned by Corporation as determined by the laws, rules and regulations governing Project is

between Four Hundred Seven Thousand Dollars (\$407,000.00) and Six Hundred Fifty Thousand Dollars (\$650,000.00), based upon two (2) appraisals obtained by Optionee, and that the value of the stock of Corporation is undetermined, but that Optionor and Optionee agree that the consideration to be paid for the acquisition of fifty (50%) percent of said stock, notwithstanding said appraisals, is Two Hundred Ninety-Five Thousand Dollars (\$295,000.00); and Optionor agrees to contribute the balance of the stock (50%) to Optionee.

WHEREAS, the parties agree that in the event said option is exercised by Optionee, the consideration for said assets shall be the payment of Optionee to Optionor of said sum of Two Hundred Ninety-Five Thousand Dollars (\$295,000.00) and that the remaining value of said common stock shall be transferred by donation, without additional consideration given by Optionee to Optionor, and to the extent necessary to allow said donation Optionor shall release Optionee from the provisions of 40 CFR, Part 4, Indiana Code, Title 32, and all other laws, rules and regulations effecting this acquisition.

IT IS, THEREFORE, agreed, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration and in addition the mutual terms, covenants and agreements contained herein, as follows:

1. Optionor hereby grants to Optionee the exclusive right and option to acquire from Optionor during the term of this Option all of the outstanding common stock of Corporation.
2. Unless exercised prior thereto, this Option shall expire on the 31st day of December, 1989, at noon Indiana time.
3. Optionee may conditionally exercise this Option by giving written notice to Optionor of a date within ninety (90) days of said notice upon which Optionee will sell and receive the proceeds of bonds in the process of completion of Project and may unconditionally exercise this Option by the payment of the consideration provided for herein on the date of sale of said bonds, said consideration to be paid from the proceeds of sale of said bonds and such other sources then available to Optionee.
4. That if said Option is exercised, the consideration to be paid by Optionee to Optionor shall be the sum of Two Hundred Ninety-

Five Thousand Dollars (\$295,000.00) and acceptance of a donation of the stock with a value of Two Hundred Ninety-Five Thousand Dollars. Any portion of the fair market value of or the just compensation for said common stock, as same may be determined by the Indiana Department of Environmental Management or the United States Environmental Protection Agency as part of Project, which exceeds Two Hundred Ninety-Five Thousand Dollars (\$295,000.00) shall be transferred by Optionor to Optionee by donation. Optionor hereby expressly acknowledges that it has been fully advised and is fully aware of the laws, rules and regulations, regulating the procedure to be followed by Optionee in acquisition of real and personal property, including common stock, as a part of Project and defining the rights and obligations of Optionor and Optionee in the process of such acquisition, and Optionor hereby expressly waives the releases Optionee from any obligation it may have pursuant to said laws, rules and regulations aforementioned to offer or pay what may be determined in the absence of such waiver and release to be the fair market value of or the just compensation to be paid for the common stock hereinabove described to the extent that said determination exceeds the sum of Two Hundred Ninety-Five Thousand Dollars (\$295,000.00).

5. Upon the conditional exercise of this Option by Optionee, Optionor will furnish, at Optionee's expense, a policy of owner's title insurance for Five Hundred Ninety Thousand Dollars (\$590,000.00), the full fair market value of all real estate and real property interests owned by the Corporation, said owner's policy of title insurance to insure a marketable fee simple interest in said real property and real property interests. Optionor shall also provide such evidence of ownership by Corporation of all non-real property used by Corporation in the operation of its sanitary sewer collection and disposal system and water supply and distribution system. Optionee shall pay all expenses of the transfer of said assets and normal closing expenses. However, Optionor shall be responsible for payment of any expenses necessary to correct any defect in title to the property to be transferred

6. Optionor agrees to attend the closing of the sale of bonds to be issued by Optionee as above described at the location designated by Optionee. At the time of unconditional exercise of this

Option by Optionee, and upon payment of the said sum of Two Hundred Ninety-five Thousand Dollars (\$295,000.00) by Optionee, Optionor shall transfer all outstanding common stock of Corporation. The transfer of said common stock shall carry with it a marketable fee simple title to all real property and real property interests, and valid title in all non-real assets being transferred, free of all liens and encumbrances except restrictions of record. Optionor or Corporation shall also provide, at Optionee's expense, standard closing affidavits containing averments of valid title as to all assets owned by Corporation whether real or-non real.

7. That possession of said common stock shall be transferred to Optionee upon the date of transfer of title to said assets.

8. This agreement shall bind and inure to the benefit of the legal successors in interests of the parties and shall be enforceable with reasonable attorney fees and costs of enforcement and without relief from valuation and appraisal laws.

9. Upon the conditional exercise of the option herein granted, Optionee shall have full access to the books of Corporation. At the time of exercise of this option, Optionor shall have caused all of the liabilities of Corporation to have been paid or otherwise transferred so as to not be a liability of Corporation on the date of closing. It is expressly agreed that acquisition of said stock shall carry with it no liabilities of Corporation arising prior to the date of closing. Optionor hereby expressly agrees to indemnify and hold Optionee and Corporation harmless from all liabilities based upon facts, or acts or omissions occurring prior to date of closing.

10. The undersigned persons executing this instrument individually or on behalf of a party hereto represent and certify individually and on behalf of the party they represent that each of the undersigned is individually authorized or is a duly elected officer of the party for which they are signing and have been fully empowered by proper resolution or By-law to execute and deliver this instrument, and that each party has full corporate or individual

legal capacity to execute this instrument, and that all necessary corporate or legal action for the making of this instrument and carrying out its terms has been duly taken.

OPTIONOR:

(M. D. Umbaugh
(M. D. UMBAUGH
(William Salin
(WILLIAM SALIN

OPTIONEE:

(TURKEY CREEK REGIONAL SEWER DISTRICT
(By: Robert Jones
(ROBERT JONES, President
(Attest: V. Logan Love
(V. LOGAN LOVE, Secretary

STATE OF INDIANA)
COUNTY OF KOSCIUSKO) SS:

Before me, Notary Public in and for said County and State, personally appeared M. D. Umbaugh and William Salin, who acknowledged the execution of the foregoing Option For Acquisition of Common Stock, and who, having been first duly sworn, stated that the representations contained therein are true.

WITNESS my hand and Notarial Seal this 4th day of September, 1987.

My commission expires:

Patrick J. Flanagan
(Printed Name)
Resident of Elkhart County,
Indiana
Notary Public
Commission Expires 3-22-90
Resident of Elkhart County

STATE OF INDIANA)
COUNTY OF KOSCIUSKO) SS:

Before me, Notary Public in and for said County and State, personally appeared Robert Jones and V. Logan Love, the President and Secretary respectively of Turkey Creek Regional Sewer District, who acknowledged the execution of the foregoing Option For Acquisition of Assets for and on behalf of said Optionee, and who, having been first duly sworn, stated that the representations contained therein are true.

WITNESS my hand and Notarial Seal this 4th day of September, 1987.

My commission expires:

3-11-88

Richard A. Green
Resident of Kosciusko County,
Indiana
Notary Public
(Printed Name)

This instrument prepared by: Richard A. Green, Attorney at Law
116 E. Main St., Syracuse, Ind. 46567



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
NANCY A. MALOLEY, Commissioner

OCT 29 1987

105 South Meridian Street
P.O. Box 6015
Indianapolis 46206-6015
Telephone 317-232-8603

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

IN THE MATTER OF:)
TURKEY CREEK REGIONAL SEWER) CAUSE NO. B-436
DISTRICT)

NOTICE OF DECISION ON THE PETITION OF TURKEY CREEK
REGIONAL SEWER DISTRICT TO ADD TO ITS ORIGINAL PURPOSE

TO: Mr. Richard A. Green
Attorney at Law
116 East Main Street
Syracuse, Indiana 46567
No. P 395 650 896

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FINDINGS OF FACT

1. Turkey Creek Regional Sewer District was originally created by Order of the Indiana Stream Pollution Control Board on October 18, 1977, in Cause No. B-436, with the following purpose stated in the Order:

* * *

"2. That the purpose to be accomplished by said district is to provide for the collection and disposal of sewage."

* * *

2. On or about August 24, 1987, Turkey Creek Regional Sewer District, by counsel and after authorization by its board, filed a petition requesting an order to add to its original purpose to enable it to own and operate facilities with which to provide a water supply for domestic, industrial and public use to users inside and outside the District.
3. The basis for the petition is that Turkey Creek Regional Sewer District is in the initial stages of purchasing the facility known as Wawasee Sewer and Water Company, Inc., and that: (a) it would not be economically feasible to separate the sewage collection and treatment portion from the water supply portion of this facility; (b) such a separation would impose a hardship on the customers served by both portions of this facility; (c) it would be more cost effective for Turkey Creek Regional Sewer District to purchase both portions of the Wawasee Sewer and Water Company, Inc.; and (d) it was the original intent of Turkey Creek Regional Sewer District to purchase both portions of the facility owned by Wawasee Sewer and Water Company, Inc.
4. Under IC 13-3-2-2: "Any area may be organized as a regional water, sewage, or solid waste district under this chapter for one (1) or more of the following purposes: (1) To provide a water supply for domestic, industrial, and public use to users inside and outside the district..."

CONCLUSIONS OF LAW

1. The Commissioner is legal successor to the former Indiana Stream Pollution Control Board in this matter which may be considered a continuation of proceedings previously initiated under Cause No. B-436.
2. The Commissioner has jurisdiction under IC 13-3-2-9 to issue a decision on the petition filed herein by Turkey Creek Regional Sewer District to modify and add to its original purpose.
3. The purpose which Turkey Creek Regional Sewer District seeks to have added is authorized by IC 13-3-2-2(1), and Turkey Creek Regional Sewer District has established a sufficient factual basis in its petition for modifying its original purpose.

ORDER

IT IS THEREFORE ORDERED that the purpose for which Turkey Creek Regional Sewer District was originally created is hereby modified to read as follows, with this ORDER becoming effective fifteen (15) days after it is served:

That the purposes to be accomplished by Turkey Creek Regional Sewer District are to provide for the collection, treatment, and disposal of sewage inside and outside the district and to provide a water supply for domestic, industrial, and public use to users inside and outside the district, by owning and operating facilities and performing all acts necessary and incident to the cited purposes which are not otherwise prohibited by law.

Dated at Indianapolis, Indiana, this 27th day of October, 1987.

Nancy A. Maloley
Nancy A. Maloley, Commissioner
Indiana Department of Environmental
Management
105 South Meridian Street
Indianapolis, Indiana 46225