IN THE MATTER OF THE PETITION OF LAKE COUNTY, INDIANA, TO FORM A REGIONAL SEWER AND WATER DISTRICT PURSUANT TO IC 13-26)

BEFORE THE COMMISSIONER, IDEM BOARD OF THE STATE OF INDIANA

PETITION

Lake County, Indiana, by the County Council, hereby petition the Commissioner, IDEM of the State of Indiana for an order directing the district to be organized as an independent political entity of the state and as a body corporate and politic, and in support thereof allege and say as follows:

A. The proposed name of the district is "Fairways Regional Sewer and Water District."

B. The place in which its principal office is to be located is 15317 Ralston Place, Lowell, Indiana.

C. The need for the proposed district has long been recognized by residents of the area by Lake County, and the public generally. The purpose to be accomplished is the upgrade of an inadequate sewer and water systems. It will be conducive to the public health, safety, convenience and welfare for the following reasons:

a. Watermain breaks causing public fire protection problems.
b. Inadequate water pressure system for residents.
c. Inadequate water availability for the public.
d. Non compliance of effluent quality from Wastewater Treatment Plant.
e. Overflows from lift station into Lake Dalecarlia.

Sewage collection, disposal and treatment are currently being provided for in the following manner:

a. By a private utility for the Fairways Estates area
b. By private wells and septic systems in the other areas.

There is no outstanding indebtedness for the County for the purpose proposed, in the proposed district. The existing situation creates and adds to pollution or health hazards or impedes development in the area in the following ways:

a. Major Pollution for stream and lake.
b. Public safety concern because of the inadequate water system.

D. The water supply for the residents and other dwellings is being provided by:

a. Fairways Estates area by a private utility using a well and distribution systems.
b. Other areas by private wells.

E. The territory to be included in said proposed district comprises an area in the Township of Cedar Creek, Lake county, Indiana. A map of Lake county, Indiana, showing the location of the proposed district, is included with the petition as Exhibit A. A map showing the proposed boundary is included with the petition as Exhibit B.

F. The recommendations on the manner of selection, the number, and the term of the Board of Trustees of the District are as follows:

Five trustees will be approved by the County Council for the District for an initial terms of, one for two years, two for two years and two for four years.

The five trustees will be elected by the voters in the District, thereafter for a term of four years.

G. The proposed plan for financing the cost of the operations of the district is by User Charges, State Revolving Loan Fund, Build Indiana Funds and future connection charges.

H. The estimates of the costs of accomplishing the purpose of the district: operating and maintaining the works, capital construction costs, and the sources of the funding, including estimates of the rates and charges are being prepared by the engineering firm of McMahon Associates, Inc., 952 South State Road #2, Valparaiso, Indiana.

A copy of this petition has been filed in the office of the Lake County Council of Indiana.

WHEREFORE petitioners pray for a hearing upon this petition after the filing of proper notice, that the relief prayed for herein be granted, and that the Fairways Regional Sewer and Water District be created.

Respectfully submitted this 12th Day of January, 1998.

COUNTY COUNCIL

ADVISORY BOARD OF FAIRWAYS

Lake County, Indiana

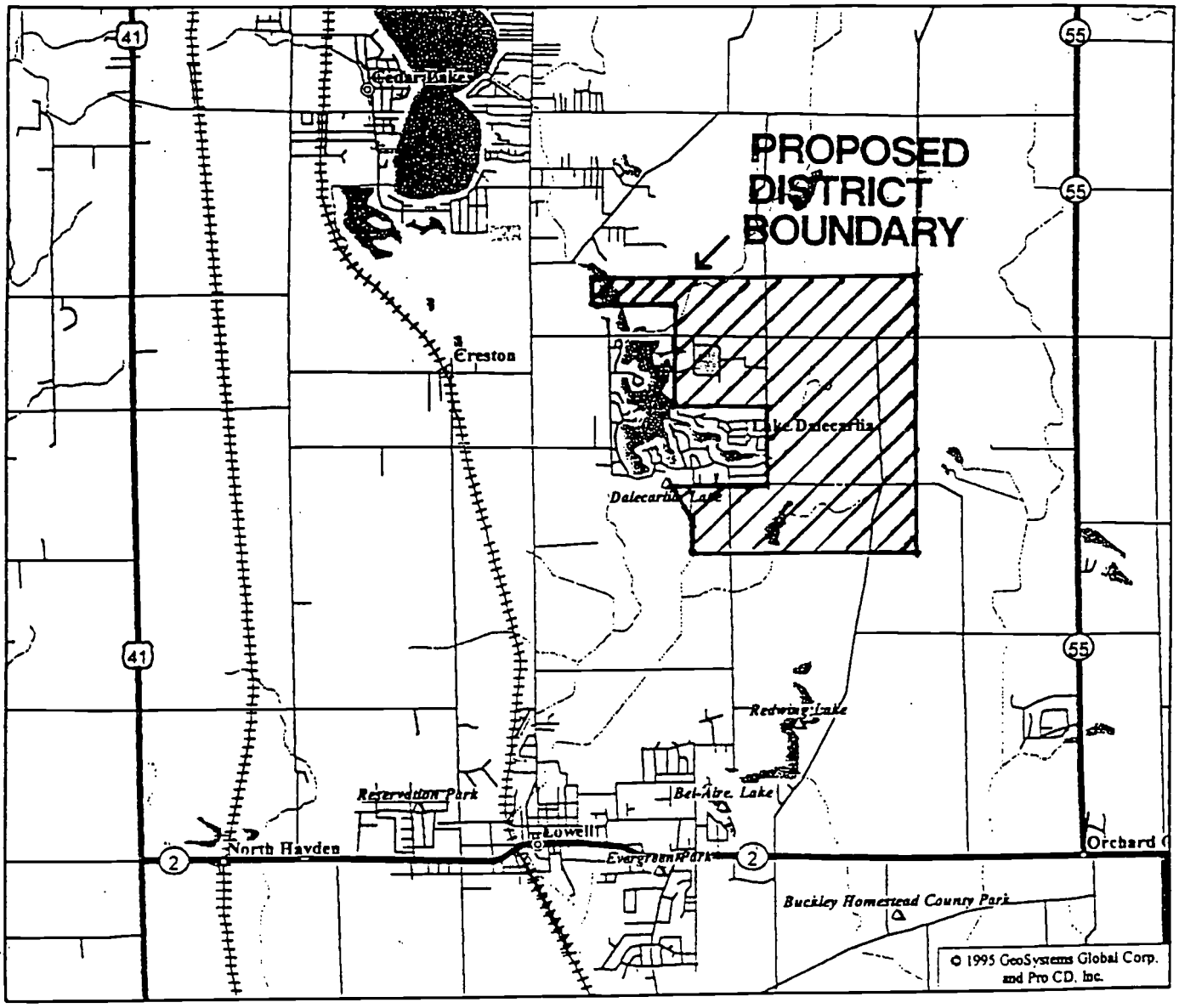
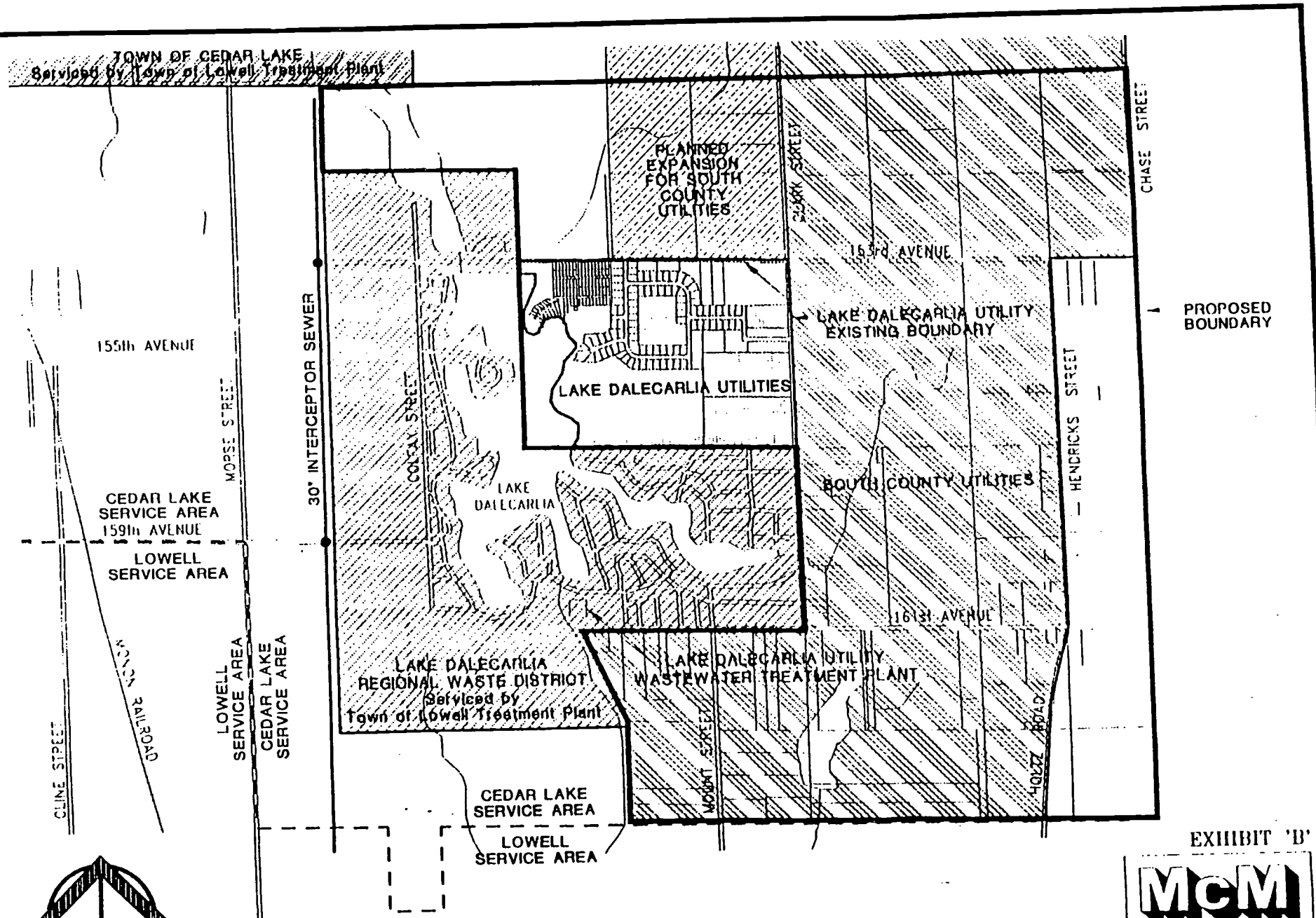


EXHIBIT 'A'



north

SCALE: 1" = 2000'

FAIRWAYS REGIONAL SEWER AND WATER DISTRICT

LAKE COUNTY, INDIANA

PROPOSED BOUNDARY 1-6-98

EXHIBIT 'B'

McM

McMAHON ASSOCIATES, INC.

ENGINEERS • ARCHITECTS
SCIENTISTS • SURVEYORS

FAIRWAYS REGIONAL SEWER AND WATER DISTRICT

EGAL DESCRIPTION:

PARCEL OF LAND BEING A PART OF SECTIONS 1, 2, AND 12, TOWNSHIP 33 NORTH, ANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN, ALSO BEING A PART OF ECTIONS 6 AND 7, TOWNSHIP 33 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL ERIDIAN, ALL IN LAKE COUNTY INDIANA, BEING MORE PARTICULARLY DESCRIBED AS OLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 1; THENCE EAST LONG THE NORTH LINE OF SAID SECTION 1 TO THE NORTHEAST CORNER OF SAID ECTION 1, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID SECTION 6; HENCE CONTINUING EAST ALONG THE NORTH LINE OF SAID SECTION 6 TO THE ORTHEAST CORNER OF SAID SECTION 6; THENCE SOUTH ALONG THE EAST LINE OF AID SECTION 6 TO THE SOUTHEAST CORNER OF SAID SECTION 6, SAID POINT ALSO EING THE NORTHEAST CORNER OF SAID SECTION 7; THENCE CONTINUING SOUTH ALONG HE EAST LINE OF SAID SECTION 7 TO THE SOUTHEAST CORNER OF SAID SECTION 7; HENCE WEST ALONG THE SOUTH LINE OF SAID SECTION 7 TO THE SOUTHWEST CORNER F SAID SECTION 7, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID ECTION 12; THENCE CONTINUING WEST ALONG THE SOUTH LINE OF SAID SECTION 12 O THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 12; THENCE ORTH ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 12 A ISTANCE OF 1485 FEET, MORE OR LESS, TO THE CENTER LINE OF CEDAR CREEK; HENCE NORTHWESTERLY ALONG THE CENTER LINE OF SAID CREEK (THIS LINE ALSO EING THE EASTERLY LINE OF THE LAKE DALECARLIA REGIONAL WASTE DISTRICT) TO N INTERSECTION POINT WITH THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID ECTION 12; THENCE EAST ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 AND THE ORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 12 TO THE NORTHEAST CORNER F THE SOUTHEAST 1/4 OF SAID SECTION 12; THENCE NORTH ALONG THE EAST LINE F SAID SECTION 12 TO THE NORTHEAST CORNER OF SAID SECTION 12; THENCE WEST LONG THE NORTH LINE OF SECTION 12 TO THE NORTHEAST CORNER OF THE WEST 1/2 F THE NORTHWEST 1/4 OF SAID SECTION 12, SAID POINT ALSO BEING THE OUTHEAST CORNER OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 1; HENCE NORTH ALONG THE EAST LINE OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF ECTION 1 TO THE NORTHEAST CORNER OF SAID WEST 1/2 OF THE SOUTHWEST 1/4 OF AID SECTION 1; THENCE CONTINUING NORTH ALONG THE EAST LINE OF THE WEST 1/2 F THE NORTHWEST QUARTER OF SAID SECTION 1 TO THE NORTHEAST CORNER OF THE OUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 1; THENCE WEST ALONG THE ORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 1 TO HE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID ECTION 1, SAID POINT ALSO BEING THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 F THE NORTHEAST 1/4 OF SAID SECTION 2; THENCE CONTINUING WEST ALONG THE ORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 2 TO ORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION ; THENCE NORTH ALONG THE WEST LINE OF NORTHEAST 1/4 OF THE NORTHEAST 1/4 F SAID SECTION 2 TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE ORTHEAST 1/4 OF SAID SECTION 2; THENCE EAST ALONG THE NORTH LINE OF SAID ECTION 2 TO THE NORTHEAST CORNER OF SAID SECTION 2, SAID POINT ALSO BEING HE NORTHWEST CORNER OF SAID SECTION 1 AND THE POINT OF BEGINNING. ONTAINING 2,010 ACRES, MORE OR LESS.

Public's Exhibit No. 2

LAKE DALECARLIA UTILITIES, INC
CAUSE NO. 41126
PREPARED TESTIMONY OF NICOLE M. P. ADAMS

Q: PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A: My name is Nicole M.P. Adams and my business address is Indiana Government Center North, 100 North Senate Avenue, Room N501, Indianapolis, Indiana 46204.

Q: BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A: I am employed as a Principal Engineer for the Office of Utility Consumer Counselor (the "OUCC").

Q: WOULD YOU SUMMARIZE YOUR ENGINEERING BACKGROUND AND EXPERIENCE?

A: I am a graduate of Purdue University in West Lafayette, Indiana, where I received a bachelor of science degree in civil engineering. I was employed by Dames & Moore from 1992 through 1995 as a project engineer. My responsibilities as a project engineer included strategic planning, environmental and safety regulatory compliance, scheduling, and program management. I currently retain an Indiana Class I Wastewater Treatment Plant Operator's Certificate. I am a member of the Indiana Water and

Wastewater Association and the American Water Works Association. I have been employed by the OUCC since May, 1995.

Q: **ARE YOU A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF INDIANA?**

A: Yes.

Q: **HAVE YOU TESTIFIED BEFORE THIS COMMISSION?**

A: Yes. I have previously testified before the Commission in causes involving water and wastewater utilities.

Q: **WHAT INVESTIGATIONS HAVE YOU MADE IN PREPARING YOUR TESTIMONY IN THIS CAUSE?**

A: My investigations in this Cause include visiting Lake Dalecarlia Utilities (the Utility), discussions with the owner of the Utility, Mr. Don Rice, meeting with Petitioner's customers, reviewing Petitioner's compliance records on file at the Indiana Department of Environmental Management, speaking and inspecting Petitioner's facilities with IDEM water and wastewater inspectors and compliance personnel.

Q: **WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A: My testimony will describe the poor conditions of both the water and wastewater utilities operated by Lake Dalecarlia Utilities, Inc. These conditions

have persisted for some years and it is my belief after the review of several letters, compliance reports, and inspection of the plant, that maintenance is not a top priority for the utility. The result of such inactivity is the degradation of the infrastructure to the degree of persistent non-compliance and poor service.

Q: HOW DID YOUR OFFICE BECOME INVOLVED WITH THE PROBLEMS FACED BY THIS UTILITY AND ITS CUSTOMERS?

A: It is my recollection that for the past year and a half, our office has received several complaints about loss of water, poor water quality, surcharging at manholes near the lift station, and the concern of area residents about the pollution of Lake Dalecarlia from this utility. IDEM has also notified our office when problems have arisen from either the water or wastewater utility.

COMPLAINTS AND POOR SERVICE HISTORY

Q: HOW LONG HAVE THE CUSTOMERS OF THIS UTILITY AND AREA RESIDENTS EXPERIENCED PROBLEMS RELATED TO THE OPERATIONS OF THIS UTILITY?

A: A letter I received from Nick Doffin, Lake County Health Department, states that Lake County Health Department has complaints on file from the early 1990's. (See Attachment NA-1) IDEM issued an agreed order on January 22, 1992 for the sewer portion of the utility. (See Attachment NA-2) This order states in findings 8A and 8B that the utility failed to comply with its National

Pollutant Discharge Eliminations System (NPDES) permit by discharging wastewater with pollutants in excess of levels limited by its NPDES permit and by bypassing raw sewage to Lake Dalecarlia without reporting the discharges or taking actions to eliminate further discharges. Customers of the utility and nearby residents report problems with the utility going back as far as 1972 (See Letters in Attachment NA-1).

Q: WHEN DID MR. RICE BECOME THE PRINCIPAL IN CHARGE OF THE UTILITY?

A: According to Finding 3 of the Agreed order, seen in Attachment NA-2, Mr. Rice Purchased the stock of the utility in September of 1989.

Q: HAS THE UTILITY CORRECTED THE PROBLEMS CITED IN THE AGREED ORDER?

A: No. As seen in Attachment NA-3, IDEM issued a letter to Indiana's Attorney General on September 25, 1997, which states that utility violated the Agreed Order adopted on January 22, 1992. The letter goes on to state that the utility failed to comply with its NPDES permit during 1995, 1996, and 1997.

WASTEWATER UTILITY PROBLEMS AND CONDITIONS

Q: HAS THE WASTEWATER UTILITY EXPERIENCED ANY BYPASSES SINCE THE AGREED ORDER?

A: Yes. The utility has one lift station that exists in a residential area on the banks of Lake Dalecarlia. As seen in Attachment NA-1, Pages 2 through 4 and 7 through 11, nearby residents have witnessed bypassing at this lift station on March 3, April 19, April 22, May 24, and July 18, of 1996. In 1997 bypassing was observed on February 21 and May 25. 1998?

Q: DO THESE BYPASSES POSE A THREAT TO NEARBY RESIDENTS?

A: Yes. As stated earlier, the lift station is located on the banks of Lake Dalecarlia. During my visit I observed that the lift station was with in 100 feet of the lake in a small draw that drains directly to the lake. If the bypassing event is significant enough to send wastewater to the lake, then the environment and human health can be adversely impacted depending on the strength and pathological content of the wastewater.

Q: HOW EXACTLY COULD THE WASTEWATER HARM THE ENVIRONMENT?

A: Wastewater contains matter on which some microorganisms and bacteria thrive. These microorganisms will consume oxygen in the process of breaking down the waste. Depletion of oxygen from fresh waters can lower oxygen levels to a point that fish are adversely affected and may even die.

Escherichia

Q: HOW DOES THE WASTEWATER POSE A THREAT TO HUMAN HEALTH?

E. Coli

A: Wastewater can contain pathogens such as Ecoli, Giardia, and Hepatitis virus to name just a few. Human exposure to any of these pathogens can cause illness and even death.

Q: WHAT ELSE DID YOU OBSERVE DURING YOUR VISIT TO THE LIFT STATION?

A: The wet well manhole entrance had recently been elevated by approximately eighteen inches with concrete rings and a foam type sealant. This could help minimize the inflow of water into the wet well from the draw and decrease the amount of wastewater surcharging from the manhole during heavy flows However, surcharging will not be eliminated as long as inflow and infiltration (I&I) plague this system.

completely

Q: WHAT MAKES YOU BELIEVE I&I IS A PROBLEM FOR THIS SYSTEM?

A: Surcharging at the manholes is one sign that I&I is a problem. I visited the utility on March 20, 1998. The day was overcast with moderate rain, sleet, and snow. During my visit to the utility I peered into the wet well manhole and observed about one-third to one-half of continuous flow through what appeared to be an eight inch pipe. This flow was mostly translucent and water-like which suggests that most of the flow was clearwater from I&I. I also observed old sewage matter which had accumulated on the top wrungs of the

manhole ladder and along the rough edges of the manhole. These observations confirm that I&I is a problem for the utility.

Q: WERE THERE ANY OTHER OBSERVATIONS WHICH INDICATED I&I IS A PROBLEM?

A: Yes. I also investigated the plant during my visit. The aeration chamber contained sparse amounts of light grey biological matter commonly referred to as floc and appeared to be mostly clearwater. Aeration basins should contain a brown sewage which indicates proper treatment and waste stabilization is transpiring. The major treatment component of any activated sludge plant is the aeration basin. The wastewater flowing from the clarifier (the second step in a two step process) was overflowing with scum suggesting that flows were too high for the plant to properly process the waste. The effluent manhole contained foaming scum, again indicating that the sewage matter was being washed out of the plant. The effluent entering the stream was a translucent grey with some light grey floc suggesting the plant was being washed out. The effluent leaving the plant and entering the manhole and going on to the stream should, if properly treated, visibly resemble clear drinking water.

Q: WHAT TYPES AND HOW MANY NPDES VIOLATIONS HAVE BEEN COMMITTED BY THE UTILITY DURING 1997?

A: Some of the Utility's NPDES limits are as follows: (See Attachment NA-4, page 4)

Parameter	Loading Monthly Average	Loading Weekly Average	Concentration Monthly Average	Concentration Weekly Average
CBOD5	8 lbs/day	12 lbs/day	10 mg/l	15 mg/l
TSS	8 lbs/day	12 lbs/day	10 mg/l	15 mg/l

CBOD5 = Five Day Carbonaceous Biochemical Oxygen Demand
TSS = Total Suspended Solids
lbs/day = pounds per day
mg/l = milligrams per liter

I asked IDEM's Technical Support Division to print out a violation run on the Utility for 1997. (See Attachment NA-5) The Utility committed 18 TSS violations and 10 BOD violations. Furthermore, IDEM took samples of the Utility's effluent on May 29, 1997 and the testing results extracted from these samples showed major violations. As seen in Attachment NA-6, page 1 of 2, the samples showed TSS levels of 68 mg/l, CBOD levels of 96 mg/l, and E.Coli bacteria too numerous to count (TNTC). The IDEM inspection report in Attachment NA-6 goes on to discuss at length the numerous problems and violations the Utility has experienced since the issuance of the Agreed Order in 1992.

Q: HOW WOULD YOU DESCRIBE THE OVERALL CONDITION OF THE WASTEWATER UTILITY?

A: The actual physical condition of the wastewater treatment plant is fair. The exterior portions of the tank appeared to have been painted within the last two years. Some signs of rust were beginning to show through the young coat of paint which would suggest that annual touch ups are necessary. The interior

walls of the tank and clarifier weirs showed severe rust damage with large holes penetrating through the steel. Some of the wooden walking planks that followed the circumference of the clarifier were missing and others showed signs of major degradation. The clarifier skimmer was not functioning during my visit and it appeared that it had been some time since it had functioned. The clear transparent color of the influent and light grey effluent discussed earlier indicates the plant is not large enough to handle the flows and process the waste it receives on wet weather days. Skimmings (non-biodegradable materials) were piled on the ground next to the plant.

The building housing the blower motors and chlorine equipment appeared to be in fair condition. The roof had some water damage. The chlorine room was not properly vented to avoid employee exposure to chlorine gas.

WATER UTILITY PROBLEMS AND CONDITIONS

Q: WHAT ARE SOME OF THE PROBLEMS THE UTILITY'S WATER CUSTOMERS EXPERIENCE?

A: As seen in Attachment NA-1, pages 5 and 6, the residents are frequently without water for extended periods of time, the water is hard and has a high iron content.

Q: DID YOU INSPECT THE WATER UTILITY?

A: Yes, on two occasions, January 20, 1998 and March 20, 1998. Both times I was with Paul Mahoney from IDEM's inspection branch and Ron Ulrey, the Utility's operator.

Q: WHAT OBSERVATIONS DID YOU MAKE DURING YOUR INSPECTIONS?

A: During the January 20, 1997 inspection, I noted the following items (See Attachment NA-7):

* The inside of the water treatment plant was poorly maintained. There was an accumulation of trash, exposed electrical wires over the well, and the well lid was unsealed and open exposing the well to potential contamination. Torn insulation and bee hives were hanging from the roof access directly over the open well.

* Noticeable flooding was emanating from the chlorine room at the north end of the pump house. Approximately one-half of an inch of wet iron sludge had accumulated around the building in the flooded area indicating that the flooding had been occurring for some time. The operator was unaware of the length of time that had transpired since the leak began. The leak emanated from a broken three-quarter inch feed line in the chlorine room. The roof and the walls had been exposed to the water. Rusty icicles hung from the western outside wall of this room. The Chlorine room was also poorly maintained and unorganized.

During the March 20, 1997 inspection, I noted the following changes:

* The trash had been removed from the pump house. The electrical wires were enclosed in conduit. The well cover was positioned over the well, tightened down, and caulked to minimize openings at the top of the well. The insulation over the top of the well had been removed, but the bee hives were still in place.

* Parts of the roof in the pumping room had not yet been repaired and torn insulation hung from the ceiling in places.

* The chlorine room was clean and the water damage painted over. The pipe was repaired. The chlorinator was not working.

Q: WHAT OBSERVATIONS WERE MADE BY THE IDEM INSPECTOR DURING THE TWO VISITS?

A: The IDEM inspector's extensive observations can be seen in Attachments NA-8, a letter from IDEM to Don Rice dated February 13, 1998, and NA-9, a field inspection report from Paul Mahoney dated March 20, 1998.

Q: DID YOU LEARN ANYTHING ELSE DURING YOUR VISITS TO THE WATER UTILITY?

A: Yes. I observed a lot of iron sludge outside the chlorine room of the water treatment plant during my visit in January 20. 1998. I learned from the operator, Mr. Ron Ulrey, that the Utility's iron levels are around 3 mg/l (or parts per million). The Environmental Protection Agency's secondary (secondary compounds are not harmful to human health) contaminant level for iron is .3 mg/l and the threshold for staining clothes and plumbing fixtures is around .17 mg/l. The Utilities iron levels are nearly ten times the recommended maximum contaminant levels for iron.

Q: WHAT PROBLEMS ARE ASSOCIATED WITH HIGH IRON LEVELS?

A: Iron not only stains clothes and plumbing fixtures, it accumulates in water lines and can cause flow restrictions.

Q: HOW CAN THE HIGH IRON PROBLEM BE REMEDIED?

A: The utility can install an iron removal system such as an aerolator and filter to oxidize, precipitate and filter out the iron, or the utility can hook into an existing nearby utility with better quality water.

Q: DO YOU BELIEVE THE UTILITY'S WATER SYSTEM HAS A RELIABILITY PROBLEM?

A: Yes. The utility has one well which was built in the 1930's (See Attachment NA-10), one small pressurized tank (from observation it appeared to be around 10,000 gallons or less), and one power supply. Also, through customer complaints, both written and oral, I have learned that water main breaks are frequent. Wasn't the water at several days last yr on at least 1 occasion?

If the well fails or is in need of maintenance, then the system must survive on the water in the pressurized tank. According to the annual report, the Utility's customers use approximately 33,000 (94.3 x 350) gallons of water a day. (See Attachment NA-10, page 2). I doubt that the pressurized tank can adequately meet one-day demand of the system. When the well is off-line, the tank will not be replenished, possibly causing the pressure in the system to drop below the recommended service pressure of 35 pounds per square inch.

If the water plant loses power, the customers' demand must be met with the water in the pressurized tank. Due to the lack of power, the tank will not be replenished and water quantity and pressure will drop, possibly to unsafe levels depending on how long the power is off and the demand on the system during the power outage.

Q: HOW COULD THE RELIABILITY PROBLEM BE SOLVED?

A: The Utility needs to install an additional well and a back-up power supply and/or a water tower capable of meeting one day's demand. Another alternative would be to hook into an existing nearby water utility. Regardless of the option chosen, the Utility also needs to evaluate the condition of its water mains and replace those sections which require frequent repair.

CONCLUSION

Q: BASED ON YOUR TESTIMONY ABOVE, WHAT WOULD BE YOUR RECOMMENDATIONS FOR THE WASTEWATER UTILITY?

A: The wastewater Utility is in need of a sanitary survey to determine the sources of I&I. Petitioner should also install a flow meter at the same time. Once the survey is completed, the Utility needs to develop a plan of action to eliminate the source of I&I and proceed to follow through with the plan. The wastewater treatment plant needs to be emptied and studied. Any structural items with questionable integrity should be replaced or repaired. The chlorine room on

the blower building needs to be properly ventilated. The alternative to these improvements and/or repairs (with the exception of theose repairs needed to reduce I&I) would be to hook the customers into an nearby wastewater utility The costs of these improvements should be compared to the cost of hooking the customers into another utility and reducing the I&I. If the cost of hooking the customers into another utility (and reducing the I&I) is less than or equal to the improvement costs. then I would recommend that the customers be hooked into another utility. The ongoing report submittal by ... improvements/repairs is more detail. Also, the testimony of ...

Q: BASED ON YOUR TESTIMONY ABOVE, WHAT WOULD BE YOUR RECOMMENDATIONS FOR THE WATER UTILITY?

A: The utility needs to determine the cost of making the reliability and water quality improvements (another well plus either a back-up power source or additional water storage) discussed earlier. The Utility needs to compare these costs with the cost of hooking the customers into a nearby water utility - which has good quality water and sufficient supply.

Work what about Sewer? You never made final recommendations for sewer.

Our witness has ability to ... Public's financial ability + ... for making improvements.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A: Yes.

OFFICE
OF
WATER MANAGEMENT
IDEM
Nov 17 4 00 PM '98

AGREEMENT

This Agreement is executed this ____ day of November, 1998, by Fairways Association, Inc. ("Fairways"), Lake Dalecarlia Regional Waste District ("LDRWD"), and the Office of Utility Consumer Counselor ("OUCC") (collectively, the "Parties"), and is premised on the following recitals:

A. Fairways is a corporation organized under Indiana law for the benefit of its members who are the owners of property within the subdivision known as the Fairways (the "Fairways Subdivision") which is duly platted in Lake County, Indiana.

B. LDRWD is a regional waste district duly organized and created by the Indiana Department of Environmental Management ("IDEM") for the purpose to provide wastewater treatment service within a portion of Lake County, Indiana.

C. Historically, water utility and wastewater treatment service within the Fairways Subdivision has been provided by Dalecarlia Utilities, Inc. ("Dalecarlia Utilities"). Such services have been unsatisfactory and unreasonable. Dalecarlia Utilities is the subject of a complaint filed by the OUCC with the Indiana Utility Regulatory Commission (the "IURC") in Cause No. 41126. On July 8, 1998, the IURC issued an interim order temporarily assigning Dalecarlia Utilities' certificate of territorial authority ("CTA") and indeterminate permit to Fairways.

D. Fairways has entered a contract with Dalecarlia Utilities for the acquisition of Dalecarlia's water utility and wastewater treatment facilities (the "Dalecarlia Agreement"). Pending closing, Fairways has entered a contract dated July 2, 1998, with Midwest Contract Operations, Inc. ("MCO") for the operation and management of the Dalecarlia Utilities facilities (the "MCO Contract").

E. There is a residential area immediately northwest of the Fairways Subdivision commonly known as Block 30. Within Block 30, water is provided by private wells and wastewater treatment is provided by private septic systems. Many of the septic systems in Block 30 are failing and thus polluting Lake Dalecarlia. It is necessary and desirable for wastewater treatment within Block 30 to be provided through the construction of a sewer utility collection system which could be interconnected with the wastewater utility facilities providing service within the Fairways Subdivision.

F. At Fairways' request, Lake County has filed a petition (the "Fairways Petition") with IDEM to create a new regional water and sewer district that would encompass the Fairways Subdivision and Block 30 (the "Proposed Fairways District"). LDRWD has also filed a petition with IDEM (the "LDRWD Petition") to add water to LDRWD's lawful purposes. LDRWD has also indicated its willingness to include the Fairways Subdivision and Block 30 within LDRWD's boundaries. Both Fairways and LDRWD have proposed substantial improvements and upgrades to the Dalecarlia Utilities facilities and the construction of a sewer utility collection system to serve

Block 30. Throughout this Agreement, the water utility improvements shall be referred to as the "Water Project" and the sewer utility improvements shall be referred to as the "Sewer Project."

G. The Indiana State Budget Agency (the "Budget Agency") has committed to grant $900,000 (the "Grant Moneys") from Build Indiana funds to complete the Water Project and the Sewer Project within the Fairways Subdivision and Block 30.

H. The Parties are in Agreement that the Sewer Project should include reasonable and necessary repairs to the Dalecarlia Utilities collection system lines to remove excessive inflow and infiltration, the construction of an interceptor sewer line to interconnect with the sewer line running from the Town of Cedar Lake to the Town of Lowell and the removal from service of the Dalecarlia Utilities wastewater treatment plant. LDRWD shall immediately commence negotiations in good faith with wastewater treatment providers to receive wastewater from the Fairways Subdivision. If LDRWD within two years of execution of this Agreement is unable to obtain a commitment from either the Town of Cedar Lake, the Town of Lowell, or other appropriate recipient to accept the Fairways Subdivision wastewater, the Sewer Project may include in the alternative upgrading and rehabilitation of the existing plant and facilities alone or in combination with other treatment facilities. If during said two year period, IDEM or other government authority with jurisdiction should require repairs and/or improvements to the plant or system facilities which repairs or improvements would require the expenditure of significant funds, then LDRWD may, in its sole discretion, elect to repair, improve, and/or rehabilitate the plant and system facilities and not to connect to any other wastewater treatment system. In either event, at such time as the Town of Cedar Lake has sufficient capacity for

all of LDRWD's flows (including the Fairways Subdivision, Block 30, and existing customers of LDRWD), and if LDRWD's Board of Trustees deems it cost effective and appropriate, LDRWD will negotiate with the Town of Cedar Lake to connect all of its flows to the Town of Cedar Lake.

NOW THEREFORE the Parties agree as follows:

1. LDRWD shall withdraw the LDRWD Petition to add the provision of water service to its purpose and shall not file a subsequent petition to add the provision of water service to its purposes. LDRWD also shall publicly support the Fairways Petition to the extent the same pertains to water service.

2. Fairways shall amend or cause to be amended the Fairways Petition so as to remove authority to provide wastewater treatment service. Fairways and LDRWD shall support any application to have the territory within the Proposed Fairways District included within the territory of LDRWD for purposes of wastewater treatment services. Upon receipt, Lake County shall support LDRWD's application for boundary change before IDEM.

3. After the inclusion of the Proposed Fairways District within the territory of LDRWD for purposes of wastewater treatment service, and after the creation of the Proposed Fairways District for water service, Fairways shall assign the Dalecarlia Agreement (as the same pertains to sewer utility facilities) to LDRWD and shall assign the portion pertaining to water service to the Proposed Fairways District. The obligation to make payments to Dalecarlia Utilities pursuant to the Dalecarlia

Agreement shall be equally divided between LDRWD and the Proposed Fairways District, and payments shall be made as and when due by the respective parties. However, the obligation to pay under said contract shall not be joint and several, but each party shall be liable for only one-half of the balance due.

4. For so long as the Fairways Subdivision is included within LDRWD for wastewater treatment service, all increases to rates, charges, surcharges, assessments and other fees for wastewater treatment service within LDRWD shall be across-the-board on a dollar-for-dollar basis. For purposes of this calculation, the current user rate for wastewater treatment service within the Fairways Subdivision is $31.76 per month and within LDRWD is $25.00. By way of illustration, if there is a future increase in sewer rates, charges, surcharges, assessments or other fees to customers within the Fairways Subdivision of one dollar to $32.76 per month, then LDRWD shall also increase the rates and charges of all other customers served by LDRWD by one dollar to $26.00 per month. This paragraph shall not prohibit the establishment of an initial rate for Block 30 that differs from the rate within the Fairways Subdivision and the remainder of LDRWD; however, once Block 30's initial rate is established, the Block 30 rate shall be subject to the provisions of this paragraph.

5. Upon the inclusion of the Proposed Fairways District within the territory of LDRWD for purposes of wastewater treatment services, LDRWD shall petition IDEM to redistrict its wards such that one additional trustee shall be added to LDRWD's Board of Trustees who shall be chosen exclusively by election from a new ward consisting of the property owners living within the Fairways Subdivision who are of legal voting age. Such member's term shall equal the term of other members

of the LDRWD Board of Trustees. This Agreement is conditioned on approval from IDEM and the Indiana State Election Board of the manner of selection of LDRWD's Board of Trustees as a result of this paragraph.

6. Of the Grant Moneys, LDRWD shall receive $385,000 to complete the Sewer Project and the Proposed Fairways District shall receive $515,000 to complete the Water Project.

7. After the Proposed Fairways District is included in LDRWD for wastewater treatment purposes, LDRWD shall cause to be completed the engineering and design work for the Sewer Project and shall proceed to construct the Sewer Project. Six months before construction begins, LDRWD shall provide the detailed construction drawings to the Fairways regarding the Sewer Project within the Fairways Subdivision. Upon inclusion of the Proposed Fairways District in LDRWD for wastewater treatment purposes, Fairways shall assign the MCO Agreement to LDRWD, and MCO shall continue to operate the Dalecarlia Utilities wastewater treatment plant and sewer system pursuant to the terms of the MCO Agreement for an additional twelve months after said assignment.

8. LDRWD and the Fairways shall each instruct their respective engineers to share information with the other concerning the Sewer Project and the Water Project.

9. The OUCC agrees publicly to endorse the Agreement and to encourage other state agencies, including but not necessarily limited to the IURC, IDEM, and the Budget Agency, to take all necessary and desirable action to effectuate the purpose of this Agreement on an expeditious basis.

10. This Agreement shall be construed under Indiana law.

11. In the event of litigation to enforce this Agreement, the losing party shall pay the prevailing party's reasonable attorney fees.

12. Each of the undersigned represents that he/she is duly authorized to execute this Agreement on behalf of the respective Parties.

Fairways Association, Inc.

Date: 11-16-98

Suzanne Ewaldi, President

By: SUZANNE EWALDI

Date: 11-16-98

Robert Ghidotti, Vice President

By: Robert Ghidotti

Date: 11-16-98

Elsie Zloza, Secretary - Treasurer

By: ELSIE ZLOZA

Lake Dalecarlia Regional Waste District

Date: Nov 9 '98

Vicki Jo Blevins

By: VICKI JO BLEVINS

Date: 11-9-98

Doyne I Cole Pres.

By: Doyne I Cole

Date: 11/9/98

By: Michael J. Micha

Date: 11-9-98

Roy Brumbaugh Jr

By: ROY BRUMBAUGH JR

Date: 11-9-98

Kenneth Janke

By: KENNETH JANKE

Office of Utility Consumer Counselor

Date: _____

By: _____

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