

MEMORANDUM

TO: File (48441-01 Five Lakes Conservation Association / Wolcottville Sewer Increase)

From: Kylee J. Shirey

Re: Five Lakes Conservation Association, Inc. / Regional Sewer District

The following is submitted regarding the procedure and availability of a regional sewer district to manage the Wolcottville sewer improvements:

Indiana Code § 13-26-2, et seq. governs the establishment of regional sewer districts in Indiana. Pursuant to that statute, the establishment of a regional sewer district may be initiated only by the filing of a petition with IDEM by any representative of an eligible entity after being authorized by that entity's fiscal body. An "eligible entity" may be "a county, city, town, township, conservancy district, or other municipal corporation." Ind. Code § 13-11-2-62; *see also Clay Township of Hamilton County v. Clay Township Regional Waste District*, 838 N.E.2d 1054, 1063 (Ind. Ct. App. 2005). A petition must include, among other things, the proposed name of the district, the district's proposed purpose, how the district will be conducive to public health, safety, convenience, or welfare, the petitioner's recommendations on the manner of selection, number and term of the board of trustees, and estimates concerning related costs. If the petition is deemed sufficient, IDEM will appoint a hearing officer, who will conduct a hearing after notice requirements are met and will make findings and recommendations to IDEM as to whether the petition should be approved. If certain requirements are met, IDEM will issue an order directing that the district be established as an independent municipal corporation.

I spoke with Pam Ororick (317.233.8283) at IDEM on January 11, 2010, who referred me to Ted Stubbs (765.458.7461), President of the Indiana Regional Sewer District Association. Ted basically reiterated the above statutory provisions and emphasized that you must have an eligible entity to file the petition. Ted also pointed out that before beginning the process to establish a regional sewer district, it would be wise to consider how collection, treatment and management will be handled (i.e., whether it will be contracted out or the association will do it itself), as sometimes this makes the decision to establish a regional sewer district a little less appealing. Ted is going to be sending me a CD that he received from IDEM which has more information on it. He indicated that if there is a form of petition, it would be prescribed by IDEM and might even be included on the CD.

In the present case, the township in which the association is located is probably the association's best option as an "eligible entity". If the association can garner the support of the township and convince it that a regional sewer district is in the best interest of the whole township and not just the association, the township may be willing to file the petition as the eligible entity. Based on my research, I have found no other options for helping the association get some kind of representation as the system currently exists. I will update this memorandum when I have received the CD from Ted Stubbs. If you have any questions in the meantime, please let me know.

--KJS