LUCKETT, BURGHER & BURGHER
ATTORNEYS AND COUNSELORS AT LAW
104 INDIANA AVENUE
P.O. BOX 105
ENGLISH, INDIANA 47118

OFFICE OF WATER MANAGEMENT
IDEM
Oct 26 5 10 PM '98

JOHN H. LUCKETT (1867-1952)
KENNETH J. LUCKETT (1910-1982)
MARCUS M. BURGHER III
MARCUS M. BURGHER IV

TELEPHONE
812-338-2700
FACSIMILE
812-338-2700

October 20, 1998

IDEM
c/o Lynne Newlon
100 North Senate Avenue
P. O. Box 6015
Indianapolis, IN. 46206-6015

RE: Petition to Establish a Regional Water District
pursuant to I. C. 13-26-2

Dear Mr. Hamilton:

Pursuant to I. C. 13-26-2-1, please find enclosed my letter of authority and a Petition for the Establishment of the Blue River Regional Water District as signed by:

(1) Harrison County Commissioners
(2) Harrison County Council
(3) Milltown Town Council
(4) Crawford County Commissioners
(5) Crawford County Council
(6) Marengo Town Council.

Please appoint a hearing officer and proceed to act upon this Petition as required by law.

Yours very truly,

Marcus M. Burgher
Attorney for Milltown Town Council and Marengo Town Council

MMB:rmp
cc: Milltown Town Council
Marengo Town Council
Vincent S. Sommers

Petition for the Establishment

of the

Blue River Regional Water District

September, 1998

STATE OF INDIANA)
COUNTY OF CRAWFORD) SS:
COUNTY OF HARRISON)

IN RE: PETITION FOR THE ESTABLISHMENT OF A REGIONAL WATER DISTRICT FOR THE TOWN OF MILLTOWN; THE TOWN OF MARENGO; CERTAIN UNINCORPORATED AREAS IN WHISKEY RUN TOWNSHIP, CRAWFORD COUNTY; CERTAIN UNINCORPORATED AREAS IN LIBERTY TOWNSHIP, CRAWFORD COUNTY; CERTAIN UNINCORPORATED AREAS IN BLUE RIVER TOWNSHIP, HARRISON COUNTY; AND CERTAIN UNINCORPORATED AREAS IN SPENCER TOWNSHIP, HARRISON COUNTY PURSUANT TO IC 13-26.

The Town Council of Milltown, the Town Council of Marengo, the Crawford County Commissioners, the Crawford County Council, the Harrison County Commissioners, and the Harrison County Council hereby petition the Commissioner of the Indiana Department of Environmental Management of the State of Indiana pursuant to IC 13-26 for the establishment of a Regional Water District as follows:

1. The proposed name of such District would be: Blue River Regional Water District.

2. The principal office for the District is the Marengo Town Hall, 117 East Water Street, Marengo, Indiana 47140-0206.

3. The water supply needs of the residents and businesses now residing or located within the proposed District are currently being met with municipal water supplies, cisterns or individual wells.

4. Throughout the proposed District are numerous residents with failing wells and water supplies of questionable quality and quantity. The Town of Marengo has declared an emergency in its municipal water utility due to supply conditions. The Town of Milltown's municipal water utility has need for additional water supply for its existing customers and for treatment improvements. This action will be conducive to public health, safety and welfare of the citizens of Milltown, Marengo and areas within the proposed district boundaries. See "Exhibit A" for supporting documentation.

5. Upon formation of the District, it is proposed to construct water supply, treatment, pumping, transmission, storage and distribution systems for the municipal and rural water supply needs of the residents and businesses in the proposed District.

6. The District is needed for the construction of the required water system improvements. See initial project for the Blue River Regional Water District.

7. During the development of the District's boundary, each of the following local water entities were consulted to define jurisdictional boundaries:

- Ramsey Water Company / Mr. David Popp
- Crawford County Water Company / Mr. James Schultz
- Patoka Lake Regional Water District / Mr. Bruce Heeke
- Posey Township Water Corporation / Mr. Donald Nice

8. The proposed Regional Water District encompasses the Town of Milltown, the Town of Marengo, much of Whiskey Run Township and part of Liberty Township in Crawford County, and parts of Blue River Township and Spencer Township in Harrison County. An accurate description of the proposed District is provided on the attached "Exhibit B".

9. The Petitioners recommend that the proposed District's Board of Trustees be comprised of five (5) persons selected by appointment by the Harrison County Commissioners and the Crawford County Commissioners for staggered four (4) year terms. The constitution of Board Members should be represented by two (2) appointments residing in Milltown and two (2) residing in Marengo, and with one (1) residing in Crawford County outside Milltown and Marengo. See Exhibit C.

10. The initial Board of Trustees shall have the following terms:

_____ Member - Initial Term of Two (2) Years (Milltown in Harrison County to be appointed by the Harrison County Commissioners)

_____ Member - Initial Term of Two (2) Years (Marengo in Crawford County to be appointed by the Crawford County Commissioners)

_____ Member - Initial Term of Three (3) Years (At Large in Crawford County to be appointed by the Crawford County Commissioners)

_____ Member - Initial Term of Four (4) Years (Milltown in Crawford County to be appointed by the Crawford County Commissioners)

_____ Member - Initial Term of Four (4) Years (Marengo in Crawford County to be appointed by the Crawford County Commissioners)

11. There is no outstanding indebtedness currently proposed for the District. However, any indebtedness from the Milltown Water Utility and/or the Marengo Water Utility will be assumed by the District. All assets and liabilities will be conveyed to the District without compensation.

12. Until the proposed District is in receipt of bond and/or grant funds from the selected financing agencies, it will receive advance funding from any of the following sources: the State Budget Agency, the Town of Milltown, the Town of Marengo, Crawford County, Harrison County, or any combination of the aforementioned.

13. The Town of Milltown and the Town of Marengo have jointly prepared a "Master Planning Report for the Milltown Water Utility and the Marengo Water Utility", dated January, 1997 (Exhibit D). This report shall be the District Plan.

14. The estimated total project costs for the initial project are as follows:

Blue River Regional Water District
Initial Project

Work Item	Project	Table	Construction	Non-Construction	Total
New West Water Tank	Milltown Ph. III Improve-ments	70	$376,800	$130,500[1]	$507,300
New Water Tank & Transmission Main	Marengo Ph. III Improve-ments	80	$282,000	$103,000[1]	$385,000
Wellfield Development	Regional	83	$255,000	$89,000	$344,000
Treatment Plant	Regional	83	$500,000	$175,000	$675,000
West Service Level Projects					
Transmission System to West Service Level		71	$14,400	$5,000	$19,400
West Service Level Booster Station[2]		72	$37,000	$13,000	$50,000
West Service Level Water Storage Tank[2]		72	$105,000	$37,000	$142,000
Transmission Main		72	$84,500	$30,000	$114,500
Total Project Cost Estimates			$1,654,700	$582,500	$2,237,200

[1] Adjusted to eliminate DOC-required non-construction costs
[2] Based on no riverboat

15. The proposed Initial Project would be financed with USDA Rural Development funding. It should be noted that the District will attempt to secure other grant and low interest funding

from the Department of Commerce's Community Focus Fund Program, IDEM Drinking Water Revolving Fund, and the Build Indiana Fund as well.

16. User fees will be charged to the residents and businesses in order to repay the loan amount and operate and maintain the system. Based on a projected 1181 equivalent dwelling units, the estimated increase in the average monthly water bill is approximately $6.50 per month (assumes 35% grant and 4.5% interest rate over 40 years). The current water rate for Milltown and Marengo is $17.34 and $17.18 respectively for 4,300 gallons per month. The initial estimates of the annual costs for operation and maintenance are $188,000.

WHEREFORE, the Petitioners would request that the Department of Environmental Management determine this petition to be sufficient, and pursuant to IC 13-26, that said agency appoint a hearing officer, who shall then proceed to act upon this petition as required by law.

DATED THIS 10 day of October, 1998.

HARRISON COUNTY COMMISSIONERS

CRAWFORD COUNTY COMMISSIONERS

HARRISON COUNTY COUNCIL

CRAWFORD COUNTY COUNCIL

MILLTOWN TOWN COUNCIL

MARENGO TOWN COUNCIL

EXHIBIT "A" ➥

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We make Indiana a cleaner, healthier place to live

Frank O'Bannon
Governor

John M. Hamilton
Commissioner

100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
Telephone 317-232-8603
Environmental Helpline 1-800-451-6027

November 13, 1997

VIA FAX AT 812-365-2158

VIA CERTIFIED MAIL NO. P 451 350 280

Robert Pierson, President
Marengo Town Board
P.O. Box 206
Marengo, Indiana 47140

Dear Mr. Pierson:

Re: Noncompliance with
the Indiana Code and the
Indiana Administrative Code
Town of Marengo
PWSID 5213005

Warning of Noncompliance

You are hereby notified that this office has reviewed the compliance status of the Town of Marengo, Marengo Water Department. This review indicates that the Indiana Code (IC) and the Indiana Administrative Code (IAC) have been violated for the following:

1. IC 13-18-16-6 which states, in substance, all public water supplies shall be *continuously* operated and maintained so that water is safe in quality, clean and adequate in quantity, and chemically satisfactory for ordinary domestic consumption. Further, the person responsible for the operation of a public water supply shall *take all measures that are necessary to carry out these requirements so as to protect the quality and quantity of the raw water supply from actual or threatened contamination.* These measures include the relocation of the point of raw water collection to a site that is not contaminated or threatened by contamination.

In a letter dated July 6, 1990, the Indiana Department of Environmental Management (IDEM) authorized use of the Springtown well. The authorization was contingent, however, upon certain conditions being met. Among the conditions was the requirement to sample the raw water from the well on a weekly basis. The letter clearly stated that "failure to obtain satisfactory results shall be cause to discontinue use of the well." (A copy of the letter is being provided for your information).

Monitoring reports indicate that the raw water samples are periodically testing positive for total and fecal coliform bacteria. This is an indication the raw water is being influenced by some form of warm blooded animal waste by-products. The Town Board has been aware of the situation and has failed to take measures to protect the quality of the raw water supply from contamination.

In addition, in a letter dated July 7, 1997, you were notified by IDEM that the Springtown well source water is at a high risk for influence by surface water. The procedures outlined in the letter are not being followed. Specifically, temperature and pH measurements were not taken on the following dates: October 4, 5, 11, 12, 18, and 19, 1997. (A copy of the letter is being provided for your information).

Further, Marengo has failed to provide for the continuous operation of the water supply by not providing an alternate water source in case of an emergency.

2. 327 IAC 8-3-2 which states, in substance, that the commissioner may revoke any construction permit for noncompliance with the limitations and conditions specified in the permit, or if significant and unapproved changes are made in construction that differ from the plans and specifications on which the issuance of the permit was based.

The utility has violated the sanitary set back required by the well construction permit. A sanitary collection line is located within one hundred (100) feet of the well head.

In addition to the above noted violations, there are several items of concern to this office that must be addressed:

1. 327 IAC 8-10-10 states, in substance, that because cross connections may cause disease through transmission of contaminants via the public water supply, the commissioner shall order the supplier of water to remove the customer service meter or otherwise sever the public water supply connection to any customer which the commissioner finds or has reason to believe is in violation of any provision of this rule (327 IAC 8-10).

Based on the Town Board meeting minutes of September 8, 1997, you acknowledge that people (customers) have private wells and also have city water service. The Board made a motion that all wells be metered, but did not address the potential cross connection concerns. You are to determine whether any cross connections exist. If cross connections are present, you must eliminate them or install appropriate cross connection control devices.

2. Sample results for sulfates from October 6, 1994 and October 7, 1997, reveal that the secondary maximum contaminant level (SMCL) for sulfates of 250 mg/l has been exceeded.

Due to the nature of the contaminant, it is recommended that you issue a public notice to your customers informing them of these results and the possible effects of these levels of sulfates in the drinking water. The public notice must be a continuous posting until the levels are below the SMCL.

3. The sanitary survey performed on October 31, 1996, and subsequent letter dated November 20, 1996, noted several areas of concern, including the above issues, in addition to the following:

The surface coating on the 250,000 gallon storage tank is deteriorating rapidly.

The utility currently has many older inoperable hydrants and valves in existence.

The utility has two dead end mains in old town that are not equipped with flushing devices.

The utility does not have an emergency contingency plan in effect.

Your response received by facsimile transmission on May 9, 1997, states that the town is aware of the storage tank deterioration and is in the process of completing a preliminary engineering report. Your August 25, 1997 letter states that CT Services of Jeffersonville has been contacted to do a tank inspection. The work was to be completed no later than the second week of September 1997. This inspection report was to be used as a plan for corrective action. You are to provide this office with that plan, including specific dates for completion.

In addition, the Town Clerk/Treasurer, Ralph Sherron, was to provide a remedial action plan that was to have been submitted within forty-five (45) days of the date of the Town Board meeting with Larry Haag and Liz Melvin of this office. The meeting took place on August 18, 1997. To date, no plan has been received.

It is the belief of this office that the above noted violations and areas of concern are of a serious nature and deserve your immediate attention to return to compliance with the Indiana Code and the Indiana Administrative Code. It is therefore requested that you contact this office, within ten (10) days of the date of this correspondence, to arrange for a meeting to discuss these matters. Specifically, you should be prepared to discuss the reasons for the violations and areas of concern herein noted, along with any mitigating circumstances as to why further enforcement action should not be pursued by this office. In addition, you should be prepared to describe any corrective measures which will be taken to assure compliance in the future. Failure to respond to this notice can result in further enforcement action being initiated by this office.

If you have any questions concerning this notice, please contact Mr. Larry Haag of my staff at 317/308-3316.

Sincerely,

Liz Melvin, Chief
Field Inspection Section
Drinking Water Branch
Office of Water Management

cc: Crawford County Health Department

File 2

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We make Indiana a cleaner, healthier place to live

Frank O'Bannon
Governor

John M. Hamilton
Commissioner

100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
Telephone 317-232-8603
Environmental Helpline 1-800-451-6027

Certified Mail VIA:
P451 350 242

July 7, 1997

Mr. Robert Pierson, Board President and
Town Board Members
Marengo Water Dept
P.O. Box 206
Marengo, IN 47140

Dear Mr. Pierson and Board Members:

Re: Ground Water Under The Direct Influence of Surface Water Determination (GWUDI)
PWSID No. 5213005

On May 20, 1997, Mr. Larry Haag of this office conducted a site inspection of the Marengo public water supply system. The results of that inspection revealed the following areas of concern to this office.

A record review, completed by this office, determined that the Springtown well source water is at high risk for influence by surface water. This determination was based on available system reports generated from the most recent Sanitary Survey, and on-site inspection of the facility. The physical attributes of the well were also reviewed, including well depth, static water level and bacteriological raw water sample results. Given the fact that the Springtown well is determined to be a high risk source water, the potential of being contaminated by bacteria or chemical contaminants found or deposited at or near the surface of the ground exists. These contaminants can be drawn into the well from the surface in periods of high use, rainy conditions, or from nearby surface water sources.

All public water systems that utilize a ground water source under the direct influence of surface water (GWUDI) must provide conventional surface water treatment technologies in order to comply with 327 IAC 8-2-8.5. The Department of Environmental Management (IDEM) must assess all available technical data for the well in order to make a final determination of GWUDI.

According to 327 IAC 8-2-8.5 (c), all public water systems in the State of Indiana must undergo an assessment of each production source to determine whether the well is GWUDI. This assessment is to assist the Utility and IDEM in making the determination. Each assessment will evaluate the construction of each well, the geology of the area in which the well is located, the bacteriological content of the well water, and any temperature or turbidity fluctuation.

To complete the GWUDI assessment of the Springtown well, more conclusive information is required. An itemized listing of additional required analyses follows:

1. **The Utility must collect a *minimum* of twelve (12) months of temperature and pH data from the raw water supply and the nearby surface water source (Whiskey Run).**
2. **Collection of bacteriological data must also be monitored at the raw water source and the nearby surface water source during the next six (6) months.**
3. **Also record any significant rainfall event of one (1) inch or more during a (12) hour period. The methods to be used are as follows:**

Temperature: Ground water temperatures are relatively constant, while surface water temperatures vary. Changes in well temperature which follow surface conditions suggest GWUDI. The utility must measure both Surface Water and Ground Water temperature.

Temperature data must be the daily average, as determined by the mean of at least four (4) readings during the time of operation. Collection periods must be at least three (3) hours apart;

Equipment: As a minimum, the thermometer should have a scale marked for every 0.1 C, with markings etched on the capillary glass. The thermometer should have a minimal thermal capacity to permit rapid equilibration. A digital thermometer is recommended for consistency purposes.

Groundwater: Temperature measurements must be obtained under flowing conditions. If the well is off, it is necessary to allow the pump to purge the well casing to an equivalent of three well volumes.

Surface Water: For the purpose of this assessment, the adjacent surface water source temperature must be measured immediately prior to or after the groundwater temperature is collected. The measurement must be taken at mid-channel of the stream. Due to the fact that the data from the surface water source will be compared with data collected from the groundwater source, it is very important that the sample site procedures can be duplicated for each collection.

Purveyor Temperature: Collection Procedure

1. To be taken the same time of day each time;
2. Well temperature is to be taken after temperature stabilizes with pumping;
3. Surface water temperature should be taken midstream and at a depth of at least one (1) foot;

4. Use digital thermometer and record to nearest 0.1 C:
5. Must measure temperature at the wellhead: and
6. Must utilize a one gallon bucket for sampling. Allow temperature to stabilize by refilling bucket until there are a *minimum* of three (3) samples within 0.5 C.

Purveyor pH: Procedure

pH data must be obtained by sampling immediately following the third consistent temperature reading.

Equipment: A pH meter consisting of a potentiometric (electronic) electrode. The meter must be graduated in 0.01 pH units.

Purveyor Bacteriological: Procedure

The utility must collect two (2) sets of bacteriological samples per month from the raw water (prior to treatment) and the nearby surface water source to be analyzed for total and fecal coliform bacteria, as well as a complete heterotrophic plate count. Whenever possible, but no less than once during the twelve (12) month period, samples must be collected following a significant rainfall event of one (1) inch or more during a twelve (12) hour period. Samples must be analyzed by a laboratory certified by the Indiana State Department of Health.

The results of the six (6) months of temperature and pH analysis must be sent in one (1) report to IDEM within thirty (30) days following the end of the test period. The analysis of the twelve (12) months of bacteriological results must be submitted within thirty (30) days following the end of the test period. Upon review of the data, IDEM will determine whether the system still qualifies as a high risk system and must perform additional GWUDI analysis (Phase III).

In addition, the following deficiencies were found during the May 20, 1997, site visit:

1. Utility is currently in violation of the sanitary setback at the well site. A sanitary collection line is located within one hundred (100) feet of the well head. According to the well site approval, the public water supply agreed to maintain a two hundred (200) foot radius set back from any bacteriological contamination source. The raw water samples are periodically testing positive for *E. coli* and fecal coliform bacteria. This is an indication the raw water is being influenced by some form of warm blooded animal waste by-products. This violation must be corrected as soon as possible to protect the health of your customers. The utility must relocate the sanitary collection line at least two hundred (200) feet from the

MEMORANDUM OF AGREEMENT

TO FORM A

REGIONAL WATER DISTRICT

THIS AGREEMENT is made this 1 day of December, 1997, by and between the **Town of Milltown (Milltown)** and the **Town of Marengo (Marengo)**, each municipal corporations created and existing under the laws of the State of Indiana.

RECITALS

WHEREAS, both parties have municipal water utilities, and

WHEREAS, both parties require additional potable water supplies for future needs, and

WHEREAS, both parties have commissioned a "Master Planning Report for the Milltown Water Utility and the Marengo Water Utility" **(Report)** that described each utility's options for existing and future water utility requirements, and

WHEREAS, both parties desire to create a regional water district under the laws of the State of Indiana substantially as described in the Report from which additional potable water supplies may be obtained for future needs and through which regional growth can be supported.

AGREEMENT

NOW, THEREFORE, both parties agree and covenant to the following:

1. Milltown and Marengo will proceed immediately with the actions, both jointly and individually, as required for the creation of a regional water district. The regional water district's boundaries will be as generally described in the Report.

2. The regional water district's primary responsibilities will be to provide water supplies needed by Milltown and Marengo and to existing and future residents within the district's boundaries.

3. Milltown and Marengo by this Agreement individually authorize the execution, by each town, of professional services agreements with Commonwealth Engineers, Inc. for engineering services and with Sherman, Barber and Mullikin for accounting services related to the creation of the regional water district. The engineering and accounting costs for these services will be split evenly between Milltown and Marengo.

4. Milltown and Marengo authorize their town attorneys to complete the legal agreements and work related to the creation of the regional water district.

5. Milltown and Marengo agree the creation of the regional water district is in each town's best interest and to work diligently and jointly in developing the regional water district.

THIS AGREEMENT has been duly authorized and executed by the parties through official action of each Town Council.

Parties:

TOWN OF MILLTOWN

David Skinner
Town Council President

ATTEST:

Lula Mae VanWinkle
Milltown Clerk-Treasurer

TOWN OF MARENGO

John Pierson
Town Council President

ATTEST:

Ralph Sherron
Marengo Clerk-Treasurer

EXHIBIT "B"

Boundary Description
Blue River Regional Water District

The boundaries of the Blue River Regional Water District, located in Crawford County and Harrison County, Indiana, shall be described as follows:

Beginning at the the common cornerpoint between Crawford County, Orange County, and Washington County, the boundary shall run:

Thence generally East along the County Line between Crawford County and Washington County to the common cornerpoint between Crawford County, Harrison County and Washington County, also generally being the centerline of the Blue River;

Thence meandering generally South along the County Line between Crawford County and Harrison County, also generally being the centerline of the Blue River, to the point where the County Line intersects with the East boundary of Section 11, Township 2 South, Range 2 East, said point being approximately 800 feet north of the southeast corner of said section;

Thence South in Harrison County along the East boundary of Sections 11 and 14, Township 2 South, Range 2 East to the southeast corner of Section 14, Township 2 South, Range 2 East;

Thence West along the South boundary of Section 14, Township 2 South, Range 2 East to its intersection with the north right-of-way line of Frenchtown Road;

Thence generally Southeast along the north right-of-way line of Frenchtown Road to its intersection with the East boundary of Section 23, Township 2 South, Range 2 East;

Thence generally South along the East boundary of Section 23, Township 2 South, Range 2 East to the common corner of Sections 23, 24, 25 and 26, Township 2 South, Range 2 East;

Thence generally West along the South boundary of Sections 23 and 22, Township 2 South, Range 2 East to the easternmost intersection of the County Line between Crawford County and Harrison County, also being generally the centerline of the Blue River;

Thence meandering generally South along the County Line between Crawford County and Harrison County, also being generally the centerline of the Blue River and the East boundary of Section 10, Township 3 South, Range 2 East, to the southeast corner of the northeast quarter of Section 10, Township 3 South, Range 2 East;

Thence in a straight line generally Northwest in Crawford County to the southwest corner of the southeast quarter of Section 4, Township 3 South, Range 2 East;

Thence generally West along the South boundary of Sections 4 and 5, Township 3 South, Range 2 East to the southwest corner of the southeast quarter, Section 5, Township 3 South, Range 2 East;

Thence generally North along the West boundaries of the southeast quarter and the northeast quarter of Section 5, Township 3 South and the West boundaries of the southeast quarters and the northeast quarters of Sections 32, 29, and 20 and the West boundary of the southeast quarter of Section 17, Township 2 South, Range 2 East to the center point of Section 17, Township 2 South, Range 2 East;

Thence in a straight line generally Southwest to the southwest corner of the southeast quarter, Section 18, Township 2 South, Range 2 East;

Thence generally North along the West boundaries of the southeast quarter and the northeast quarter of Section 18, Township 2 South, Range 2 East to the northwest corner of the northeast quarter of said section;

Thence generally West along the northern boundary of Section 18, Township 2 South, Range 2 East to the northwest corner of said section;

Thence generally North along the West boundary of Section 7, Township 2 South, Range 2 East to the corporate boundary of the civil Town of Marengo;

Thence generally West along the southern corporate boundary and north along the the western corporate boundary of the civil Town of Marengo to the southern right-of-way boundary of State Road 64;

Thence generally Southwest along the southern right-of-way line of State Road 64 to the East boundary of Section 2, Township 2 South, Range 1 East;

Thence in a straight line generally North-Northwest to the northwest corner of the northeast quarter of the southeast quarter of Section 2, Township 2 South, Range 1 East;

Thence generally West along the North boundaries of the southeast quarters and the southwest quarters of Sections 2 and 3, Township 2 South, Range 1 East to the western boundary of Section 3, Township 2 South, Range 1 East;

Thence generally South along the East boundary of Section 4, Township 2 South, Range 1 East to the southeast corner of Section 4, Township 2 South, Range 1 East;

Thence generally West along the South boundary of Section 4, Township 2 South, Range 1 East to the southwest corner of Section 4, Township 2 South, Range 1 East;

Thence generally North along the West boundary of Section 4, Township 2 South, Range 1 East and the West boundary of Section 33, Township 1 South, Range 1 East to the County Line between Crawford County and Orange County; and

Thence generally East then generally North along the County Line between Crawford County and Orange County to the Point of Beginning.

EXHIBIT "C" ➥

REGIONAL SEWER AND/OR WATER DISTRICT AFFIDAVIT OF GOVERNMENTAL ENTITY NOTIFICATION

(for instructions on use of this affidavit, see back of page)

David Skinner, being first duly sworn upon oath, deposes and says:

1. I live in Crawford County, State of Indiana, and being of sound mind and over twenty-one (21) years of age, I am competent to give this affidavit.

2. I hold the position of Council President for Milltown (name of the eligible entity petitioning for establishment of district).

3. By virtue of my position with Blue River Regional Water District (petitioning entity), I am authorized to make the representation contained in this affidavit on behalf of the petitioning eligible entity.

4. As required by Ind. Code § 13-26-2-1, the petitioning eligible entity will or has filed a copy of its petition with the executive of each governmental entity having territory in the district not later than ten (10) days after filing its petition with the Indiana Department of Environmental Management.

Further Affiant Saith Not.

I affirm under the penalty for perjury that the representations contained in this affidavit are true, to the best of my information and belief.

9-14-98
date

David Skinner
signature of affiant

David Skinner
printed name

STATE OF Indiana)
)
COUNTY OF Crawford)

Before me a notary Public in and for said County and State, personally appeared David Skinner, and being first duly sworn by me upon oath, says that the fact stated in the foregoing statements are true. Signed and sealed this 14 day of Sept, 19 98.

Signature: Lula Mae VanWinkle My commission expires: 12-31-99

Printed: Lula Mae VanWinkle Residence of: Harrison County

1/98

Use of Regional Sewer and/or Water District Affidavit of Governmental Entity Notification:

Indiana Code § 13-26-2-1 requires an eligible entity petitioning to form a regional sewer or water district to file its formation petition in the office of the executive of each governmental entity having territory within the proposed district, not later than 10 days after filing the petition with IDEM. This means the petition must be filed with the executive of every county, city, town, township, conservancy district, or other municipal corporation that has territory in the proposed district. "Municipal corporation" is defined in IC § 36-1-2-10 as "unit, school corporation, library district, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, or other separate local governmental entity that may sue and be sued."

For instance, county commissioners petitioning to form a district in an area of their county must file the petition with the executive of each township in which the proposed territory is located, as well as the executive of each city, town, conservancy district, or other municipal corporation, if any, with territory in the proposed district. Likewise, a town council petitioning to form a district in their town must file the petition with the executive of the township and county in which the town is located.

"Executive" is defined at IC § 13-11-2-74 as:

(1) board of commissioners of a county not having a consolidated city;
(2) mayor of the consolidated city, for a county having a consolidated city;
(3) mayor of a city; or
(4) president of the town council of a town.

This signed affidavit provides IDEM with evidence that you have complied with IC § 13-26-2-1. It should be signed by the petitioning eligible entity or its representative, and notarized.

If 10 days have passed since the petition was filed with IDEM and the petitioning eligible entity did not file the petition with the appropriate governmental entities, the petitioning eligible entity may withdraw its petition from IDEM, refile it, and notify the governmental entities in accordance with IC § 13-26-2-1.

REGIONAL SEWER AND/OR WATER DISTRICT AFFIDAVIT OF GOVERNMENTAL ENTITY NOTIFICATION

(for instructions on use of this affidavit, see back of page)

John Pierson, being first duly sworn upon oath, deposes and says:

1. I live in Crawford County, State of Indiana, and being of sound mind and over twenty-one (21) years of age, I am competent to give this affidavit.

2. I hold the position of Council President for Marengo (name of the eligible entity petitioning for establishment of district).

3. By virtue of my position with Blue River Regional Water District (petitioning entity), I am authorized to make the representation contained in this affidavit on behalf of the petitioning eligible entity.

4. As required by Ind. Code § 13-26-2-1, the petitioning eligible entity will or has filed a copy of its petition with the executive of each governmental entity having territory in the district not later than ten (10) days after filing its petition with the Indiana Department of Environmental Management.

Further Affiant Saith Not.

I affirm under the penalty for perjury that the representations contained in this affidavit are true, to the best of my information and belief.

9-15-98
date

John Pierson
signature of affiant

JOHN PIERSON
printed name

STATE OF Indiana)
)
COUNTY OF Crawford)

Before me a notary Public in and for said County and State, personally appeared John Pierson, and being first duly sworn by me upon oath, says that the fact stated in the foregoing statements are true. Signed and sealed this 15th day of September, 19 98.

Signature: Debra L Mathes
Printed: Debra L. MATHES

My commission expires: 12-31-98
Residence of: Crawford County

1/98

Use of Regional Sewer and/or Water District Affidavit of Governmental Entity Notification:

Indiana Code § 13-26-2-1 requires an eligible entity petitioning to form a regional sewer or water district to file its formation petition in the office of the executive of each governmental entity having territory within the proposed district, not later than 10 days after filing the petition with IDEM. This means the petition must be filed with the executive of every county, city, town, township, conservancy district, or other municipal corporation that has territory in the proposed district. "Municipal corporation" is defined in IC § 36-1-2-10 as "unit, school corporation, library district, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, or other separate local governmental entity that may sue and be sued."

For instance, county commissioners petitioning to form a district in an area of their county must file the petition with the executive of each township in which the proposed territory is located, as well as the executive of each city, town, conservancy district, or other municipal corporation, if any, with territory in the proposed district. Likewise, a town council petitioning to form a district in their town must file the petition with the executive of the township and county in which the town is located.

"Executive" is defined at IC § 13-11-2-74 as:

(1) board of commissioners of a county not having a consolidated city;
(2) mayor of the consolidated city, for a county having a consolidated city;
(3) mayor of a city; or
(4) president of the town council of a town.

This signed affidavit provides IDEM with evidence that you have complied with IC § 13-26-2-1. It should be signed by the petitioning eligible entity or its representative, and notarized .

If 10 days have passed since the petition was filed with IDEM and the petitioning eligible entity did not file the petition with the appropriate governmental entities, the petitioning eligible entity may withdraw its petition from IDEM, refile it, and notify the governmental entities in accordance with IC § 13-26-2-1.

As required by Indiana Code 13-26-2-1, the petitioning eligible entity will file a copy of its petition with the following governmental entities in Crawford and Harrison counties no later than ten (10) days after filing its petition with the Indiana Department of Environmental Management.

Crawford County Library
203 Indiana Avenue
English, IN 47118

Corydon Public Library
117 West Beaver
Corydon, IN 47112

Marengo Elementary
117 South 2nd Street
P.O. Box 338
Marengo, IN 47140

Milltown Elementary
516 Speed Road
P.O. Box 175 D
Milltown, IN 47145

Mr. Ronald Spencer
Whiskey Run Trustee
P.O. Box 141
Milltown, IN 47145

Mr. Wayne Bullington
Liberty Township Trustee
White Oak Hill
Marengo, IN 47140

Mr. Larry Shickles
Blue River Trustee
1155 Kennedy Mitt Road
Depauw, IN 47115

Mr. Donald Satterfield
Spencer Township Trustee
Box 5
Depauw, IN 47115

Mr. Denny Cox
Blue River Commission
2104 Lake Street
New Albany, IN 47150

Town of Marengo
P.O. Box 206
Marengo, IN 47140-0206

Town of Milltown
P.O. Box 127
Milltown, IN 47145-0127

EXHIBIT "D" ➥

Master Planning Report

For The

Milltown Water Utility

And The

Marengo Water Utility

Town of Milltown
and
Town of Marengo

January, 1997

Please Note: Available for review at the Town of Marengo or Milltown

COMMONWEALTH
ENGINEERS, INC.

Lynn Newlin - (317) 233-0476

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

Frank O'Bannon
Governor

John M. Hamilton
Commissioner

100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
Telephone 317-232-8603
Environmental Helpline 1-800-451-6027

REGIONAL WATER AND/OR SEWER DISTRICT STATUTORY CHECKLIST

This is a checklist of statutory requirements to reference when petitioning to form a regional water and/or sewer district. Because district petitions must comply with all applicable statutory requirements in IC 13-26, eligible entities should consult the actual statutory requirements prior to submitting a petition. To the extent that this checklist conflicts with IC 13-26, the statute shall control.

Has the petition been filed with the executive office of each governmental entity having territory within the proposed district no later than 10 days of filing with IDEM, as required by IC 13-26-2-1? (Affidavit affirming compliance with this requirement must be submitted to IDEM. Affidavits available from IDEM.)

Is the document a petition filed by a representative of one (1) or more eligible entities involved, as required by IC 13-26-2-2(a)? (Note the definition of "eligible entity" in IC 13-11-2-62.)

Has the plan been authorized by the fiscal body of the petitioning eligible entity/entities included in the plan, as required by IC 13-26-2-2(a)? (Note the definition of "fiscal body" in IC 13-11-2-86.)

Does the petition state the proposed name of the district, as required by IC 13-26-2-3(1)?

Does the petition state the location of the proposed district's principal office, as required by IC 13-26-2-3(2)? (A mailing address is necessary for processing the petition. This may be a temporary address for use until the district is formed.)

Does the petition specify the need for the proposed district, as required by IC 13-26-2-3(3)(A)?

Does the petition specify the purpose to be accomplished (see IC 13-26-1-1), as required by IC 13-26-2-3(3)(B)?

Does the petition establish how the proposed district will be conducive to the public health, safety, convenience, or welfare, as required by IC 13-26-2-3(3)(C)?

Does the petition specify how water supply, sewage collection, sewage treatment,

RWSD STATUTORY CHECKLIST, CONT'D.

sewage disposal (as applicable) are currently provided, as required by IC 13-26-2-3(3)(C)?

Does the petition state whether there is any outstanding indebtedness for the purpose proposed, as required by IC 13-26-2-3(3)(D)?

Does the petition state how the current situation creates or adds to pollution or health hazards or impedes development in the area, as required by IC 13-26-2-3(3)(D)?

Does the petition accurately describe the territory to be included in the district, and is the territory so situated that the public health, safety, convenience, or welfare will be promoted by organization as a single district, as required by IC 13-26-2-3(4)?

Does the petition state recommendations on:

the manner of selection;
the number; and
the term (not to exceed four (4) years) of the members of the board of trustees, as required by IC 13-26-2-3(5)?

NOTE: This information must conform to the trustee requirements in IC 13-26-4.

Does the petition state the plan for financing the cost of the operations of the district until it receives revenue from operation or proceeds from bond sales, as required by IC 13-26-2-3(6)?

Does the petition state an estimate of the costs of accomplishing the purpose of the district, as required by IC 13-26-2-3(7)(A)?

Does the petition state an estimate of the costs of operating and maintaining the works, as required by IC 13-26-2-3(7)(B)?

Does the petition state the sources of funding of the costs of accomplishing the purpose of the district and operating and maintaining the works, as required by IC 13-26-2-3(7)(C)?

Does the petition state an estimate of the rates and charges that will be required, as required by IC 13-26-2-3(7)(D)?

If any eligible entities with territory in the district have a public water or solid waste sewer system, please provide a written plan regarding the district's proposed method of protecting the investments of the eligible entities to assist the IDEM in complying with IC 13-26-2-10(b)(3).

(revised 1-27-98)

PETITION DATA SHEET

Information required by IDEM to assess petition (this information must be included with the petition):

- Adequate maps and description of proposed district boundaries delineating exempted CTA's or nonparticipating entities. i.e., towns, cities, RSD's, CD's, sanitary districts and private utilities.
- Affected parties list with mailing addresses; with names listed alphabetically.
- Copy of any agreements between the District and any other entities regarding the collection and treatment of sewage.
- A list of all legal entities and CTAs (holders of Certificate of Territorial Authority) affected.

Petitioner must demonstrate the need for the formation for an RSD. The information below is designated as required (and must accompany the petition) or is considered helpful for the determination of need:

- Total number of residents in proposed district (required).
- Total number of homes with failed septic systems and factors causing the failures/or no treatment (required).
- Current situation: must include current method of sanitary disposal and current method of water supply (required).
- Fecal coliform bacteria sample analyses' data.
- Soil type evaluation, including loading rates.
- County health department pollution or public health complaint logs.
- Photographs.
- Letter from the county health officer stating the needs and benefits of District.

Petitioner must show that the project is feasible. The information below is required/helpful to show feasibility. This information should be included in the Feasibility Study:

- Chosen treatment and collection system with total estimated project costs (required).
- Number of residents receiving service (required).
- Estimated monthly user fee per customer (required).
- Estimated connection fee per customer (required).
- Method(s) of financing project.

- Collection systems evaluated and estimated costs for each.
- Treatment systems evaluated and estimated costs for each.

Other Requirements (this information must be included with or in the petition):

- Petition must be filed with largest library in or near the proposed RSD for at least 30 days prior to hearing.
- The fact that the petition is on file must be advertised in largest local paper.
- Petitioner must hold at least one public meeting, which must have been public noticed.
- Proof of the above must come with petition.
- Petition must include the number, and length of terms of board members.
- Petition must include proposed name of the RSD.
- Petition must include addresses of RSD's principal office
- The authority of the petitioners (who make the petition) must be stated, such as County Commissioner, Township Trustee, etc.
- The purpose of the RSD must be stated
- The method of financing the formation, planning, construction, etc., until the RSD is receiving revenue from its operations.

TITLE 13. ENVIRONMENT
IC 13-26. REGIONAL WATER, SEWAGE, AND SOLID WASTE DISTRICTS

IC 13-26-1. PURPOSES OF REGIONAL DISTRICTS

IC 13-26-1-1 --------- Purposes of regional districts: purposes listed

Any area may be established as a regional water, sewage, or solid waste district under this article 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.

(2) To provide for the collection, treatment, and disposal of sewage inside and outside the district.

(3) To provide for the collection, treatment, and disposal of solid waste and refuse inside and outside the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-1-2 --------- Purposes of regional districts: petition to alter purposes or plan

(a) At any time after the creation of a district, the district, after motion by the district's board, may file a petition with the department requesting the approval of the department permitting the district to:

(1) increase or add to the district's purposes or modify the district plan approved by the department; or

(2) abandon or surrender all or part of a purpose or plan approved by the department.

(b) The department may:

(1) approve;

(2) modify and approve; or

(3) reject;

a request received under this section.

[As added by: P.L.1-1996, §16.]

IC 13-26-2. ESTABLISHMENT OF REGIONAL DISTRICTS

IC 13-26-2-1 --------- Establishment of regional districts: filing of petition

The establishment of a regional district may be initiated only by a petition filed with the department. A copy of the petition shall also be filed not later than ten (10) days after the filing with the department in the office of the executive of each governmental entity having territory within the proposed district.

[As amended by: P.L.133-1997, §1.]

IC 13-26-2-2 --------- Establishment of regional districts: who may file

(a) The petition may be filed by any representative of one (1) or more eligible entities involved after being authorized by the fiscal body of the petitioning eligible entity or entities included in the plan of the proposed district.

(b) If the proposed district includes:

(1) a state park or recreational area, forest land, or a reservoir; or

(2) land owned, leased, or controlled by the department of natural resources;

the petition may be joined or filed by any representative of that department after having been authorized by the natural resources commission, with the approval of the executive of

the county containing the territory of the district.
[As amended by: P.L.133-1997. §2.]

IC 13-26-2-3 --------- Establishment of regional districts: requirements of petition

A petition to establish a district under this chapter must state the following:

(1) The proposed name of the district.

(2) The place in which the district's principal office is to be located.

(3) The following information:

(A) The need for the proposed district.

(B) The purpose to be accomplished.

(C) How the district will be conducive to the public health, safety, convenience, or welfare, including a specific statement of how:

(i) water supply, for a water district;

(ii) sewage collection, disposal, and treatment, for a sewage district; or

(iii) solid waste disposal, recovery, or treatment, for a solid waste district;

is currently being provided.

(D) Whether there is any outstanding indebtedness for the purpose proposed in the proposed district, including a statement as to how the current situation creates or adds to pollution or health hazards or impedes development in the area.

(4) An accurate description of the territory to be included in the district, which does not have to be given by metes and bounds or by legal subdivisions. The territory does not have to be contiguous, but the territory must be so situated that the public health, safety, convenience, or welfare will be promoted by the establishment as a single district of the territory described.

(5) The petitioner's recommendations on:

(A) the manner of selection;

(B) the number; and

(C) the term, not exceeding four (4) years;

of the members of the board of trustees.

(6) The plan for financing the cost of the operations of the district until the district is in receipt of revenue from the district's operations or proceeds from the sale of bonds.

(7) Estimates of the following:

(A) The costs of accomplishing the purpose of the district.

(B) The costs of operating and maintaining the works.

(C) The sources of the funding of these costs.

(D) The rates and charges that will be required.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-4 --------- Establishment of regional districts: IDEM to determine whether the petition complies

Upon the filing of a petition to establish a district under this chapter, the department shall determine whether the petition complies with the requirements of this chapter as to form and content. The department:

(1) may not declare a petition void because of alleged defects; and

(2) may, in subsequent proceedings at any time, permit the petition to be amended in form or substance.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-5 --------- Establishment of regional districts: appointment of hearing officer

Upon the determination of the department that a sufficient petition has been filed in accordance with this chapter, the commissioner shall appoint a hearing officer, who does not have to be a state employee. If the hearing officer is not a full-time state employee, the hearing officer is entitled to be paid reasonable:

(1) expenses; and

(2) per diem;

for each day or part of a day in actual attendance at a meeting or hearing or in performance of duties. The reasonable per diem and expenses are valid claims against the department.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-6 --------- Establishment of regional districts: notice of hearing

(a) Except as provided in section 9 of this chapter, the hearing officer shall fix a time and place inside or within ten (10) miles of the proposed district for the hearing on the petition for the establishment of the proposed district.

(b) The hearing officer shall have notice of the hearing given as follows:

(1) By publication one (1) time each week for two (2) consecutive weeks in a newspaper of general circulation in each of the counties, in whole or in part, in the district.

(2) By certified mail, mailed at least two (2) weeks before the hearing to the following:

(A) Each eligible entity involved.

(B) The executive of each entity.

(C) The department of natural resources if the department of natural resources is involved.

(D) Each sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 respecting territory in the proposed district.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-7 --------- Establishment of regional districts: standing to file objection and testify on petition

A person or an eligible entity that resides or lies in or partially resides or lies in an area affected by the establishment of a district:

(1) may, on or before the date set for the cause to be heard, file a written objection to the granting of the requests made in the petition; and

(2) may be heard at the hearing.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-8 --------- Establishment of regional districts: hearing officer findings and recommendations

(a) After the hearing on the petition for the establishment of the proposed district, which may be adjourned periodically, the hearing officer shall make findings on the petition and other relevant facts and recommendations as to whether:

(1) the petition should be:

(A) approved;

(B) approved with modifications; or

(C) denied; and

(2) a district should be established.

(b) If the recommendation is in the affirmative, the recommendation must also include recommendations on:

(1) the manner of the selection or appointment;

(2) the number; and

(3) the terms;

of the board.

(c) The description of the territory to be included in a district may not include territory in a municipality that has, by ordinance or resolution filed with the department, exercised the option not to be included in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-9 --------- Establishment of regional districts: IDNR petition; waiver of notice

(a) If the department of natural resources has filed a petition, the commissioner may waive the requirement for notice and hearing provided in section 6 of this chapter.

(b) If the commissioner waives the notice and hearing requirement, the hearing officer shall give written notice by certified mail under section 6 of this chapter. Each recipient of notice has thirty (30) days from the mailing of the notice within which to file objections or material with the hearing officer.

(c) The hearing officer shall then proceed to make findings and recommendations as provided in section 8 of this chapter, based upon any material:

(1) received by the hearing officer; or

(2) obtained at the hearing officer's discretion through the hearing officer's own investigation.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-10 -------- Establishment of regional districts: commissioner's determination and order

(a) If the commissioner determines that the findings show that the establishment of a recommended district:

(1) complies with the conditions of this chapter for establishment of a district; and

(2) appears capable of accomplishing the purpose or purposes in an economically feasible manner;

the commissioner shall issue an order directing that the district be established as an independent municipal corporation with a name and for the purposes designated in the order.

(b) An order must do the following:

(1) Provide for the selection or appointment and terms of offices, not to exceed four (4) years, of the board.

(2) Provide requirements for sufficient bond for all officers, trustees, or employees having power to dispense money of the district.

(3) If an eligible entity with territory in the district has a public water or solid waste sewer system, contain provisions protecting the investments of the entities and protecting the rights of the holders of bonds or other obligations issued to provide money for the system.

(4) Direct the district to file a detailed plan for the initial project of the district not later than nine (9) months after the date of the preliminary order or within a further time that the department from time to time orders.

[As added by: P.L.1-1996, §16.]

IC 13-26-2-11 -------- Establishment of regional districts: review of order

An order for the establishment of a district is subject to review as provided in IC 4-21.5-5.

[As added by: P.L.1-1996, §16.]

IC 13-26-3. DISTRICTS ESTABLISHED UNDER PRIOR LAW

IC 13-26-3-1 --------- Districts established under prior law: chapter applicable to certain court ordered district

(a) A district established in accordance with IC 19-3-1 (before its repeal) by an order of the court before February 17, 1972, as a special district for any purpose provided in:

(1) IC 13-3-2 (before its repeal); or

(2) this article;

is considered to be a district under this article.

(b) Orders of the court and acts of the board of directors are valid if permitted by this article. The district shall function as a district the same as if the district were established under this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-4. BOARD OF TRUSTEES OF REGIONAL DISTRICTS

IC 13-26-4-1 --------- Board of trustees of regional districts: membership

The board of trustees of a district is the governing body of the district. A board may consist of:

(1) three (3);

(2) five (5);

(3) seven (7); or

(4) nine (9);

trustees.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-2 --------- Board of trustees of regional districts: election of board

An order establishing a district may provide for the board to be elected by the voters in the district from districts or wards or from the district at large. Elections and provisions for filling vacancies must be in accordance with IC 3, with the commissioner or the commissioner's designees performing the functions of the election officials.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-3 --------- Board of trustees of regional districts: appointment of board

Instead of electing the board, an order establishing a district may provide for appointments to the board by the elected executive or legislative officers of the eligible entities having territory in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-4 --------- Board of trustees of regional districts: provision that governor may appoint trustees

If:

(1) a district will include territory in more than one (1) county;

(2) a county executive has filed a petition for a district including territory owned, leased, or controlled by the department of natural resources; or

(3) the department of natural resources has filed a petition;

the order establishing the district may provide that the governor appoints any number of trustees, but less than one-half (1/2) of the total.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-5 --------- Board of trustees of regional districts: municipal appointees

If a plan also contemplates that sewage treatment for the district will be provided in cooperation with a municipality, the order must provide that:

(1) at least one (1) trustee shall be appointed by the executive of the municipality; and

(2) at least:

(A) one (1) trustee shall be appointed by the fiscal body; and

(B) one (1) trustee shall be appointed by the executive;

of the county having the largest amount of territory in the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-6 -------- Board of trustees of regional districts: residence of trustee

An appointed trustee does not have to be a resident of the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-4-7 --------- Board of trustees of regional districts: per diem and travel

(a) The board of a district may provide for the payment of not more than fifty dollars ($50) per day to members of the board for each day or major part of a day devoted to the work of the district.

(b) Members of the board are entitled to receive an amount for travel expenses equal to the amount paid to state employees for expenses incurred in the performance of their duties.

(c) Payments made to board members under subsections (a) and (b) shall be made from the general fund of the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-5. POWERS AND DUTIES OF REGIONAL DISTRICTS

IC 13-26-5-1 --------- Powers and duties of regional districts: authority

Upon:

(1) the declaration of the commissioner organizing a district;

(2) the qualification of the board; and

(3) the election of a president, a treasurer, and a secretary;

the district may exercise in the district's own name, as a municipal corporation, all the rights, powers, and duties conferred upon the district by this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-2 --------- Powers and duties of regional districts: powers

A district may do the following:

(1) Sue or be sued.

(2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.

(3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.

(4) Adopt, amend, and repeal the following:

(A) Bylaws for the administration of the district's affairs.

(B) Rules and regulations for the following:

(i) The control of the administration and operation of the district's service and facilities.

(ii) The exercise of all of the district's rights of ownership.

(5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.

(6) Assume in whole or in part any liability or obligation of:

(A) a person;

(B) a nonprofit water, sewage, or solid waste project system; or

(C) an eligible entity;

including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.

(7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste services by the facilities for the purpose of providing for the following:

(A) The payment of the expenses of the district.

(B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.

(C) The payment of principal or interest on the district's obligations.

(D) To fulfill the terms of agreements made with:

(i) the purchasers or holders of any obligations; or

(ii) a person or an eligible entity.

(8) Require connection to the district's sewer system of property producing sewage or similar waste and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:

(A) there is an available sanitary sewer within three hundred (300) feet of the property line; and

(B) the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice.

(9) Provide by ordinance for reasonable penalties for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.

(10) Refuse the services of the district's facilities if the rates or other charges are not paid by the user.

(11) Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

(12) Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.

(13) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:

(A) the location or protection of works;

(B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or

(C) obtaining or storing material to be used in constructing and maintaining the works.

(14) Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:

(A) is possessed of all rights, franchises, and authority of the constituent districts; and

(B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.

(15) Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.

(16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:

(A) The distribution or purification of water.

(B) The collection or treatment of sanitary sewage.

(C) The collection, disposal, or recovery of solid waste.

(17) Make provision for, contract for, or sell the district's byproducts or waste.

(18) Exercise the power of eminent domain.

(19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

(A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and

(B) the cost is determined by the board to be less than that of purchase or condemnation;

the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.

(20) Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.

(21) Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

(22) Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:

(A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or

(B) pay adequate compensation for the property.

(23) Dispose of, by public or private sale or lease, real or personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-3 --------- Powers and duties of regional districts: rules, resolutions and ordinances

(a) The board may by rules and resolutions provide the following:

(1) The procedure for the board's actions.

(2) The manner of selection of the board's president, treasurer, and secretary and other officers or employees of the district, including the titles, terms of office, compensation, duties, number, and qualifications.

(3) Any other lawful subject necessary to the operation of the district and the exercise of the power granted.

(b) The board must adopt an ordinance by a majority vote to take action of a legislative nature. Proposed ordinances may be read by title only unless a trustee requests a reading in full.

(c) A majority of the board or the officers of the board or employees of the district that are authorized by the board may take action of an administrative or executive nature.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-4 --------- Powers and duties of regional districts: authorized rulemaking

(a) The board may adopt and enforce rules for the following purposes:

(1) To accomplish the purpose of a district.

(2) To protect the works, improvements, and properties, both real and personal, that the district owns.

(3) To secure the best results from the construction, operation, and maintenance of works, improvements, and properties.

(4) To prevent damage by the misuse of the works, improvements, or properties by:

(A) the pollution or misuse of the waters in the district or of the sewerage system; or

(B) the improper disposal of solid waste.

(b) The board may adopt and enforce rules under subsection (a) that are necessary and advisable to do the following:

(1) Protect and preserve the works, improvements, and properties owned or controlled by the district, prescribe the manner of use by any person, and preserve order in and adjacent to the works.

(2) Prescribe the manner:

(A) in which ditches, sewers, pipelines, or other works should be adjusted to or connected with the works of the district; and

(B) of waste disposal in the district.

(3) Prescribe the permissible uses of the water supply and the manner of distribution and prevent the pollution or unnecessary waste of the water supply.

(4) Prohibit or regulate the discharge into the sewers of the district of liquid or solid waste detrimental to the works and improvements.

(c) Rules must be:

(1) consistent with:

(A) statutes; and

(B) the rules of the solid waste management board or the water pollution control board; and

(2) maintained and open to inspection in the office of the district.

(d) The board may enforce by injunction or other legal remedy rules adopted under this section. The board may remove a harmful or improper construction or obstruction or may close an opening or connection made improperly or in violation of the rules. A person that

willfully fails to comply with the rules is liable for damage caused by the failure and for the cost of restoring or replacing construction damaged.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-5 --------- Powers and duties of regional districts: contracting [Effective until 7/1/98]

The board or an officer or employee designated by the board may contract for the following:

(1) The purchase of supplies or material in accordance with IC 36-1-9.

(2) Labor for a work in accordance with IC 36-1-12.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-5 --------- Powers and duties of regional districts: contracting [Effective 7/1/98]

The board or an officer or employee designated by the board may contract for the following:

(1) The purchase of supplies in accordance with IC 5-22.

(2) Labor for a work in accordance with IC 36-1-12.

[As amended by: P.L.49-1997, §48.]

IC 13-26-5-6 --------- Powers and duties of regional districts: power of condemnation

(a) Subject to subsection (b), the board may condemn for the use of the district public or private land, easements, rights, rights-of-way, franchises, or other property within or outside the district required by the district for the accomplishment of the district's purposes according to the statutory procedure for the appropriation of land or other property taken by an eligible entity.

(b) The power of condemnation by a district under this article may not be exercised against a sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 until the expiration of twelve (12) years after the granting of the certificate of territorial authority.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-7 --------- Powers and duties of regional districts: contracts to supply water or treat district sewage and solid waste

(a) Exclusive of building a sewage treatment plant, solid waste disposal or recovery system, or installing a supply of water, a district that desires to own, acquire, construct, equip, improve, enlarge, extend, operate, and maintain a works may proceed under this article if the district first contracts for:

(1) a supply of water;

(2) the required treatment of the sewage emanating from the district's works; or

(3) the disposition of solid waste generated within the district.

(b) A governmental or private body owning and operating facilities for water supply, sewage, or solid waste disposal, recovery, or treatment may contract to supply water or treat all or part of the sewage and solid waste of a district. The contracts:

(1) must be authorized by ordinance; and

(2) are subject to approval by the department.

(c) All bonds issued under this article or IC 13-3-2 (before its repeal) by a district contracting for:

(1) water supply;

(2) sewage or solid waste disposal; or

(3) recovery treatment service;

under this section are payable before the expiration date of the contract and districts may

contract for the term of the bonds, including a term or terms beyond the last maturity of the bonds.

[As added by: P.L.1-1996, §16.]

IC 13-26-5-8 --------- Powers and duties of regional districts: payment of obligations

A district may make contracts or incur obligations only if the contracts or obligations are payable solely from:

(1) the money provided under this article; or

(2) federal, state, or other grants or contributions.

[As added by: P.L.1-1996, §16.]

IC 13-26-6. DISTRICT PLAN

IC 13-26-6-1 --------- District plan: plan contents

A district plan for the operation of the district must include:

(1) engineering reports;

(2) plans and specifications; and

(3) a feasibility study in a form that the department requires.

[As added by: P.L.1-1996, §16.]

IC 13-26-6-2 --------- District plan: IDEM approval and authorization

If the department approves a district plan, the department shall authorize the district to proceed.

[As added by: P.L.1-1996, §16.]

IC 13-26-6-3 --------- District plan: IDEM disapproval

If the department disapproves a district plan, the department may recommend revisions and authorize the district to proceed with a revised plan.

[As added by: P.L.1-1996, §16.]

IC 13-26-6-4 --------- District plan: dissolution of district

If:

(1) the department determines that the project or operation of the district is not economically feasible, fair, or reasonable; or

(2) the district fails to file a plan for the operation of the district within the time prescribed by the department;

the department may declare the district dissolved and enter an order for the distribution of all assets owned by the district after the payment of liabilities.

[As added by: P.L.1-1996, §16.]

IC 13-26-7. PAYMENT OF DISTRICT EXPENSES

IC 13-26-7-1 ---------- Payment of district expenses: financial records

Each district must keep proper records showing the district's finances.

[As added by: P.L.1-1996, §16.]

IC 13-26-7-2 --------- Payment of district expenses: advance funding

A local, state, or federal agency or person may advance or give a district money to be used by the district for the following purposes:

(1) The preparation of a plan for the operation of the district.

(2) Other purposes of the district until the district is in receipt of revenue from its

operations or proceeds from the sale of bonds.

[As added by: P.L.1-1996. §16.]

IC 13-26-7-3 --------- Payment of district expenses: repayment of advance from revenues

When a district receives revenue for its operations or proceeds from the sale of bonds, the district shall repay any money advanced to the advancing agency in the manner agreed.

[As added by: P.L.1-1996. §16.]

IC 13-26-7-4 --------- Payment of district expenses: interest of entity in assets of dissolved district

If the commissioner orders a district dissolved as permitted in IC 13-26-6-4, the interest an entity has in the assets of the district is limited to those assets remaining after the payment of all other liabilities of the district.

[As added by: P.L.1-1996. §16.]

IC 13-26-8. ADDITION OF TERRITORY TO REGIONAL DISTRICTS

IC 13-26-8-1 --------- Addition of territory to regional districts: filing by eligible entity

After the establishment of a district, an eligible entity whose territory is not wholly included within the district may file an application with the district setting forth the following:

(1) A general description of the territory the eligible entity desires to have included in the district.

(2) The necessity for the inclusion of the territory in the district.

(3) That inclusion of the territory in the district will be conducive to the public health, safety, convenience, or welfare.

(4) That it will be practical and feasible for the territory to be included in the district.

[As added by: P.L.1-1996. §16.]

IC 13-26-8-2 --------- Addition of territory to regional districts: inclusion by board approval

If an application is approved by a majority of the board, the territory described in the application becomes part of the district. The district shall then notify the department of the inclusion of the additional territory in the district.

[As added by: P.L.1-1996. §16.]

IC 13-26-8-3 --------- Addition of territory to regional districts: failure of board approval; petition to IDEM

(a) If an application fails to receive the approval of a majority of the board not later than sixty (60) days after the filing of the application with the district, the entity filing the application may file a petition with the department as described in IC 13-26-2 requesting the order of the department to include the territory described in the application within the district.

(b) Upon the filing of a petition, the department shall proceed in the same manner that is set forth in IC 13-26-2, IC 13-26-4, IC 13-26-6, and IC 13-26-7.

[As added by: P.L.1-1996. §16.]

IC 13-26-9. TERRITORIAL AUTHORITY OF SEWAGE DISPOSAL COMPANIES

IC 13-26-9-1 --------- Territorial authority of sewage disposal companies: activities not affected

This article does not limit the following:

(1) The formation and operation under IC 8-1-2-89 of a sewage disposal company to provide sewage disposal service to a territory lying in the territory of a district.

(2) The granting of a certificate of territorial authority under IC 8-1-2-89 encompassing a part of the territory within the district.

[As added by: P.L.1-1996. §16.]

IC 13-26-9-2 --------- Territorial authority of sewage disposal companies: conditions

The granting of a certificate of territorial authority to a sewage disposal company under IC 8-1-2-89 for a territory lying in the territory of a district may be conditioned upon the following requirements:

(1) That the sewage disposal company connect the company's collection system to the collection system of a district when the district has extended to within three hundred (300) feet of the territorial area of the sewage disposal company a system sufficient to provide reasonable and adequate service to the territorial area.

(2) That the sewage disposal company contribute the company's collection system to the district instead of all connection charges that could otherwise be imposed under this article upon:

(A) the sewage disposal company; or

(B) those parcels and lots served by the collection system of the sewage disposal company that have been contributed by the company to the district.

[As added by: P.L.1-1996. §16.]

IC 13-26-9-3 --------- Territorial authority of sewage disposal companies: certain companies exempt

A sewage disposal company that is subject to the jurisdiction of the Indiana utility regulatory commission under IC 8-1-2-89, and all of the territory lying in the area to which the company holds a certificate of territorial authority, is exempt from all ordinances and rules adopted by the board, except those ordinances and rules pertaining to maintenance and operation, until:

(1) the connection is made to the sewerage system of the district; and

(2) the district begins to provide service within the area covered by the certificate of territorial authority.

[As added by: P.L.1-1996. §16.]

IC 13-26-10. BONDS

IC 13-26-10-1 -------- Bonds: revenue bonds authorized

A district may obtain money for the payment of the costs of the works or an improvement, enlargement, or extension of the works by the issuance of revenue bonds of the district. The principal and interest of the revenue bonds must be paid solely from the net revenues of the works.

[As added by: P.L.1-1996. §16.]

IC 13-26-10-2 -------- Bonds: obligations issued to federal government

A district obtaining a loan from the federal government or an agency of the federal go

ernment may issue obligations under this article to the federal government or agency to evidence the indebtedness without advertising for or receiving bids. The obligations:

(1) are payable solely from the net revenues of the works; and

(2) may be made of equal priority or subordinate to other revenue bonds issued or to be issued under this article or IC 13-3-2 (before its repeal).

[As added by: P.L.1-1996. §16.]

IC 13-26-10-3 -------- Bonds: form of revenue bonds

Revenue bonds may:

(1) bear interest, at a rate or rates not exceeding the maximum determined by the board, that is payable annually or at shorter intervals;

(2) mature at a time or times to be determined by ordinance; and

(3) be made redeemable before maturity at the option of the district, to be exercised by the board, at not more than the par value and a premium not exceeding five percent (5%) under terms and conditions that are fixed by the ordinance authorizing the issuance of the bonds.

[As added by: P.L.1-1996. §16.]

IC 13-26-10-4 -------- Bonds: principal and interest

The principal and interest of revenue bonds may be made payable in any lawful medium. The ordinance must do the following:

(1) Determine the form of the bonds, including the interest coupons, if any, to be attached.

(2) Fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which may be any bank or trust company within or outside Indiana.

[As added by: P.L.1-1996. §16.]

IC 13-26-10-5 -------- Bonds: conditions

(a) The revenue bonds must contain a statement on the face of the bonds that the district is not obligated to pay the bonds or the interest on the bonds except from the special fund provided from the net revenues of the works.

(b) All bonds are negotiable instruments.

(c) The bonds and interest are exempt from all state, county, and municipal taxation.

(d) The bonds may be registered in the name of the owner:

(1) as to principal alone; or

(2) as to both principal and interest.

Fully registered bonds may be made convertible to coupon bonds at the option of the registered owner.

[As added by: P.L.1-1996. §16.]

IC 13-26-10-6 -------- Bonds: execution

The:

(1) president of the board shall execute; and

(2) secretary of the board shall attest;

the bonds and coupons. The coupons must bear facsimile signature.

[As added by: P.L.1-1996. §16.]

IC 13-26-10-7 -------- Bonds: sale of bonds

(a) Subject to subsection (b), the treasurer of the district shall sell the revenue bonds in a manner and at a price that is determined to be in the best interests of the district.

(b) If the bonds are sold at public sale, the bonds shall be sold in accordance with IC 5-1-11 as IC 5-1-11 applies to counties.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-8 -------- Bonds: surplus or deficit in revenue

(a) A surplus of revenue bond proceeds over the cost of the works shall be paid into the sinking fund provided by this article.

(b) If the proceeds of the bonds, by error of calculation or otherwise, are less than the cost of the works, additional bonds may in the same manner be issued to provide the amount of the deficit. Unless otherwise provided in:

(1) the ordinance authorizing the issuance of the bonds first issued; or

(2) the trust indenture authorized by this article or IC 13-3-2 (before its repeal);

the additional bonds are considered to be of the same issue and are entitled to payment from the same fund, without preference or priority of the bonds first issued.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-9 -------- Bonds: temporary revenue bonds

Before the preparation of the definite revenue bonds, temporary revenue bonds under the same restrictions may be issued with or without coupons, exchangeable for definite revenue bonds upon the issuance of the latter.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-10 ------ Bonds: fund to finance construction

The fund to finance the construction of any of the self-liquidating works authorized by this article may be obtained from a federal or state agency.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-11 ------ Bonds: action to contest validity

An action to contest the validity of bonds issued under this article or IC 13-3-2 (before its repeal) must be brought not later than ten (10) days after the advertised sale date of the bonds.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-12 ------ Bonds: additional bonds

Subject to an ordinance or trust indenture pertaining to outstanding bonds, additional bonds payable from the revenues of the works may be authorized and issued in accordance with this article for the purpose of improving, enlarging, or extending works acquired or constructed under this article or IC 13-3-2 (before its repeal).

[As added by: P.L.1-1996, §16.]

IC 13-26-10-13 ------ Bonds: trust indenture

The board may secure the revenue bonds by a trust indenture by and between the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside Indiana. However, a trust indenture may not convey or mortgage all or any part of the works.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-14 ------ Bonds: provisions of trust indenture

The ordinance authorizing the revenue bonds and fixing the details of the revenue bonds may provide that the trust indenture contain reasonable and lawful provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the district and the board in relation to the following:

(1) The construction or acquisition of the works.

(2) The improvement, operation, repair, and maintenance of the works.

(3) The issuance of bonds, including the custody, safeguarding, and application of all money.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-15 ------ Bonds: security given by contractor

The ordinance may also provide that the works shall be contracted for, constructed, and paid for under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, successors, assigns, or nominees. The original bond purchasers, successors, assigns, or nominees may be given the right to require that the security given by:

(1) contractors; and

(2) any depository of the proceeds of bonds or revenues of the works or other money pertaining to the works;

be satisfactory to the purchasers, successors, assigns, or nominees.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-16 ------ Bonds: rights and remedies of the bondholders

The trust indenture may set forth the rights and remedies of the bondholders or trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-17 ------ Bonds: provisions for payment bond proceeds and revenues

Unless this article otherwise provides, the board may provide by ordinance or in the trust indenture for the payment of:

(1) the proceeds of the sale of the bonds; and

(2) the revenues of the works;

to the officer, board, or depository that the board determines for the custody of the money and for the method of disbursement, with safeguards and restrictions that the board determines.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-18 ------ Bonds: sinking fund

(a) At or before the time of issuance of the revenue bonds, the board shall by ordinance create a sinking fund for the payment of the following:

(1) The bonds.

(2) The interest on the bonds.

(3) The charges of banks or trust companies for making payment of the bonds or interest.

(b) The board shall set aside and pledge the net revenues of the works remaining after the payment of the reasonable expense of operation, repair, and maintenance of the works for payment of the:

(1) principal of and interest on all bonds payable from the revenues of the works, to the extent necessary for that purpose; and

(2) necessary fiscal agency charges for paying the principal and interest of the bonds.

(c) The ordinance may also provide for the accumulation of reasonable reserves in the sinking fund:

(1) as a margin for safety and a protection against default; and

(2) for the payment of premiums upon bonds retired by call or purchase as provided by this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-10-19 ------ Bonds: protection and enforcement of rights by civil acti

(a) The holder of revenue bonds or attached coupons and the trustee, if any, except to t extent the rights given may be restricted by the ordinance authorizing issuance of the bon or by the trust indenture, may, by civil action, protect and enforce rights granted:

(1) by this article or IC 13-3-2 (before its repeal); or

(2) under the ordinance or trust indenture:

to be performed by the district issuing the bonds or by the board or any officer, including t making and collecting of reasonable and sufficient charges and rates for services provid by the works.

(b) If there is failure to pay the principal or interest on any of the revenue bonds on t date named for payment, and upon application by a bondholder or a trustee, any co having jurisdiction to appoint receivers shall appoint a receiver to administer the works behalf of the district and the bondholders or trustee. A receiver may do the following:

(1) Charge and collect rates sufficient to provide for the payment of the expenses operation, repair, and maintenance.

(2) Pay any revenue bonds and interest outstanding.

(3) Apply the revenues in conformity with this article and the ordinance or trust ind ture.

[As added by: P.L.1-1996. §16.]

IC 13-26-11. RATES AND CHARGES

IC 13-26-11-1 -------- Rates and charges: basis for waterworks

The rates and charges for a waterworks may be determined based on the following:

(1) A flat charge for each connection.

(2) The amount of water consumed.

(3) The size of the meter or connection.

(4) Whether the property served has been or will be required to pay separately for cost of any of the facilities of the works.

(5) A combination of these or other factors that the board determines is necessar establish just and equitable rates and charges.

[As added by: P.L.1-1996. §16.]

IC 13-26-11-2 -------- Rates and charges: basis for sewage works

The rates or charges for a sewage works may be determined based on the following

(1) A flat charge for each connection.

(2) The amount of water used on the premises.

(3) The number and size of water outlets on the premises.

(4) The amount, strength, or character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) Whether the property served has been or will be required to pay separately fc cost of any of the facilities of the works.

(7) A combination of these or other factors that the board determines is necessa establish just and equitable rates or charges.

[As added by: P.L.1-1996. §16.]

IC 13-26-11-3 -------- Rates and charges: basis for solid waste disposal and re ery systems

The rates or charges for solid waste disposal and recovery systems may be deterr based on the following:

(1) A flat charge for each residence or building in use in the district.

(2) On the weight of the refuse received.

(3) On the hazardous character of the waste received.

(4) On a combination of the weight and hazardous character of the waste received.

[As added by: P.L.1-1996. §16.]

IC 13-26-11-4 -------- Rates and charges: discretion in

The rates and charges for services of a water, sewer, or solid waste disposal or recovery system do not have to be uniform throughout the district or for all users. The board may exercise reasonable discretion in:

(1) adopting different schedules of rates and charges; or

(2) making classifications in schedules of rates and charges:

(A) based upon variations in the costs of furnishing the services, including capital expenditures required, to various classes of users or to various locations in the district; or

(B) where there are variations in the number of users in various locations in the district.

[As added by: P.L.1-1996. §16.]

IC 13-26-11-5 -------- Rates and charges: billing and collection

A district may bill and collect rates and charges for the services to be provided after the contract for construction of a sewage works has been let and actual work commenced in an amount sufficient to meet the interest on the revenue bonds and other expenses payable before the completion of the works.

[As added by: P.L.1-1996. §16.]

IC 13-26-11-6 -------- Rates and charges: property benefiting from sewage works

Unless the board finds and directs otherwise, the sewage works are considered to benefit every:

(1) lot;

(2) parcel of land; or

(3) building;

connected or to be connected under the terms of an ordinance requiring connections with the sewer system of the district as a result of construction work under the contract. The rates or charges shall be billed and collected accordingly.

[As added by: P.L.1-1996. §16.]

IC 13-26-11-7 -------- Rates and charges: charge for connections

(a) If a district constructs sewers or water mains as a part of the construction of the works that are suitable for use as a local or lateral sewer or main by abutting or adjoining property, the district may charge for the connection on the basis of the pro rata cost of construction of a local or lateral sewer or water main sufficient to serve the property.

(b) Each property owner must agree to pay for the connection in making an application for service. If payment is not made as agreed, the payment constitutes a lien on the property for which the connection is made.

(c) The proceeds of the connection charges may be handled as:

(1) net revenues of the works; or

(2) payments toward the cost of construction or future improvements.

[As added by: P.L.1-1996. §16.]

IC 13-26-11-8 -------- Rates and charges: charges for the use of and the service provided by a works

(a) The board shall, by ordinance, establish just and equitable rates or charges for the use of and the service provided by a works. The rates or charges are payable by the owner of each lot, parcel of land, or building that:

(1) is connected with and uses a works; or

(2) in any way uses or is served by a works.

(b) The board may periodically change and readjust the rates or charges as provided in this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-9 -------- Rates and charges: just and equitable rates and charges

(a) Just and equitable rates and charges are those that produce sufficient revenue to:

(1) pay all expenses incident to the operation of the works, including maintenance cost, operating charges, upkeep, repairs, and interest charges on bonds or other obligations;

(2) provide the sinking fund for the liquidation of bonds or other evidence of indebtedness and reserves against default in the payment of interest and principal of bonds; and

(3) provide adequate money to be used as working capital, as well as money for making improvements, additions, extensions, and replacements.

(b) Rates and charges too low to meet the financial requirements described in subsection (a) are unlawful. The initial rates and charges established after notice and hearing under this article are prima facie just and equitable.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-10 ------ Rates and charges: revenue of the works

Revenue collected under sections 8 through 14 of this chapter is revenue of the works.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-11 ------ Rates and charges: initial rates or charges

The initial rates or charges may be established only after a public hearing at which all:

(1) the users of the works and owners of property served or to be served; and

(2) others interested;

have an opportunity to be heard concerning the proposed rates or charges.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-12 ------ Rates and charges: notice of hearing on

After introduction of the ordinance initially fixing rates or charges but before the ordinance is finally adopted, notice of the hearing setting forth the proposed schedule of the rates or charges must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in each of the counties with territory in the district. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-13 ------ Rates and charges: ordinance establishing

(a) The ordinance establishing the initial rates or charges, either as:

(1) originally introduced; or

(2) modified and amended;

shall be passed and put into effect after the hearing.

(b) A copy of the schedule of the rates and charges established must be:

(1) kept on file in the office of the district: and

(2) open to public inspection.

[As added by: P.L.1-1996, §16.]

IC 13-26-11-14 ------ Rates and charges: extending to cover additional premises

(a) The rates or charges established for a class of users of property served shall be extended to cover any additional premises served after the rates or charges are established that are in the same class, without the necessity of hearing or notice.

(b) A change or readjustment of the rates or charges may be made in the same manner as the rates or charges were originally established.

[As added by: P.L.1-1996, §16.]

IC 13-26-12. LIENS FOR RATES OR CHARGES

IC 13-26-12-1 -------- Liens for rates or charges: rates are liens

The rates made, assessed, or established under this article against:

(1) a lot;

(2) a parcel of land: or

(3) a building;

that is connected with and uses the works of the district are a lien against the lot, parcel of land, or building.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-2 -------- Liens for rates or charges: attachment; precedence

Except as provided in sections 5 and 6 of this chapter, a lien attaches at the time of the recording of the list in the county recorder's office as provided in IC 13-26-13. The lien:

(1) is superior to and takes precedence over all other liens except the lien for taxes: and

(2) shall be enforced under this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-3 -------- Liens for rates or charges: delinquency; penalty; attorney fees

If rates or charges are not paid within the time fixed by the board, the rates or charges become delinquent and a penalty of ten percent (10%) of the amount of the rates or charges attaches to the rates or charges. The board may recover:

(1) the amount due:

(2) the penalty; and

(3) a reasonable attorney's fee;

in a civil action in the name of the district.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-4 -------- Liens for rates or charges: collection

The rates or charges, together with the penalty, are collectible in the manner provided by this article.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-5 -------- Liens for rates or charges: enforcement against subsequent owner

(a) A rate or charge is not enforceable as a lien against a subsequent owner of property unless the lien for the rate or charge was recorded with the county recorder before the conveyance to the subsequent owner.

(b) If the property is conveyed before the lien can be filed, the officer of the district who is charged with the collection of the rate or charge shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received not later than one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-6 ------- Liens for rates or charges: notification of owner

(a) This section applies whenever the owner of the property has notified the general office of the district by certified mail with return receipt requested of the address to which the owner's notice is to be sent.

(b) A lien does not attach against a lot, parcel of land, or building occupied by someone other than the owner unless the officer of the district who is charged with the collection of rates or charges notifies the owner of the property after the rates or charges have become sixty (60) days delinquent.

[As added by: P.L.1-1996, §16.]

IC 13-26-12-7 -------- Liens for rates or charges: release of lien

(a) The district shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller:

upon receipt of a verified demand in writing from the purchaser.

(b) The demand must state the following:

(1) That the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner.

(2) That the purchaser has not been paid by the seller for the delinquent fees.

[As added by: P.L.1-1996, §16.]

IC 13-26-13. ENFORCEMENT OF DELINQUENCIES

IC 13-26-13-1 -------- Enforcement of delinquencies: fees or penalties due and unpaid for at least 90 days

This chapter applies only to fees or penalties that have been due and unpaid for at least ninety (90) days.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-2 -------- Enforcement of delinquencies: enforcement of payments; preparation of list

The officer of the district who is charged with the collection of the rates or charges shall enforce payment of the rates or charges. The officer shall, not more than two (2) times in a year, prepare a list of the delinquent rates or charges, including the amount of the penalty, that are enforceable under this chapter. The list must include the following:

(1) The name of each owner of each lot or parcel of real property on which the rates or charges have become delinquent.

(2) The description of the premises as shown by the records of the office of the county auditor.

(3) The amount of the rates or charges, together with the amount of the penalty.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-3 ------- Enforcement of delinquencies: recording of list

(a) The officer shall record a copy of the list in the office of the county recorder.

(b) The county recorder shall charge a fee for recording the list in accordance with the fee schedule established in IC 36-2-7-10.

(c) After recording the list, the officer shall mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.

(d) This subsection applies only to a county that does not contain a consolidated city. A service charge of five dollars ($5), which is in addition to the recording fee charged under this section and section 6 of this chapter, shall be added to each delinquent rate or charge that is recorded.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-4 ------- Enforcement of delinquencies: Marion county

(a) This section applies only to a county containing a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter, the officer shall certify to the county auditor a list of the liens that remain unpaid according to the following schedule:

(1) Liens recorded on or after August 1 of the preceding year and before February 1 of the current year shall be certified before March 1 of each year for collection in May of the same year.

(2) Liens recorded on or after February 1 of the current year and before August 1 of the current year shall be certified before September 1 of each year for collection in November of the same year.

(c) The county and the officers and employees of the county are not liable for any material error in the information on the list.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-5 ------- Enforcement of delinquencies: other counties

(a) This section only applies to a county that does not contain a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter:

(1) after April 1 of the preceding year; and

(2) before April 1 of the current year;

the officer shall before June 1 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next November.

(c) The county and the officers and employees of the county are not liable for any material error in the information on this list.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-6 ------- Enforcement of delinquencies: release of recorded lien

(a) The officer shall release a recorded lien when the:

(1) delinquent rates or charges;

(2) penalties;

(3) service charges; and

(4) recording fees;

have been fully paid.

(b) The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-7 Enforcement of delinquencies: certification fee and other charges

(a) This subsection applies to a county that does not contain a consolidated city. On receipt of the list under section 5 of this chapter, the county auditor shall add a fifteen dollar ($15) certification fee for each lot or parcel of real property on which rates or charges are delinquent. The certification fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the:

(1) delinquent rates or charges;

(2) penalties;

(3) service charges;

(4) recording fees; and

(5) certification fees;

that are due not later than the due date of the next November installment of property taxes.

(b) This subsection applies to a county having a consolidated city. On receipt of the list under section 4 of this chapter, the county auditor shall enter on the tax duplicate the:

(1) delinquent fees;

(2) penalties;

(3) service charges; and

(4) recording fees;

that are due not later than the due date of the next installment of property taxes.

(c) The county treasurer shall include any unpaid charges for the:

(1) delinquent rate or charge;

(2) penalty;

(3) service charge;

(4) recording fee; and

(5) certification fee;

to each owner of each lot or parcel of property at the time the next cycle's property tax installment is billed.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-8 Enforcement of delinquencies: after June 1 of each year

(a) This section does not apply to a county containing a consolidated city.

(b) After June 1 of each year, the officer may not collect or accept:

(1) delinquent rates or charges;

(2) penalties;

(3) service charges;

(4) recording fees; or

(5) certification fees;

from property owners whose property has been certified to the county auditor.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-9 Enforcement of delinquencies: collection of unpaid money by county treasurer

If a:

(1) delinquent rate or charge;

(2) penalty;

(3) service charge;

(4) recording fee; or

(5) certification fee;

is not paid. The county treasurer shall collect the unpaid money in the same way that delinquent property taxes are collected.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-10 ------ Enforcement of delinquencies: at the time of each semiannual tax settlement

(a) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all:

(1) rates or charges;

(2) fees; and

(3) penalties;

that have been collected.

(b) The county auditor shall:

(1) deduct the service charges and certification fees collected by the county treasurer; and

(2) pay to the officer the remaining fees and penalties due the district.

(c) The county treasurer shall:

(1) retain the service charges and certification fees that have been collected; and

(2) deposit the charges and fees in the county general fund.

[As added by: P.L.1-1996, §16.]

IC 13-26-13-11 ------ Enforcement of delinquencies: unrecorded charges; removal from tax rolls

(a) This section applies to a:

(1) rate or charge;

(2) penalty; or

(3) service charge;

that was not recorded before a recorded conveyance.

(b) The:

(1) rate or charge;

(2) penalty; or

(3) service charge;

shall be removed from the tax roll for a purchaser who, in the manner prescribed by IC 13-26-12-7, files a verified demand with the county auditor.

[As added by: P.L.1-1996, §16.]

IC 13-26-14. FORECLOSURE OF LIENS

IC 13-26-14-1 ------- Foreclosure of liens: authorized

A district may, as an additional or alternative remedy, foreclose a lien established by this article as a means of collection of rates or charges, including the penalty on the rates or charges.

[As added by: P.L.1-1996, §16.]

IC 13-26-14-2 -------- Foreclosure of liens: amounts recoverable

(a) In all actions brought to foreclose the liens, the district is entitled to recover the following:

(1) The amount of the rates or charges.

(2) The penalty on the rates or charges.

(3) A reasonable attorney's fee.

(b) The court shall order that the sale be made without relief from valuation or appraisement statutes.

[As added by: P.L.1-1996. §16.]

IC 13-26-14-3 -------- Foreclosure of liens: applicable laws

Except as otherwise provided by this article, in all actions to foreclose the liens:

(1) the laws concerning municipal public improvement assessments; and

(2) the rights, remedies, procedure, and relief granted the parties to the action;

apply.

[As added by: P.L.1-1996. §16.]

(2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

[As amended by: P.L.253-1997(ss), §12.]

IC 13-11-2-84 -------- Definitions: financial assurance board

"Financial assurance board", for purposes of IC 13-23, refers to the underground petroleum storage tank financial assurance board.

[As added by: P.L.1-1996, §1.]

IC 13-11-2-85 -------- Definitions: financing agreement

"Financing agreement", for purposes of IC 13-21, includes an agreement between a district and a developer, between a developer and a user, or among a district, developer, and user concerning:

(1) payments to the district under the agreement; and

(2) any of the following:

(A) The financing of facilities.

(B) The title to facilities.

(C) The possession of facilities.

[As added by: P.L.1-1996, §1.]

IC 13-11-2-86 -------- Definitions: fiscal body

"Fiscal body" means:

(1) the county council, for a county not having a consolidated city;

(2) the city-county council of a consolidated city and county;

(3) the common council of a city;

(4) the town council of a town;

(5) the township board of a township; or

(6) the board of directors of a conservancy district.

[As added by: P.L.1-1996, §1.]

IC 13-11-2-87 -------- Definitions: fund

(a) "Fund", for purposes of IC 13-14-12, refers to the environmental management special fund.

(b) "Fund", for purposes of IC 13-15-10, refers to the waste facility operator trust fund.

(c) "Fund", for purposes of IC 13-15-11, refers to the environmental management permit operation fund.

(d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust fund.

(e) "Fund", for purposes of IC 13-17-8, refers to the Title V operating permit program trust fund.

(f) "Fund", for purposes of IC 13-17-14, refers to the lead trust fund.

(g) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

(h) "Fund", for purposes of IC 13-18-13, refers to the wastewater revolving loan fund established by IC 13-18-13-2. The term does not include the supplemental fund established by IC 13-18-13-22.

(i) "Fund" for purposes of IC 13-18-21, refers to the drinking water revolving loan fund established by IC 13-18-21-2. The term does not include the supplemental fund established by IC 13-18-21-22.

(j) "Fund", for purposes of IC 13-19-5, refers to the environmental remediation revolving loan fund established by IC 13-19-5-2.

(k) "Fund", for purposes of IC 13-20-4, refers to the municipal waste transportation fund.

(l) "Fund", for purposes of IC 13-20-13, refers to the waste tire management fund.

(m) "Fund", for purposes of IC 13-20-22, refers to the state solid waste management fund.

(n) "Fund", for purposes of IC 13-21-7, refers to the waste management district bond fund.

(o) "Fund", for purposes of IC 13-21-13-2, refers to a district solid waste management fund.

(p) "Fund", for purposes of IC 13-23-6, refers to the underground petroleum storage tank trust fund.

(q) "Fund", for purposes of IC 13-23-7, refers to the underground petroleum storage tank excess liability fund.

(r) "Fund", for purposes of IC 13-23-10, refers to the underground storage tank guaranty fund.

(s) "Fund", for purposes of IC 13-25-4, refers to the hazardous substances response trust fund.

(t) "Fund", for purposes of IC 13-25-5, refers to the voluntary remediation fund.

(u) "Fund", for purposes of IC 13-28-2, refers to the voluntary compliance fund.

[As amended by: P.L.253-1997(ss), §13.]

IC 13-11-2-88 -------- Definitions: garbage

"Garbage", for purposes of environmental management laws, means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the:

(1) processing;

(2) handling;

(3) preparation;

(4) cooking;

(5) serving; or

(6) consumption;

of food or food materials.

[As added by: P.L.1-1996, §1.]

IC 13-11-2-89 -------- Definitions: generator

(a) "Generator", for purposes of IC 13-22-12, means a person that, during the preceding year, generated hazardous waste in quantities greater than:

(1) one thousand (1,000) kilograms of hazardous waste; or

(2) one (1) kilogram of acutely toxic waste in any month.

(b) "Generator", for purposes of IC 13-29-1, means a person who produces or possesses low-level radioactive waste in the course of or incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity and who, to the extent required by law, is licensed by the United States Nuclear Regulatory Commission or a party state to produce or possess such waste. The term does not include a person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of wastes generated outside the region.

[As added by: P.L.1-1996, §1.]

IC 13-11-2-90 -------- Definitions: governmental entity

"Governmental entity", for purposes of IC 13-25-6, means the state or a political subdivision.

[As added by: P.L.1-1996, §1.]

State Form 4336

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

INDIANAPOLIS

OFFICE MEMORANDUM

Date: January 20, 1999

To: Lynne Newlon
Regional District Coordinator
IDEM

From: Larry Haag
Drinking Water Inspector
IDEM

Subject: Blue River Regional Water District

I have reviewed the petition of the Blue River Regional Water District in the counties of Harrison and Crawford . The petition involves the Town of Marengo and the Town of Milltown combining resources and working together. I have worked closely with both of these water utilities and find positive solutions by the combination of the utilities. The Drinking Water Branch of the Office of Water Management supports the establishment of the Blue River Regional Water District.