| | | |
|---|---|---|
| **IN THE MATTER OF THE PETITION OF** | ) | **BEFORE THE COMMSIONER** |
| **OF HUNTINGTON COUNTY, INDIANA TO** | ) | **IDEM** |
| **FORM THE DAWN LAKES REGIONAL** | ) | |
| **SEWER DISTRICT** | ) | **CAUSE NO.** |

# PETITION

Huntington County, Indiana, through its County Council, hereby petitions the Commissioner, Indiana Department of Environmental Management, for an order directing that a Regional Sewer District be organized as an independent political entity of the State and as body corporate and political for the provision of sewer service, and in support thereof, alleges and says as follows:

A. The proposed name of the District is "Dawn Lakes Regional Sewer District."

B. The place in which its principal office will be located is 3229 West 915 North, Huntington, IN 46750.

C. The need for the proposed District has long been recognized by the residents of the area, by Huntington County, and the public general. The immediate purpose to be accomplished is the operation of a previously inadequate sewer utility presently owned by the Dawn Lakes Estate Home Owner Association Inc. In addition, the District will provide sewer service to presently undeveloped property within the proposed District, which property would be unsuitable for private septic systems. The District will be conducive to public health, safety, convenience and welfare for the following reasons, among others: (a) providing for the safe, environmentally sound, and proper treatment of sewage; (b) providing for financially feasible opportunities for improvements to the sewage collection infrastructure and treatment systems; and (c) encouraging growth and economic development in the proposed District. The proposed District's current provision for sewage collection and treatment is

being provided, as noted above, by Dawn Lakes Estate Home Owner Association Inc., which recently acquired the utility from a private utility operator, Dawn Lakes Utilities, L.L.C., which was previously under investigation for inadequate service and environmental pollution by the Indiana Utility Regulatory Commission, the Indiana Office of the Utility Consumer Counselor, and the Indiana Department of Environmental Management. There is no outstanding indebtedness for the purposes planned in the proposed District. The existing situation could create and/or add to pollution or health hazards or impede development in the area.

D. The territory to be included in said proposed District is set forth and described in Exhibit A and Exhibit B attached hereto. A list of addresses of affected property owners in the proposed District, including mailing labels, will be supplied in this Cause.

E. The recommendation on the manner of selection, the number, and the term of the Board of Trustees of the District are as follow: The Board of Trustees will consist of three members who serve three-year terms, with such terms to be staggered. The three members will be appointed by the Huntington County Board of Commissioners.

F. Dawn Lakes Estate Home Owner Association Inc. owns and operates the existing sewer utility within the proposed District and will continue to do so until the proposed District can be formed and assume ownership and operations. The plan for financing the cost of the operations of the proposed District until such time the formation is approved will be provided for by the Dawn Lakes Estate Home Owner Association Inc. through revenues provided by rates currently approved by the Indiana Utility Regulatory Commission.

G. The budget for accomplishing the purpose of the proposed District and operating the sewage works is attached hereto as Exhibit C. The current approved monthly rate for residential users is $65.00 per month. There is no anticipated connection fee at this time.

H. The designated contact person for the Petitioner for amendments and items relative to this Petition shall be: Mike Mettler, Huntington County Health Department, Courthouse Room 205, Huntington, Indiana.

I. A copy of this Petition has been filed in the Office of the County Commissioners of Huntington County, Indiana and the Township Trustee of Clear Creek Township, Huntington County, Indiana.

WHEREFORE, Petitioner requests that the Indiana Department of Environmental Management appoint a hearing officer, provide proper notice and hold a hearing, and after considering the materials contained in this Petition and the evidence and comments presented at the hearing, find that the conditions of IC 13-26 et seq have been complied with, that the proposed District is capable of accomplishing the purposes set forth in this Petition in an environmentally protective and economically feasible manner, and that the Commissioner issue an order establishing the Dawn Lakes Regional Sewer District as an independent municipal corporation with all powers granted to such entity.

Respectfully submitted this 22nd day of January, 2001.

**HUNTINGTON COUNTY COUNCIL:**

Larry Whinery

Dwight Brautigam

Stephen Simon

Joe Humbert

Kathryn Branham

John E. Hacker

Felicia Staley

Attest: Donald D. Schoeff, Auditor

**Exhibit A**

# Dawn Lakes Regional Sewer District
# Description

Certain parcels of real estate located in Huntington County, Indiana, being known as Lots 1 through 59 of Dawn Lakes Estate, a subdivision recorded on March 13, 1978 in Plat Book L, page 67 in the offices of the Huntington County Recorder (Section 1) and recorded on August 5, 1988 in Plat Book L, page 170 in the offices of the Huntington County Recorder (Section 2), amended and re-recorded on July 5, 1989 in Plat Book L, page 183 in the offices of the Recorder (Section 2), amended and re-recorded April 4, 1994 in Plat Book M, page 112 in the offices of the Recorder (Section 2), amended and re-recorded on July 19, 1996 in Plat Book M, page 139 in the offices of the Recorder (Section 2).

**ALSO,** the following tracts of real estate as identified by the Huntington County Auditor's Office Parcel Identification Numbering System:

| PARCEL ID | ACREAGE |
|---|---|
| 001-00259-00 | 6.0AC |
| 001-00260-00 | 0.454AC |
| 001-00261-00 | 2.0AC |

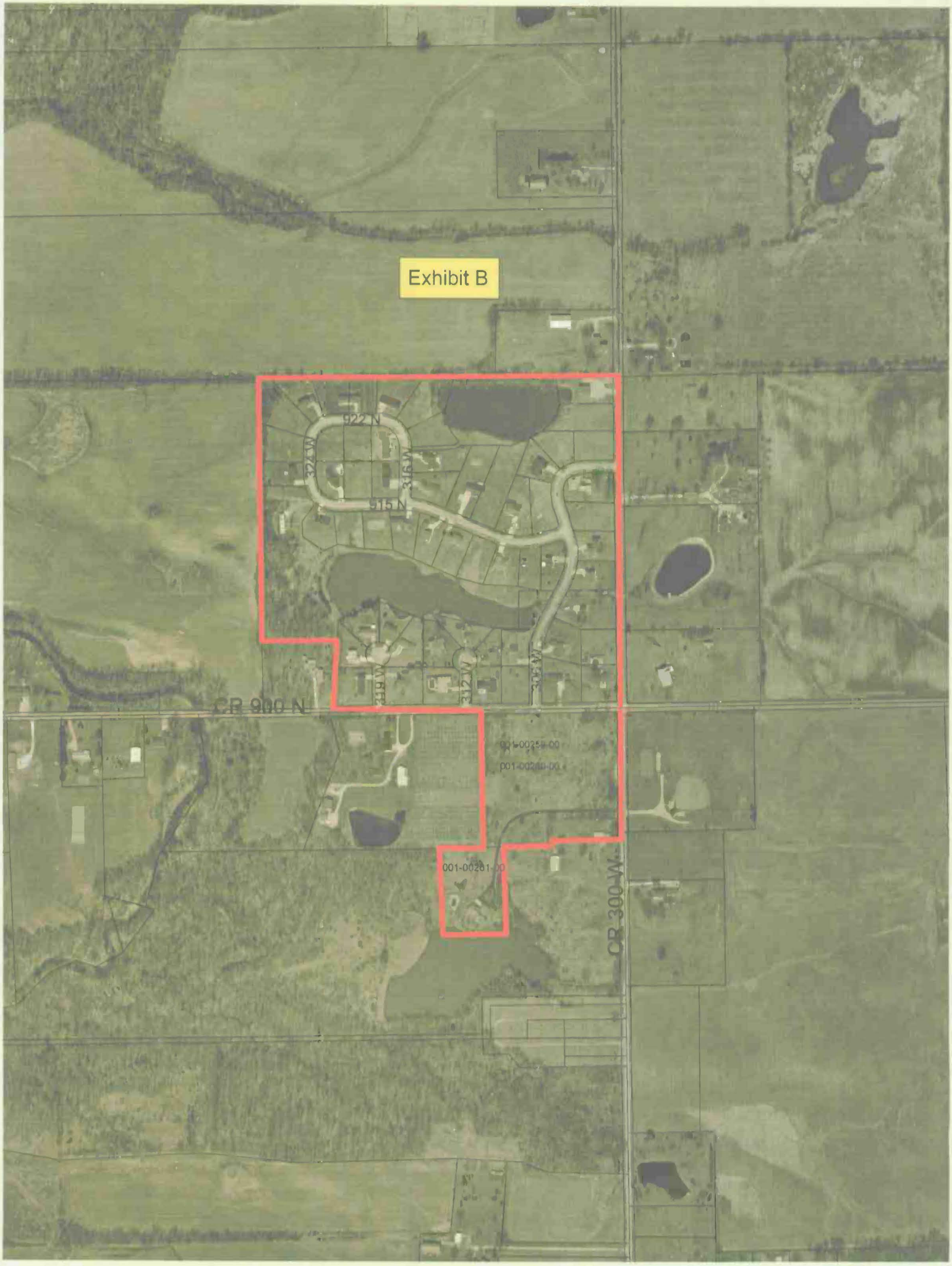
Exhibit B
922 N
324 W
316 W
915 N
319 W
312 W
306 W
CR 900 N
001-00258-00
001-00260-00
001-00261-00
CR 300 W

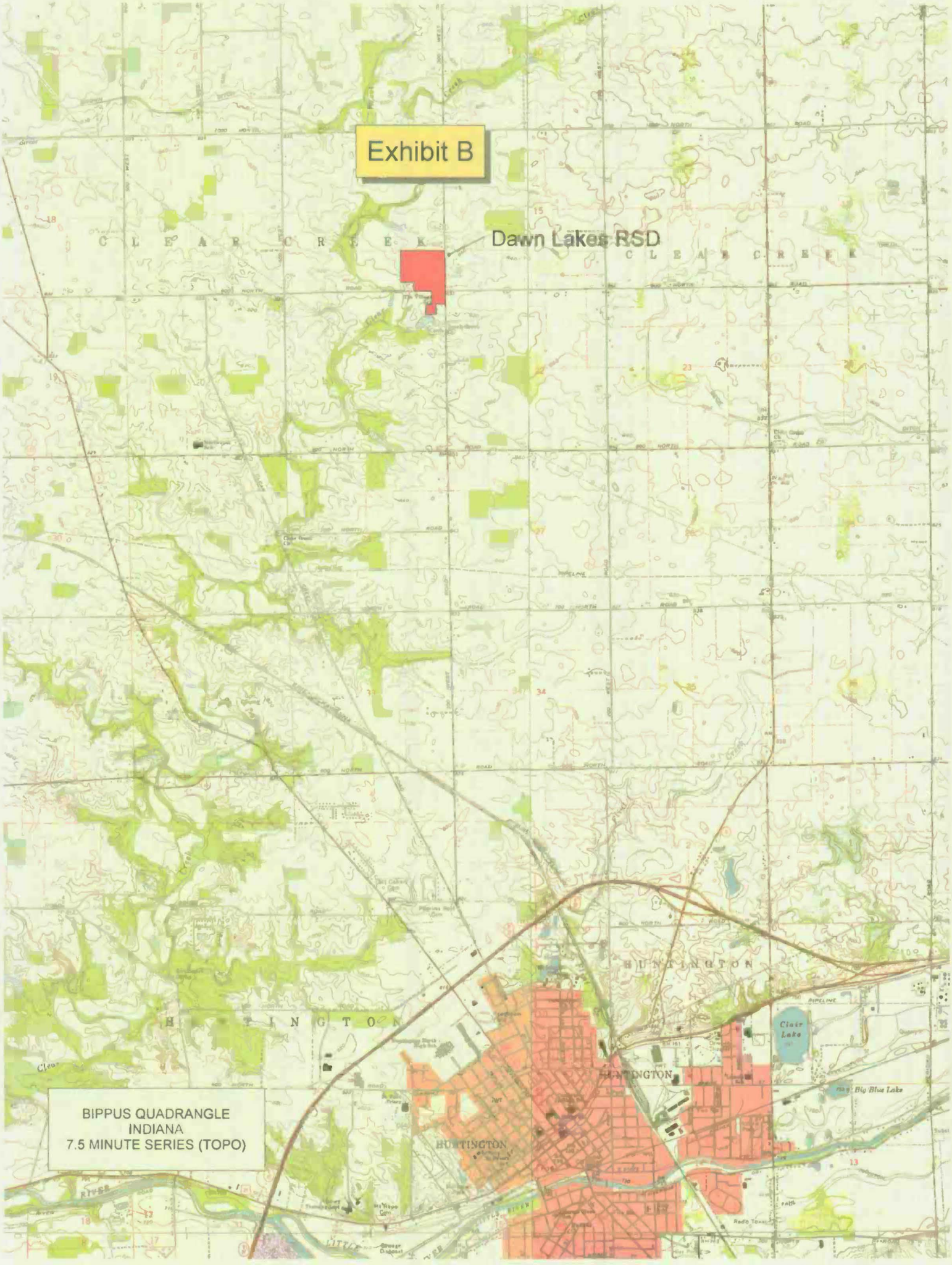
Exhibit B
Dawn Lakes RSD
CLEAR CREEK
CLEAR CREEK
HUNTINGTON
HUNTINGTON
HUNTINGTON
Clear Lake
Big Blue Lake
BIPPUS QUADRANGLE
INDIANA
7.5 MINUTE SERIES (TOPO)

**Exhibit C**

# Dawn Lakes Regional Sewer District

## Annual Sewage Utility Operations Budget
**(Per Dawn Lakes Estate Home Owner Association Inc.)**

| | |
|---|---|
| Salaries: Bookkeeper | $2,560.00 |
| Testing Fees | 11,746.00 |
| Chemicals | 3,829.00 |
| Repairs and Maintenance | 2,800.00 |
| Sludge Removal | 3,102.00 |
| Permits | 360.00 |
| Electricity | 3,248.77 |
| Insurance | 1,263.00 |
| Administrative Costs | 692.41 |
| TOTAL OPERATING EXPENSES | $29,601.18 |
| TOTAL OPERATING INCOME (44 Users) | $34,320.00 |

**HUNTINGTON COUNTY DEPARTMENT OF HEALTH**
**COURTHOUSE, ROOM 205**
**HUNTINGTON, IN 46750**
**(219) 358-4831 OFFICE**
**(219) 358-4899 FAX**

January 30, 2001

**Via Hand Delivery**

Lynne Newlon
Indiana Department of Environmental Management
Office of Water Quality
100 N. Senate Ave.
Indianapolis, IN 46206-6015

Re: Dawn Lakes Regional Sewer District

Dear Lynne:

Enclosed please find a petition to form the Dawn Lakes Regional Sewer District. Copies of said petition have been filed with the Executive of each governmental entity having territory within the proposed District.

The Dawn Lakes Estate Home Owner Association currently operates a package sewage treatment plant in the proposed District that they acquired in October of 1999. The Association assumed ownership and operations of the subject sewerage system as part of an agreed order (cause no. B-2436) your Department had with the previous owner, Dawn Lakes Utilities, L.L.C., because of serious noncompliance.

The need for and purpose of the proposed District is to put the utility in a position where it can afford to make upgrades to the system when needed. The current monthly rate of $65.00 per user, approved by the Indiana Utility Regulatory Commission, is not expected to be needed to be raised.

The proposed District will be governed by a three member Board of Trustees who will serve three-year terms appointed by the Huntington County Board of Commissioners, with the terms to be staggered initially as follows: the first member appointed for a one-year term; the second member appointed to a two-year term; and the third member appointed to a full three-year term.

If you should have any questions regarding this matter, please feel free to contact me at this office.

Sincerely,

Mike Mettler

Michael Mettler
Chief Sanitarian

c: Dawn Lakes Estate Home Owner Association

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

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

OFFICE OF WATER MANAGEMENT IDEM
FEB 5 4 39 PM '01

~~Michael J. Mettler~~, being first duly sworn upon oath, deposes and says:

1. I live in Huntington 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 County Sanitarian for Huntington County (name of the eligible entity petitioning for establishment of district).

3. By virtue of my position with Huntington County (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.

January 30, 2001
date

Michael J. Mettler
signature of affiant

Michael J. Mettler
printed name

STATE OF Indiana )
)
COUNTY OF Huntington )

Before me a notary Public in and for said County and State, personally appeared Michael J. Mettler, and being first duly sworn by me upon oath, says that the fact stated in the foregoing statements are true. Signed and sealed this 30th day of January, 2001

Signature: Barbara J. Young

My commission expires: October 29, 2008

Printed: Barbara J. Young

Residence of: Huntington 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.