

Via Federal Express

November 30, 2012

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RE: Request for Program Delegation
Industrial Pretreatment Program
Indianapolis, Indiana

Ladies and Gentlemen:

Pursuant to Paragraph 56 of the Order on Consent and Request for Information (the Pretreatment Order) finalized on September 4, 2012, between the United States Environmental Protection Agency (U.S. EPA), the City of Indianapolis, and CWA Authority, Inc., an Indiana municipal corporation (the Authority), please find enclosed for your review and approval a completed application with all necessary requirements to become an authorized pretreatment program. In particular, the Authority seeks to be named the control authority and approved operator of the pretreatment program for the publicly owned treatment works (POTW) in Indianapolis, Indiana, in accordance with the requirements of 40 C.F.R. Part 403. This request is submitted in accordance with the approval procedures outlined in 40 C.F.R. 403.18(c).

Currently, the City of Indianapolis has delegation from U.S. EPA for the implementation of the pretreatment program; however, the Authority respectfully requests that the delegation be transferred from the City to the Authority as the current owner of the relevant wastewater assets. Additionally, the pretreatment program has been incorporated into National Pollutant Discharge Elimination System (NPDES) permit number IN0023183, which governs the Belmont and Southport Advanced Wastewater Treatment (AWT) facilities located in Indianapolis. This NPDES permit currently expires on January 31, 2013; the permit was transferred to the Authority on August 26, 2011, by the Indiana Department of

Environmental Management (IDEM) to reflect the change in ownership and operation of the wastewater assets.

Program Requirements

In accordance with the required elements of Sections 307(b) and (c) and Section 402(b)(8) of the Clean Water Act, as well as the General Pretreatment Regulations for Existing and New Sources of Pollution (40 CFR Part 403) promulgated by U.S. EPA, POTWs are required to develop pretreatment programs governing the operation of systems possessing a design flow greater than five (5) million gallons per day and receiving from industrial users pollutants which pass through or interfere with the operation of the POTW or are otherwise subject to pretreatment standards.

Since 1985, the City operated the federally approved pretreatment program for the POTW. Since the asset transfer that occurred on August 26, 2011, the Authority has demonstrated that the Belmont and Southport facilities would continue to meet the definition of POTW as that term is defined in 40 CFR 403.3(q). Currently, the Authority continues to implement the City's approved pretreatment program through a series of legal mechanisms, including an Agreed Order executed with the Indiana Department of Environmental Management with U.S. EPA's concurrence, to ensure the ongoing implementation of the pretreatment program. The Authority now seeks direct delegation of pretreatment authority.

The objectives of the pretreatment program continue to be:

- Prevention of the introduction of pollutants into the POTW which will interfere with treatment operations and/or the use or disposal of the municipal sludge;
- Prevention of the introduction of pollutants into the POTW which will pass through or are incompatible with the treatment works;
- Improvement of the feasibility of recycling and reclaiming the municipal and industrial waste waters and sludges;
- Enforcement of applicable U.S. EPA categorical standards; and
- Reduction of the risk to public health and the environment from pollution caused by discharges to the POTW.

The Authority recognizes that with Indianapolis' large industrial base, dedication to the public health of the community and environment, the City's investment in the AWTs and sewer construction, and with a major water resource, the White River, to protect, Indianapolis needs a workable pretreatment program. With the submittal of this application the Authority provides the following documentation for implementation of the Indianapolis Industrial Pretreatment Program:

- Demonstration of legal authority to assume, operate, and enforce the pretreatment program;
- Demonstration of a funding system for financing the program; and
- Demonstration of sufficient manpower and/or resources to operate the program.

Submittal Contents

At this time, the Authority requests direct delegation of the City's pretreatment program to the Authority, including approval of the Authority's proposed pretreatment program as outlined in this submission. The Authority's pretreatment program will mirror and build on the efforts of the City's current program, including those changes stemming from the Pretreatment Order. Updates to the current program will be implemented as needed to ensure that, in accordance with the federal regulations, industries pay a proportional share of the pretreatment program. The Authority will also revise its own legal authorities and procedures to operate the pretreatment program, after appropriate public participation, as necessary to incorporate changes to applicable pretreatment standards or as required by other circumstances.

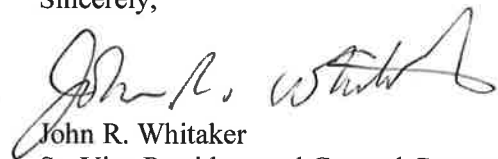
The appendices to this submittal include numerous documents in support of this delegation request. A Table of Contents is included with this document to assist in the review of this submittal. The addendum to this submittal contains redline versions of the documents that the Authority is incorporating into its program in order to allow changes to be more readily highlighted.

On behalf of the Authority, we look forward to meeting with you to review and discuss this submittal, to answer questions that you and your staff may have during their review of this submittal, and to provide additional information necessary to support your delegation of pretreatment authority to the Authority.

Please contact Ms. Ann McIver, Director, Environmental Stewardship, at (317) 927-4393 or via e-mail at amciver@CitizensEnergyGroup.com as such needs arise.

Thank you in advance for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Whitaker", is written over a printed name and title.

John R. Whitaker
Sr. Vice President and General Counsel

Enclosures

Request for IPP Delegation

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EVALUATION OF LEGAL AUTHORITY

40 CFR 403.9(b)(1)(i)

Certification by counsel for the Authority is included in Appendix A. A detailed analysis of the legal authority for the Authority to assume control of the City's pretreatment program was provided to EPA on November 11, 2010. A copy of this analysis, and the relevant attachments, is included in Appendix B. Additional materials are available on the FTP site of the City (<ftp://ftp.indygov.org/utilities>)¹ and/or the Indiana Utility Regulatory Commission (the IURC) website (www.in.gov/iurc)².

On August 11, 2010, the City of Indianapolis (City), the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (Sanitary District), the Authority, and the Department of Public Utilities for the City of Indianapolis, acting by and through the Board of Directors for Utilities (the Citizens Board), d/b/a Citizens Energy Group (Citizens), executed an Asset Purchase Agreement. The Asset Purchase Agreement transferred, at closing, the wastewater assets of the Sanitary District (the Wastewater System) to the CWA Authority, Inc. (the Authority). Closing occurred on August 26, 2011; the Certificate of Closing submitted to the City-County Council is included in Appendix H.

In summary, the Department of Public Utilities is an executive department of the City, established to be the City's vehicle to act as the successor trustee of a public charitable trust formed over 125 years ago. The Department of Public Utilities (d/b/a Citizens Energy Group) is headed by a Board of Directors (Ind. Code § 8-1-11.1-1) that has been given all of the requisite governmental powers required to own, operate and manage the utilities under its jurisdiction, including the power to tax property for the payment of bonds (Ind. Code § 8-1-11.1-10) and eminent domain (Ind. Code § 8-1-11.1-3). The Citizens Energy Group (Citizens) Board is subject to the statutory provisions governing municipalities in Indiana, e.g., open door law, public records law, the provisions governing public investments, and audit by the Indiana State Board of Accounts.

The Authority is a separate legal entity that is organized as a political subdivision and instrumentality of the State of Indiana, pursuant to an August 9, 2010, Interlocal Agreement for the Provision of Utility Services (Wastewater) (the Interlocal Agreement) between three Indiana political subdivisions³ in accordance with Indiana's Interlocal Act. Indiana's Interlocal Act authorizes the City, the Sanitary District and The Department of Public Utilities (d/b/a Citizens) to exercise powers jointly pursuant to a written agreement (the Interlocal Agreement) through a separate legal entity established for that purpose, in this case, CWA Authority, Inc. (Authority). The Interlocal Agreement may be found in Appendix E of this submittal. A ruling issued by the U.S. Department of Treasury's Internal Revenue Service (IRS) that the Authority is a political subdivision is included in the Appendix F. Thus, the Authority is considered a municipality owning and operating a POTW, as those terms are defined in 40 CFR Part 403.

¹ The word "public" is both the user name and password for the City's FTP site.

² The docket number for the utility transfer is Cause No. 43936.

³ The City, as a consolidated City organized pursuant to Indiana Code 36-3-1, is an Indiana political subdivision. The District, as a special taxing district established and operating under Indiana Code 36-9-25, and Citizens, as a special taxing district and an executive department of the City established and operating pursuant to the Citizens Act, are Indiana political subdivisions.

The Authority, pursuant to Section 3.1 of the Interlocal Agreement, holds the respective rights, powers, functions and duties of the City⁴, the Sanitary District, and Citizens that are necessary, useful or appropriate to furnish wastewater collection and treatment services, including but not limited to, those necessary to qualify as a publicly owned treatment works, those required for an approved POTW pretreatment program, and satisfaction of the State Revolving Fund/EPA definition of a qualified owner/operator.

At the time of closing of the sale of the Wastewater System, the City, the Sanitary District and Citizens delegated to, and vested in, the Authority all the powers that are necessary, useful or appropriate to acquiring, owning and operating the wastewater system and/or having jurisdiction over disposal of sewage, including industrial wastes or other wastes. The Authority has adopted a pretreatment system based on the City's existing program, including those changes stemming from the Order on Consent executed on September 4, 2012 (the Pretreatment Order). Pursuant to the Interlocal Agreement, the Authority has the power to promulgate rules, regulations, or Resolutions of the Board comparable to the City's current program. The Resolutions adopted by the Authority's Board, along with its terms and conditions of service as approved by the IURC, Enforcement Response Plan, Industrial Pretreatment Program Plan, and forms relevant to the pretreatment program are included in Appendices M, G, J, and K (respectively) of this delegation request.

PROGRAM PROCEDURES

40 CFR 403.9(b)(1)(ii)

The Authority has adopted a pretreatment system based on the City's existing program. The Authority adopted Resolutions that were modeled on the City's current municipal code, including the relevant provisions currently found in Chapters 103 and 671 of the Revised Code of the Consolidated City and County of Indianapolis and Marion County, Indiana. The Authority Resolutions are found in Appendix M to this submittal. The Authority is proposing minor amendments to the Resolutions for adoption at the December 12, 2012, meeting of the Board of Directors for the Authority, including amendments necessary to comply with the Pretreatment Order. The proposed amendments are presented in Appendix N.

The procedures that the Authority has adopted to ensure compliance with the requirements of the pretreatment program include the following program elements:

- Updating industrial user survey;
- Notification of applicable requirements to users; compliance tracking;
- Compliance sampling and inspection;
- Noncompliance enforcement;
- Issuance of permits/orders;
- Recordkeeping; and
- Public notification of major violators.

⁴ Except the City's power of taxation.

These procedures are detailed in the Authority's proposed Enforcement Response Plan as well as its Industrial Pretreatment Program Plan. See Appendices J and K.

Permitting Program Procedures
40 CFR 403.9(b)(1)(ii)

The Authority adopted the existing permitting program to assist in enforcing industry compliance activities, including the updated permitting language included in the Pretreatment Order. The program includes procedures for issuing and renewing permits, and reviewing permit applications and files.

The Authority's permitting program is detailed in its proposed Industrial Pretreatment Program Plan, a copy of which is included in Appendix K to this request. This permitting system is functionally identical to the system utilized by the City prior to the asset transfer, although the permit templates have been updated to incorporate feedback from U.S. EPA through the Pretreatment Order. The basic steps within the permitting process will include:

- identification of new industrial users and industries requiring permit renewal;
- distribution of permit applications and supporting material;
- review and follow-up of completed application forms;
- development of specific conditions in the permit to ensure compliance by the industry;
- and
- issuance (or renewal) of permits.

If an industrial discharge permit is necessary, the Authority will develop specific permit conditions incorporating categorical pretreatment standards when appropriate, and will seek industry agreement with such conditions. Permit conditions will include information on applicable discharge limits, requirements for self-monitoring and reporting, and compliance milestone scheduling. Permit conditions may be imposed without industry agreement, if necessary, through administrative and/or legal enforcement actions. Once issues concerning the conditions have been resolved, the permit will be issued.

If a permit is not necessary, based on the completed application, industry data will be stored in the master file for future reference.

Compliance Monitoring
40 CFR 403.9(b)(1)(iii) and 40 CFR 403.8(f)(1)(vi)

Laboratory analytical data which document the composition of industrial discharges to sewers regulated by the Authority are the necessary basis for any actions to control industrial dischargers. Monitoring of individual discharges is needed to achieve the following general objectives:

- determine whether individual industries meet applicable discharge limits; and
- provide sufficient data to quantify the industrial pollutant loads imposed on the AWT plants, and to distinguish industrial loads from residential waste loads.

These general objectives are achieved at optimum cost through collection and analysis of:

- wastewater samples from all permitted industrial dischargers on a routine basis sufficient to determine if industries are meeting discharge limits contained in the underlying regulations and permits;
- wastewater samples from major interceptors and the influent to the AWT plants sufficient to calculate the annual average industrial pollutant loads on the AWT plants;
- industrial wastewater samples collected on a random basis; and
- samples from industries which violate requirements contained in the underlying regulations and permits to support efforts to enforce compliance.

The monitoring program recommended for insuring compliance is based on a permit system and includes both industrial self-monitoring and monitoring of industry by the Authority. The monitoring program can be summarized as routine monitoring, random sampling and analysis, AWT plant influent monitoring, and compliance sampling analysis. In this regard, the Authority will adopt the City's current methodology for monitoring. The Authority will also adopt and modify as appropriate the City's current procedural system for issuing permits. See the Authority's Industrial Pretreatment Program Plan in Appendix K. The permit system is explained in Resolution and Ordinance No. CWA 2-2011, as well as the Authority's Industrial Pretreatment Program Plan.

Compliance Tracking Procedures ***40 CFR 403.8(f)(1)(ii)***

The Authority will track the compliance activities of industrial users through surveillance activities and on-site inspections, review of self-monitoring and the Authority-generated sampling reports, compliance status and progress reports, and required monthly reports from industrial users. Reports required by the industries subject to federal categorical pretreatment standards will also be reviewed by the Authority. Data from the self-monitoring and the Authority sampling reports will be regularly entered into the industry master file. The Authority will routinely review industry data within the master file for compliance with both administrative and specific discharge requirements.

Administrative compliance includes such activities as submission of self-monitoring or status reports. To identify compliance with discharge requirements, the Authority will review self-monitoring and the Authority-generated sampling data stored within the master file. If excursions from the discharge limits are identified, the Authority will pursue the noncompliance and enforcement procedures discussed in its Enforcement Response Plan.

The Authority will work to identify noncompliance cases through inspections and compliance sampling. In addition to the routine sampling data collected through self-monitoring reports and the Authority-generated sampling, industrial discharges will be monitored through follow-up compliance sampling and special sampling at the AWT plants and within the collection system. Slug discharge plans and incident reports will be submitted to the Authority, in addition to incident reports received from AWT plant operations personnel. These types of reports will be reviewed immediately by the Authority to assess cases of continuous noncompliance and the potential for operational problems at the AWT plants.

Notification of Requirements to Industrial Users
40 CFR 403.8(f)(1)(iii)

Industrial users have been informally notified of the intent to seek delegation of the pretreatment program by the Authority through various communications, including meetings and e-mail. Pursuant to Paragraph 57 of the Pretreatment Order, all industrial discharge permits have been reissued with language reflecting the upcoming change in control authority for the IPP program from the City to the Authority. Copies of the applicable Resolutions and Ordinances of the Authority will be made available upon delegation to inform industries of all applicable requirements. Similarly, as the Authority develops new local discharge limitations, all industries subject to these limits will be notified by letter and modifications will be made to discharge permits. Industrial users will generally be notified of current applicable pretreatment program regulatory requirements under the Clean Water Act through the re-issuance of discharge permits, informal communications with program staff, and other outreach efforts, including periodic meetings.

The Authority has access to electronic publication of the Federal Register and therefore has the capability to stay informed on new issues in the pretreatment regulatory area as they are being developed.

Noncompliance Enforcement
40 CFR 403.8(f)(1)(vi)

To ensure compliance with pretreatment standards and requirements, the Authority has developed an Enforcement Response Plan. A copy of the proposed Enforcement Response Plan is included in the Appendix J.

The Enforcement Response Plan will be reinforced by the underlying Resolutions and Ordinances containing provisions governing discharge regulations, permitting, inspection, reporting, damages and other pretreatment program components. The enforcement program will investigate and seek to correct instances of noncompliance originating from either self-monitoring reports or Authority surveillance and inspection activities.

The proposed enforcement program includes the following elements:

- identification of noncompliance (discussed previously under "Compliance Tracking Procedures");
- categorization and evaluation of the significance of noncompliance;
- notification to industry;
- corrective action;
- administrative enforcement; and
- legal enforcement.

Noncompliance cases will be identified by the Authority from industry's self-monitoring reports and Authority sampling reports, compliance status and progress reports. There are two general categories of noncompliance:

- i. discharge, in which an industrial user is discharging regulated pollutants in amounts

- exceeding applicable standards; and
- ii. administrative, in which a permit requirement is not being satisfied. Administrative noncompliance includes failure to apply for or renew a permit; to file self-monitoring reports or other required administrative procedures.

Upon identification of a noncompliance case, the Authority will determine the significance of the noncompliance and determine whether enforcement needs to be taken. The severity of the noncompliance will determine the type of notice to be given to the violator and the type of action to be taken. The steps to be taken in noncompliance cases are set forth in the Authority's proposed Enforcement Response Plan.

Once noncompliance is identified, and the violator is notified and an assessment made of its significance, corrective action can be taken, including: 1) establishing a compliance schedule; 2) issuing an order to show cause; 3) revoking the discharge permit; and/or 4) suspending services.

For most noncompliance cases, if an imminent danger does not exist, and when a satisfactory explanation has been received, the Authority will agree to a plan (with the discharger) for corrective action by the discharger. This plan will, if necessary, require development of a compliance schedule to install adequate pretreatment facilities or to otherwise address and/or resolve the noncompliance. The agreement will be executed by the discharger and the Authority. The Authority will monitor execution of the compliance schedule.

If a satisfactory explanation of noncompliance is not received and if imminent danger exists, then step to immediately terminate discharges will be taken. These steps are set forth in the Enforcement Response Plan. In general, the Authority will initiate such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the treatment works or endangerment to any individual or the environment.

When a satisfactory explanation of noncompliance is not received and if imminent danger does not exist or if a written suspension order has been served, the Authority will issue an administrative hearing order to the industry to show cause why an enforcement action should not be taken. The Authority will appoint an administrative hearing officer for the show cause hearing. The hearing determination may take the form of a cease and desist order requiring termination of noncompliance, installation of pretreatment facilities, or other directives, as appropriate. The order should contain a suspension of services order which should be executed within a specific period of time if compliance is not obtained.

An appeals process will be established pursuant to Resolution and Ordinance No. 3-2011: Resolution Authorizing Civil Enforcement of Violations and Establishing an Administrative Adjudication Process for Violations. A process to refer noncompliance incidents for criminal sanctions, as appropriate, under applicable state or local requirements is described in the Enforcement Response Plan.

Equitable relief must be available in the form of either a temporary restraining order or an injunction against dischargers who violate pretreatment standards. Legal action may be taken to recover actual damages resulting from a violation together with all reasonable costs of the litigation. Also, any fines which are imposed on the Authority by the State or EPA will be recovered from the relevant dischargers.

Confidentiality Requirements
40 CFR 403.8(f)(1)(vii)

The Authority will manage data claimed as confidential business information in accordance with the requirements of Indiana Code §5-14-3 and 40 CFR Part 403.14, including the provisions related to submittal of confidential information and public access to all data that cannot be claimed as confidential business information. Additionally, Resolution and Ordinance CWA 2-2011 contains confidentiality provisions that confirm federal and state law.

Industrial User Survey
40 CFR 403.8(f)(2)(i)

The industrial user survey will continue to be used to develop a data base or master file of industry monitoring, compliance, and billing information. Information in the file relating to new industries, sampling data, and enforcement actions will be updated as made available. All current pretreatment program information, including paper files and data stored electronically, will be transferred to, and used by, the Authority.

The Authority will also periodically request and/or review records of new building permits and water accounts to identify new industries. An industry summary form will be completed by all identified industries and, if found appropriate, a discharge permit application will be completed by the industry and a permit will be issued. Application information will be used to update the master file. Permit application information will also be updated when permits are renewed for existing industries.

Wastewater discharge data for all monitored industries will be updated as self-monitoring reports are submitted and as the Authority conducts compliance monitoring. In addition, as cases of noncompliance are identified, information such as industry explanations and the Authority actions will also be entered into the master file.

Public Participation
40 CFR 403.8(f)(2)(viii)

The Authority will, as described in its proposed Enforcement Response Plan, annually publish in the largest newspaper in the City of Indianapolis a list of the users which have significantly violated any pretreatment standard or regulation during the 12 previous months. The notification will also summarize any enforcement actions taken against the user(s) during the same 12 months.

Resolution and Ordinance CWA 1-2011 establishes a public process for adoption of Resolutions and Ordinances that apply to industrial dischargers, including septic haulers. This resolution provides for a public notice and comment period, as well as public hearings before the Board prior to adoption of Resolutions.

In addition, the Authority will use the other communication tools, such as direct mail, the internet website, and e-mail, to communicate with stakeholders regarding the Program, including information related to changes in state and/or federal regulations that impact the pretreatment program.

Local Limits
40 CFR 403.8(f)(4)

The Authority will, as described in its proposed Industrial Pretreatment Program Plan and Resolution and Ordinance CWA 2-2011, establish local limits as required by 40 CFR 403.5(c)(1) to ensure that there are no pass through or interference with the operation of the system. As a part of the application for renewal of the NPDES permit, a local limits evaluation was conducted and has been included as Appendix O.

PROGRAM AUTHORITIES

40 CFR 403.9(b)(2)

The appendices to this submittal provide copies of the authorities upon which the Authority relies or will rely for implementation of the IPP program, including the following documents:

- Appendix C: Ind. Code §8-1-11.1 (the “Citizens Act”)
- Appendix D: The CWA Authority, Inc., Articles of Incorporation
- Appendix E: Interlocal Agreement executed by the parties
- Appendix G: Terms & Conditions of Service for The CWA Authority as approved by the IURC
- Appendix H: Certificate of Closing Submitted to the City-County Council
- Appendix I: Legal and Regulatory Mechanisms Established through the Asset Transfer
- Appendix J: Enforcement Response Plan
- Appendix K: Industrial Pretreatment Program Plan
- Appendix M: Resolutions of the Board of Directors of The CWA Authority, Inc
 - Resolution and Ordinance CWA 1-2011 (Administrative Rulemaking)
 - Resolution and Ordinance CWA 2-2011 (IPP Procedures)
 - Resolution and Ordinance CWA 3-2011 (Administrative Enforcement & Appeal)

Appendix I to this submittal contains the ordinances of the City intended to reflect approval of the transfer of the Wastewater System, the execution of the Interlocal Agreement, and approval of the delegation of the pretreatment program. Appendix M to this submittal provides the documents (Board Resolutions and Ordinances) intended to reflect the endorsement or approval of the Board of Directors.

PROGRAM ORGANIZATION AND FUNDING

40 CFR 403.9(b)(3) and (b)(4) and 40 CFR 403.8(f)(3)

Program Funding

The pretreatment program is supported financially through a series of collections and charges including:

- user charges to both residential and industrial users;
- surcharges to industrial users for high-strength conventional pollutants;
- lab and sampling charges to industries which are sampled by the Authority; and
- permit fees to permitted industries.

The Authority will implement and support the pretreatment program through a similar series of collections and charges. The Authority will implement these charges pursuant to its Resolutions, as well as the rates and procedures established under the guidance of the Indiana Utility Regulatory Commission (IURC). The rates and charges for each of the utility services provided by the Authority will be established under the applicable statute on a properly separated, stand-alone basis. A copy of the

Authority's Sewage Disposal Terms and Conditions for Service approved by the IURC is included in Appendix G.

The Authority has the same customer base that the Sanitary District had prior to the asset transfer. Accordingly, the socioeconomic and financial conditions among the customer base that affect the Authority's financial capacity to finance the pretreatment program will not change.

The Interlocal Agreement also specifies that the Authority may require Citizens to provide financial and administrative support and to issue bonds on behalf of the Authority if needed. See Interlocal Agreement, Sections 3.3 and 3.4. The Treasurer of Citizens is charged with specific responsibilities, including maintaining separate books of accounts and records for the Authority. The Authority's funds are segregated from those of any other of the utilities operated by the Board. See Section 3.7.

Moreover, the rates and charges for the utility services the Authority provides are established under the applicable statute, Ind. Code § 8-1.5-3-8, on a properly separated, stand-alone basis. The Authority's rates for future cases will be established under the guidance of the IURC. Under Ind. Code § 8-1.5-3-8, "reasonable and just" rates and charges must provide sufficient revenue to:

- (1) pay all the legal and other necessary expenses incident to the operation of the utility, including:
 - a) maintenance costs;
 - b) operating charges;
 - c) upkeep;
 - d) repairs;
 - e) depreciation;
 - f) interest charges on bonds or other obligations, including leases; and
 - g) costs associated with the acquisition of utility property under IC8-1.5-2;
- (2) provide a sinking fund for the liquidation of bonds or other obligations, including leases;
- (3) provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the municipality, not to exceed the maximum annual debt service on the bonds or obligations or the maximum annual lease rentals;
- (4) provide adequate money for working capital;
- (5) provide adequate money for making extensions and replacements to the extent not provided for through depreciation in subdivision (1); and
- (6) provide money for the payment of any taxes that may be assessed against the utility.

Indiana Code § 8-1.5-3-8(d) further provides that: "[i]t is the intent of this section that the rates and charges produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service. Rates and charges too low to meet these requirements are unlawful."

Initially, the Authority adopted the City's existing wastewater rates and charges, which increase annually by 10.75% through 2013. The Authority has reviewed the City's existing rates, and believes those rates (including the annual 10.75% increase) will allow the Authority to support the pretreatment program and otherwise provide safe, adequate and reliable service to customers. After the year 2013, the Authority intends to seek IURC approval of regular rate increases to ensure that the rates and charges in place are sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service, including paying all expenses necessary to support the pretreatment program.

Program Staffing and Organization

The Pretreatment Program is organized into two workgroups, field surveillance and compliance, both of which report to same supervisor. These groups are responsible for surveillance, permits, and review of submittals to determine compliance with the underlying regulations and permits.

Carey Lykins, President and Chief Executive Officer of Citizens, has been appointed by the CWA Authority, Inc. board to serve as President and Chief Executive Officer of the wastewater utility owned by the Authority. Although the Authority is a separate legal entity with a separately constituted board, it will be an instrumentality of, and operated and managed by employees of, Citizens.⁵ These employees will provide direct oversight and have overall responsibility for implementation of the pretreatment program.

The Authority pretreatment program will assume the existing staff associated with the pretreatment program through a contract with United Water Services, Inc., which provides the staff necessary to carry out the requirements of the Industrial Pretreatment Program Plan. A copy of the Authority's proposed Industrial Pretreatment Program Plan is included in Appendix K.

In addition, the Authority will have personnel to oversee and implement the pretreatment program, including enforcement of the programs and administrative hearing officers, as required, for implementation of its administrative enforcement procedures. Charts detailing the Authority's organizational structure for the program are set in Appendix L.

⁵ For purposes of this submittal, references to activities of CWA Authority, Inc., personnel are activities that will be conducted by employees of Citizens or its contractors in order to fulfill the obligations of the pretreatment program.

Appendix A: Certification by Counsel for The Authority (40 CFR 403.9(b)(1))

November 30, 2012

Director, Water Division
Attn: Jeremy Deyoe
U.S. EPA, Region V
Water Division, W-15J
77 W. Jackson Blvd
Chicago, Illinois 60604-3507

Regional Counsel
Attn: Nicole Cantello
U.S. EPA, Region V, C-14J
77 W. Jackson Blvd.
Chicago, IL 60604-3507

Bruno Pigott
Assistant Commissioner
Indiana Department of Environmental Management
Office of Water Quality
100 N. Senate Ave.
Mail Code 65-42 IGCN 1255
Indianapolis, IN 46204-2251

Gary Prichard
Office of Regional Counsel
U.S. EPA, Region V, C-14J
77 W. Jackson Blvd.
Chicago, IL 60604-3507

RE: Request for Program Delegation:
Industrial Pretreatment Program
Indianapolis, Indiana
Dated: November 30, 2012

Dear Sir or Madam:

CWA Authority, Inc., an Indiana municipal corporation (the "Authority"), has previously submitted on behalf of the Authority and the City of Indianapolis (the "City") jointly for your review and approval a request for modification of delegation of the City's current industrial pretreatment program for the publicly owned treatment works ("POTW"). The Authority, as the owner of the POTW, now submits this request for program delegation ("Request") to be named the control authority and approved operator of the pretreatment program for the POTW in Indianapolis, Indiana in accordance with the requirements of 40 C.F.R. Part 403. This statement is being submitted in accordance with 40 C.F.R. Part 403.9(b)(1). Ice Miller LLP served as counsel to the Authority in connection with the hereinafter described Asset Purchase Agreement. The Request, including its attachments, includes copies of the following:

- (i) the legal authority under 40 C.F.R. Part 403.8(f)(1) which provides the basis for each procedure under 40 C.F.R. Part 403.8(f)(2);
- (ii) the manner in which the Authority will implement the program requirements set forth in 40 C.F.R. Part 403.8, including the means by which Pretreatment Standards will be applied to individual Industrial Users (e.g., by order, permit, ordinance, etc.); and

(iii) how the Authority intends to ensure compliance with Pretreatment Standards and Requirements, and to enforce them in the event of noncompliance by Industrial Users.

As more fully described in the Request, on August 11, 2010, the City, the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "Sanitary District"), the Authority, and the Department of Public Utilities for the City of Indianapolis, acting by and through the Board of Directors for Utilities (the "Citizens Board"), d/b/a Citizens Energy Group ("Citizens") executed an Asset Purchase Agreement (the "Asset Purchase Agreement"). Under the Asset Purchase Agreement the City and the Sanitary District transferred on August 26, 2011, the wastewater assets of the Sanitary District (the "Wastewater System") to the Authority.

The Department of Public Utilities ("Citizens") is an executive department of the City, established to be the City's vehicle to act as the successor trustee of a public charitable trust formed over 100 years ago. The Department of Public Utilities is headed by a Board of Directors (Ind. Code § 8-1-11.1-1, the "Citizens Board") that has been given all of the requisite governmental powers required to own, operate and manage the utilities under its jurisdiction, including the power to tax property for the payment of bonds (Ind. Code § 8-1-11.1-10) and eminent domain (Ind. Code § 8-1-11.1-3). Citizens' Board is subject to the statutory provisions governing municipalities in Indiana, e.g., open door law, public records law, the provisions governing public investments and audit by the Indiana State Board of Accounts in the same manner as the Authority.

Indiana Code sections 36-9-25-9 and §36-9-25-10 gives the City's Board of Public Works the power to construct, maintain, and regulate sewer systems within the Consolidated City of Indianapolis. We understand the City or the Sanitary District has otherwise met the requirements of 40 C.F.R. Part 403 upon which the U.S. Environmental Protection Agency (the "EPA") has relied in previously delegating this authority to the City and the Sanitary District. Additionally, Ind. Code §36-9-23-16 (b) provides that a municipality may contract to treat all or part of the sewage of any other municipality. Thus, the City has the authority to regulate, through agreement with a satellite community, the flow of sewage into the Wastewater System.

The Authority is a separate legal entity that is organized as a political subdivision of the State of Indiana, pursuant to an August 9, 2010, Interlocal Agreement for the Provision of Utility Services (Wastewater) (the "Interlocal Agreement") between three Indiana political subdivisions¹ in accordance with Indiana's Interlocal Act. Indiana's Interlocal Act authorizes the City, the

¹ The City, as a consolidated City organized pursuant to Indiana Code 36-3-1, is an Indiana political subdivision. The District, as a special taxing district established and operating under Indiana Code 36-9-25, and Citizens, as a special taxing district and an executive department of the City established and operating pursuant to the Citizens Act, are Indiana political subdivisions.

Sanitary District and The Department of Public Utilities to exercise powers jointly pursuant to a written agreement (the Interlocal Agreement) through a separate legal entity established for that purpose, in this case, the Authority. The Authority was created for the purpose of acquiring and running the Wastewater System. The Interlocal Agreement may be found in Appendix E of the Request. A ruling issued by the U.S. Department of Treasury's Internal Revenue Service (IRS) that the Authority is a political subdivision is included in the Appendix F of the Request. Thus, the Authority is considered a municipality owning and operating a POTW, as those terms are defined in 40 CFR Part 403. The members of the Citizens Board act as the members of the Authority's Board. Pursuant to an agreement, Citizens operates the Wastewater System for the Authority.

By reason of the powers invested in the Authority pursuant to the Interlocal Agreement the Authority now possesses all of the respective rights, powers, functions and duties of the City², the Sanitary District, and Citizens that are necessary, useful or appropriate to furnish wastewater collection and treatment services, including but not limited to, those necessary to qualify as a publicly owned treatment works, those required for an approved POTW pretreatment program and satisfaction of the State Revolving Fund/EPA definition of a qualified owner/operator.

Based upon our review of the foregoing, including the Request and the attachments to the Request, the Authority has all the powers and legal authority of the Sanitary District, the City and Citizen that are necessary, useful or appropriate to acquiring, owning and operating the Wastewater System and/or having jurisdiction over disposal of sewage, including industrial wastes or other wastes. In the same manner that the City qualifies, these powers qualify the Authority as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the Asset Purchase Agreement and the Interlocal Act. In effect, any power the City,³ Citizens or the Sanitary District could exercise prior to closing, the Authority is now authorized to exercise after closing of the sale of the Wastewater System. Like Citizens, the Authority is subject to the same statutory provisions with respect to open records, public meetings, public investment and public audits, as the City and the Sanitary District.

A detailed analysis of the legal authority for the Authority to assume control of the City's pretreatment program was provided to EPA on November 11, 2010. A copy of this analysis, and the relevant attachments, is included in Appendix B to the Request.

We also have examined such certificates of public officials, organizational documents and records and other certificates and instruments as we have deemed necessary for the purposes of the statements herein expressed and, with your permission, have relied upon and assumed the

² Except the City's power of taxation.

³ Except the City's power of taxation.

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accuracy of such certificates, documents, records and instruments, including specifically the Certificates.

The Authority has adopted a pretreatment system based on the City's existing program. The resolutions⁴ adopted by the Authority, along with terms and conditions of service as approved by the Indiana Utility Regulatory Commission (the "IURC"), the Enforcement Response Plan, the Industrial Pretreatment Program Plan, and forms relevant to the pretreatment program are included in Appendices F, G, and H (respectively) of the Request.

The table attached as Appendix P, Table P-3 to the Request cross-references the various sections from the Authority's Resolution No. CWA 2-2011 found in Appendix M-2 to the Request, to the City of Indianapolis' Sewer User Ordinance (Chapter 671 "Sewer and Sewage Disposal") and the specific requirements listed in Section 403.8 (f) (1). As indicated in the Request, the Authority intends to utilize a permit system like that currently used by the City to implement pretreatment program requirements. The Authority also intends to ensure compliance with pretreatment standards and requirements through an inspection, monitoring, and noncompliance enforcement program which would allow for the determination of noncompliance with discharge limitations and requirements independent of information supplied by the industrial user. Those violating permit conditions will be issued an order to comply (as appropriate) or have their permit revoked or service terminated if an imminent public health or environmental hazard is likely. The Authority will petition the appropriate court to enforce compliance if necessary.

We believe the above statements demonstrate compliance with the requirements of 40 C.F.R. Part 403.9 (b)(1).

This statement is being furnished to you for your sole use only in connection with the Request, and no other person is entitled to rely on it without our written consent. The statement expressed in this letter express our professional judgment as to the legal issues addressed in this letter. By rendering this statement, Ice Miller LLP does not become an insurer or guarantor of that expression of professional judgment, nor does the making of such statement guarantee the outcome of any legal dispute that may arise out of the related transaction.

We express no views with respect to the laws of any jurisdiction other than the internal laws of the State of Indiana and the federal laws of the United States of America. The foregoing

⁴ In 1939, the Supreme Court of the State of Indiana stated that: "As to matters of form, the terms "resolutions" and "ordinances" are frequently used interchangeably, and at most, an ordinance merely connotes a more formal and solemn declaration. A resolution passed with all the formalities required for passing ordinances may operate as an ordinance regardless of the name by which it is called." *Town of Walkerton v. New York, C. & St. L. R. Co.*, 215 Ind. 206, 211-212, 18 N.E.2d 799, 802.

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statement is based upon such laws as are in effect on the date of this statement, and we expressly disclaim any undertaking to advise you of any subsequent changes in laws.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jose Mulla", followed by a stylized flourish or initial.

**Appendix B: Memo of November 11, 2010, Outlining CWA Authority's Legal
Status**

MEMORANDUM

TO: U.S. Environmental Protection Agency, Region V ("EPA")
Gary Prichard, EPA, Office of Regional Counsel

FROM: Ice Miller LLP

DATE: November 11, 2010

CC: Timothy C. Henry, EPA, Associate Director, Water Division
Rich Traub, EPA, Water Division, NPDES Branch

RE: CWA Authority, Inc. – Background Information

Thank you for taking the time to meet with representatives of CWA Authority Inc., ("CWA") on September 16, 2010 to discuss its acquisition of the wastewater collection and treatment systems, including wastewater treatment facilities, from the City of Indianapolis. As we discussed, the parties to the transaction are the City of Indianapolis ("City"), the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works ("Sanitary District") , CWA, and the Department of Public Utilities for the City of Indianapolis, acting by and through the Board of Directors for Utilities (the "Citizens Board"), d/b/a Citizens Energy Group ("Citizens") The Asset Purchase Agreement was executed by the parties on August 11, 2010 (the "Asset Purchase Agreement").

As you requested, this memorandum provides additional information on Citizens and the formation and powers of CWA in anticipation of CWA's submittal to EPA of a request to transfer the delegation to CWA from the City as Control Authority, pursuant to an Approved POTW Pretreatment Program, as those terms are defined in 40 CFR § 403.3.

We have included as attachments to facilitate your review the following documents:

Attachment A – Citizens Enabling Legislation, Ind. Code § 8-1-11.1, et seq. (the "Citizens Act").

Attachment B – Indiana's Interlocal Statute, Ind. Code § 36-1-7-1, et seq. (the "Interlocal Act").

Attachment C – Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) dated as of August 9, 2010, among Citizens, the Sanitary District and the City (the "Interlocal Agreement").

The remainder of the materials are available on the FTP site of the City (<ftp://ftp.indygov.org/utilities>)¹ and/or the Indiana Utility Regulatory Commission (the "IURC") website (www.in.gov/iurc). Please note that this memorandum is only intended as a summary overview of the issues presented herein and was created for your convenience in reviewing the

¹ The word "public" is both the user name and password for the City's FTP site.

underlying materials. We look forward to the opportunity to address in more detail any information in this memorandum or any questions you may have on this memorandum, the Asset Purchase Agreement or the documents on the City's FTP site or IURC website.

1. What is Citizens, and how was it formed?

The Department of Public Utilities is an executive department of the City, established to be the City's vehicle to act as the successor trustee of a public charitable trust formed over 100 years ago. The Department of Public Utilities is headed by a Board of Directors (Ind. Code § 8-1-11.1-1) appointed pursuant to the provisions established by the Indiana General Assembly. The Board of Directors was given all of the requisite governmental powers required to own, operate and manage the utilities under its jurisdiction, including the power to tax property for the payment of bonds (Ind. Code § 8-1-11.1-10) and eminent domain (Ind. Code § 8-1-11.1-3). The Citizens Board is subject to the statutory provisions governing municipalities in Indiana, e.g., open door law, public records law, the provisions governing public investments and audit by the Indiana State Board of Accounts.

2. What is CWA and how was it formed?

CWA was created pursuant to an Interlocal Agreement between three Indiana political subdivisions² in accordance with the Interlocal Act. CWA is a separate legal entity organized as a political subdivision and instrumentality of the State of Indiana, created under the Interlocal Agreement for the purpose of acquiring the wastewater assets of the Sanitary District (the "Wastewater System").

Indiana's Interlocal Act authorizes the City, the Sanitary District and Citizens to exercise powers jointly pursuant to a written agreement (the Interlocal Agreement) through a separate legal entity established for that purpose, in this case, CWA. The Interlocal Agreement (Section 3.1) establishes CWA as an Indiana nonprofit corporation organized by Citizens for the purpose of exercising all of the respective rights, powers, functions and duties of the City³, the District and Citizens that are necessary, useful or appropriate to furnish wastewater collection and treatment services, including but not limited to, those necessary to qualify as a publicly owned treatment works, those required for an Approved POTW Treatment Program and satisfaction of the State Revolving Fund/EPA definition of a qualified owner/operator.

Furthermore, the Interlocal Agreement specifies that CWA may require Citizens to provide financial and administrative support and to issue bonds on behalf of CWA if needed. See Sections 3.3 and 3.4. The Treasurer of Citizens is charged with specific responsibilities, including maintaining books of accounts and records for CWA separate and apart, and its funds segregated, from those of any other of the utilities operated by the Board. See Section 3.7.

² The City, as a consolidated City organized pursuant to Indiana Code 36-3-1, is an Indiana political subdivision. The District, as a special taxing district established and operating under Indiana Code 36-9-25, and Citizens, as a special taxing district and an executive department of the City established and operating pursuant to the Citizens Act, are Indiana political subdivisions.

³ Except the City's power of taxation.

At the time of closing (of the sale of the Wastewater System), the City, the Sanitary District and Citizens shall have delegated to, and vested in, CWA all the powers that are necessary, useful or appropriate to acquiring, owning and operating the wastewater system and/or having jurisdiction over disposal of sewage, including industrial wastes or other wastes. These powers qualify CWA as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the Asset Purchase Agreement and the Interlocal Act. In effect, any power the City,⁴ Citizens or the Sanitary District could exercise prior to closing, CWA will be authorized to exercise after closing of the sale of the Wastewater System.

3. How is CWA a POTW for purposes of 40 CFR § 403?

A POTW means a treatment works, as defined in section 212 of the Clean Water Act, which is owned by a State or municipality (as defined in section 502(4) of the Clean Water Act). CWA was created as a political subdivision pursuant to the Interlocal Act and the Interlocal Agreement and, therefore, is a municipality. After closing and the asset transfer, CWA will have jurisdiction over disposal of sewage, industrial wastes or other wastes.

4. How will CWA implement the pretreatment program requirements?

CWA will adopt a pretreatment system based on the City's existing program. Pursuant to Ind. Code § 8-1-11.1-3, Citizens, and therefore CWA, has the authority to promulgate rules, regulations, or Resolutions and Ordinances comparable to the City's current system for any appeal procedures for implementation of the pretreatment program. CWA will adopt resolutions that are modeled off of the City's current municipal code, including the relevant provisions currently found in Sections 671-1 to 17; 671-41 to 62, 103 and 501-512.

CWA intends to comply with the processes prescribed by Indiana law regarding publication of an ordinance imposing a penalty or fine and other matters regarding publication and the number of readings. See Ind. Code §36-3-4-14(c) and Ind. Code §5-3-1-2(h).

5. How will CWA enforce the pretreatment program?

CWA will develop and adopt an Enforcement Response Plan to serve as guidance to CWA personnel in identifying, addressing and correcting any violations of CWA's industrial pretreatment program. The Enforcement Response Plan will outline in a step-by-step manner the procedures used by CWA in responding to violations. At this time, CWA intends to develop and adopt the plan based on the City's existing Enforcement Response Procedures Plan. The City's plan was developed in accordance with the U.S. EPA issued guidance document in September, 1989, "Guidance for Developing a Control Authority Enforcement Response Plans" and CWA will utilize this guidance, additional requirements and the City's existing plan to create an updated Enforcement Response Plan for CWA.

⁴ Except the City's power of taxation.

6. What is the governance structure of the Board of Directors of CWA? Who are the members of the Board of Directors?

The Articles of Incorporation for CWA define its Board of Directors as the seven (7) individuals appointed by the Board of Trustees as member of the Board of Directors for the Department of Public Utilities⁵, subject to the same qualifications that are set forth in IC 8-1-11.1-1.

By statute, the board of trustees can increase the size of the Board up to 11 members. Each trustee serves a four-year term after being nominated by the board of trustees and appointed by the Mayor of the City of Indianapolis. Each person serving on the Board and the board of trustees must be at least 35 years of age and resident of the City for at least five years preceding his or her appointment.

The following are the current members of the CWA Board of Directors:

- Board President Martha D. Lamkin, Retired President and Chief Executive Officer, Lumina Foundation for Education
- Board Treasurer Lawrence A. O' Connor, Jr., Executive Director, Butler Business Accelerator; Former Chief Executive Officer, Indianapolis Museum of Art; Former Chief Executive Officer, Bank One Indiana
- Board Secretary Dorothy J. Jones, Former President, BOS Community Development Corp.
- Daniel C. Appel, President, Gregory & Appel Insurance
- Anne Nobles, Senior Vice President of Enterprise Risk Management and Chief Ethics and Compliance Officer, Eli Lilly and Company⁶
- James M. McClelland, President, Goodwill Industries of Central Indiana, Inc.
- Anita J. Harden, Retired President, Community Hospital East

7. Who are the members of the Board of Trustees of Citizens⁷?

The Board of Trustees consists of five (5) members, with their primary responsibility to appoint the Citizens Board, which is, through the Articles of Incorporation, also the Board of Directors for CWA.

The following are the current members of the Board of Trustees for the Department of Public Utilities:

⁵ See Article VIII.

⁶ In response to the questions asked at our meeting on 9/16/10, only Anne Nobles is an employee of a significant industrial user.

⁷ It should be noted that the primary responsibility of the Trustees is to appoint the Citizens Board, which acts as CWA Board. The Trustees, however, exercise no operational control over Citizens and will not control CWA or the System.

- Board President Daniel F. Evans, President and Chief Executive Officer, Clarian Health Partners
- Board Secretary Dr. Gerald L. Bepko, Trustee's Professor, Indiana University School of Law
- Dennis Bland, President, Center for Leadership Development
- Kathryn G. Betley, Civic Leader and Community Volunteer; Former Chair, Butler University Board of Trustees
- John L. Krauss, Director of the Indiana University Public Policy Institute

8. What is the governance and management structure of CWA?

Pursuant to the Interlocal Agreement, CWA will be responsible for managing and operating the Wastewater System. Carey Lykins, President and Chief Executive Officer of Citizens has been appointed by the CWA's board to serve as president and chief executive officer of the wastewater utility. While CWA is a separate legal entity with a separately constituted board, it will be an instrumentality of, and operated and managed by, employees of Citizens.

9. Will the utilities under management and control of the Board be financially integrated?

No. Each of the utilities under the management and control of the Board will maintain separate balance sheets and income statements, in accordance with the Interlocal Agreement and the Citizens Act. Ind. Code § 8-1-11.1-13 provides that "[i]n event more than one (1) utility property is operated by said board of directors, separate books of account and records shall be kept for each utility, and the funds of each shall be kept segregated."

Moreover, the rates and charges for each of the utility services to be provided under the management and control of the Board will be established under the applicable statute on a properly separated, stand-alone basis. In other words, there will not be "financial integration" or cross-subsidization among the utilities under the Board of Directors' management and control.

10. Are there proposed cost savings and what are the incremental costs?

CWA will have the same ratepayers and customer base as the Sanitary District currently has. Accordingly, the socioeconomic and financial conditions among the customer base that affect CWA's financial capacity to implement the projects under the Consent Decree and the ability of CWA to finance the final recommendations will not change.

Cost savings that may result from the proposed transaction largely result from efficiencies gained in activities that are shared in common among multiple divisions of the new consolidated Citizens. Also, most of the cost savings that impact shared corporate support services (CSS) costs, such as executive management, audit, employee health and safety, external relations, finance and accounting, etc., result from efficiencies gained through the consolidation

of such functions. The benefits of these efficiencies will impact nearly every division of the newly consolidated Citizens.⁸

However, incremental costs are expected to be incurred by the proposed acquisition, in addition to the potential for cost savings. The incremental costs expected to be incurred from the proposed transaction are primarily related to the Wastewater System. Such incremental costs for the Wastewater System include debt service on the acquisition debt and debt service and other costs of securing working capital for the Wastewater System.⁹ The incremental costs of the proposed transaction are necessary in order to acquire the Wastewater System. Acquisition of the Wastewater System and its integration into the new consolidated Citizens is a prerequisite to the realization of any cost savings to be shared among the customers of all utilities within the new consolidated Citizens.¹⁰ There is a risk that the allocation of costs from activities that are shared in common among multiple divisions of the new consolidated Citizens could result in a lower amount of cost savings resulting from the proposed acquisition flowing to the Wastewater System than the amount of incremental costs to be borne by the Wastewater System. To address this concern, Citizens has proposed that the amount of CSS costs to be allocated to the Wastewater System within the new consolidated Citizens be limited to ten percent of the total amount of CSS costs.¹¹

11. How will CWA address any potential conflicts of interest in the operation and enforcement of the industrial pretreatment program?

The Enforcement Response Plan, as described above, will provide for equitable treatment to all industrial users affected by CWA's enforcement process. The Enforcement Response Plan will further specify staff responsibilities and the application of enforcement procedures that will apply to all industrial users regulated by the industrial pretreatment program. There are controlling regulatory conflicts requirements that apply to CWA and Citizens. Specifically, the Citizens Act provides that neither directors nor trustees can have an adverse interest in contracts. Ind. Code § 8-1-11.1-4 states that no contract shall be made for the purchase or sale of any materials or supplies on behalf of Citizens with any trustee or director and no trustee nor director shall have any pecuniary interest in such contract. In addition, Citizens is subject to the provisions of Ind. Code § 35-44-1-3 regarding offenses against public administration, which address bribery, conflicts of interest and official misconduct.

The enforcement of the industrial pretreatment program will also be segregated from the operation of the wastewater utility through the management structure of Citizens. The operations functions for the wastewater utility will be overseen by William A. Tracy, Senior Vice President of Operations. The industrial permit program will be subject to the oversight of John R. Whitaker, Senior Vice President and General Counsel, who has responsibility for legal and compliance matters, including legal, corporate affairs, and environmental stewardship, which

⁸ See Verified Direct Testimony of John R. Brehm, Joint Petitioners' Exhibit JRB, Citizens Energy Group, CWA Authority, Inc., ("Brehm Testimony"), pgs 25 – 26. Brehm Testimony can be located on the IURC FTP site.

⁹ See Brehm Testimony, pg 24.

¹⁰ See Brehm Testimony, pg 27.

¹¹ See Brehm Testimony, pg 28, Petitioners' Exhibit JRB-4, lines 1-6.

will include the industrial pretreatment program. This structure results in those individuals with operational responsibilities segregated from those responsible for the issuance and enforcement of permits issued by the industrial pretreatment program.

At this time, Citizens owns or operates facilities that would be considered industrial users (a source of indirect discharge, which is defined as pollutants into a POTW from non-domestic sources), such as steam discharges, boiler blowdown, chilled water discharges, etc. However, at present none of these discharges are regulated under a categorical pretreatment standard, nor has a permit been issued. If the status of these discharges were to change in the future, CWA will ensure the necessary segregation of duties, implement any applicable conflict of interest policy and the Enforcement Response Plan, if required, to mitigate any potential conflict with the issuance and administration of the permits. This approach will be similar to how the City currently segregates responsibilities for its permitted entities and its enforcement of the industrial pretreatment program.¹²

In addition, Citizens currently has in place a Code of Conduct for its employees to address any appearance of impropriety that may arise from the potential for a permitted entity under the industrial pretreatment program being represented on the Citizens or CWA board. Citizens' Code of Conduct defines a conflict of interest as any activity that is not consistent with or is opposed to the best interests of Citizens. It prohibits Citizens employees from engaging in any personal activity which could influence their judgment or action in performing his or her work at Citizens. A Citizens employee or his or her dependants may not make a profit or receive a personal financial benefit, other than for the service as an employee, from a contract or purchase connected with Citizens. Because Citizens will operate the assets through the Interlocal Agreement on behalf of CWA, these same policies will apply to the wastewater system.

The Policy on Conflicts of Interest for the employees, Trustees and Directors of Citizens provides that one of the most important assets of Citizens is its reputation in the community. To that end, Citizens requires that employees, Trustees and Directors disclose any conflict of interest or potential conflict of interest on a questionnaire, signed quarterly for employees and annually for Trustees and Directors. The questionnaire specifies what is a conflict of interest and what is to be done if one exists. The questionnaire covers investments, pecuniary interests and gifts, gratuities and entertainment, and specifically references Ind. Code 35-44-1-3 as a the special rule required by Indiana law.

The Board of Trustee structure of Citizens also provides oversight to the conflicts policies and the Enforcement Response Plan. The Trustees have the power to remove summarily and at any time any director. Each Trustee takes and subscribed an oath of office. In the event that the Trustee is the source of an improperly handled conflict or other alleged impropriety, any

¹² See City of Indianapolis Integrated Department of Public Works Engineering/Operations Matrix Organization and the Indianapolis/Marion County Code of Ethics, Chapter 293.
<http://www.municode.com/resources/gateway.asp?sid=14&pid=12016>

Trustee may be removed from office for neglect of duty, incompetency, disability to perform his or her duties, or other good cause.¹³

¹³ See Ind. Code 8-1-11.1-1.

Attachment A



**Information Maintained by the Office of Code Revision Indiana Legislative Services Agency
IC 8-1-11.1**

Chapter 11.1. Department of Public Utilities of Consolidated City

IC 8-1-11.1-1

Creation; board of trustees; directors; membership; appointment; qualifications; tenure; proceedings

Sec. 1. (a) In addition to the other executive departments of a consolidated city, there is hereby created in any such city a department of public utilities, which shall have as its head and be under the general supervision and control of a board of seven (7) members, to be known as the "Board of Directors for Utilities," to be appointed annually by the board herein provided for and designated as the "Board of Trustees for Utilities."

(b) Said board of trustees for utilities shall consist of five (5) members.

(c) All such trustees and all successors thereof shall hold over after the expiration of their terms until their respective successors have been duly appointed and have qualified.

(d) At the expiration of the respective terms of each of the members of the board of trustees, the said board of trustees shall nominate the successors thereof to membership on such board, each of which nominees shall be appointed by the mayor of the consolidated city within ten (10) days after receiving such nominations, and such succeeding members shall serve for a term of four (4) years. In the event any person who has been appointed at any time as a member of such board of trustees shall fail to qualify within ten (10) days after the mailing to him of notice of his appointment; or if any member after qualifying shall die, resign, vacate such office by becoming a nonresident of such city, or be removed as hereinafter provided; new members of such board of trustees shall be chosen to fill such vacancy in the same manner as is provided for the member as to whom such vacancy occurs, and the member so chosen shall serve for the remainder of the term for which the member whose place is so filled was appointed.

(e) No person shall be appointed as trustee who is less than thirty-five (35) years of age, and who has not been a resident of such city for at least five (5) years immediately preceding his appointment. If any such trustee shall cease to be a legal resident of said city his membership on said board shall thereby terminate and become vacant.

(f) Each member of such board of trustees for utilities, before entering upon his duties, shall take and subscribe an oath of office in the usual form, to be indorsed upon the certificate of his appointment, which shall be promptly filed with the clerk of the city-county council.

(g) A majority of all the members of said board of trustees for utilities shall be necessary to constitute a quorum.

(h) Said board of trustees shall elect one (1) member thereof as president, one (1) as vice-president, and one (1) as secretary, who shall serve from the date of their election until one (1) year from the

first day of January next following their election and until their successors are elected and have qualified.

(i) Said board of trustees shall keep a record of their proceedings. The expense of the meetings and proceedings of said board and of keeping a record thereof and the salary of the members thereof shall be paid upon a written request of the presiding officer and secretary thereof by the board of directors for utilities out of the funds belonging to said utility district. Each member of said board of trustees for utilities shall receive as compensation for his services as such a salary in the sum of fifty dollars (\$50) per year.

(j) The board of trustees for utilities shall meet annually on the first Monday of December of each

year, at the principal office of said department of public utilities, for the purpose of transacting any business pertaining to their duties, and for the purposes of electing officers of such board of trustees and of selecting and appointing members of the board of directors for utilities, who shall serve for one (1) year from the first day of January following and until their successors are appointed and qualified.

(k) All persons so selected and appointed as such directors and all the successors thereof appointed at any time shall be chosen by a majority vote of all the members of said board of trustees. Said board of trustees shall have power to remove summarily and at any time any director and in such event, or if a vacancy occurs in said board of directors from any cause, said board of trustees shall appoint a successor in like manner who shall serve for the balance of the term for which the member whose place is so filled was appointed.

(l) No person shall be appointed a member of said board of directors for utilities unless he is a bona fide resident of said city and has been such for five (5) years immediately preceding such appointment, and is at least thirty-five (35) years of age. If any such director shall cease to be a legal resident of said city during the term for which he was appointed, his membership on such board shall thereby terminate and become vacant.

(m) Each member of said board of directors for utilities before entering upon his duties shall take and subscribe an oath, to be indorsed upon the certificate of his appointment, which shall be promptly filed with the clerk of the city-county council.

(n) Each of said members of said board of directors, before entering upon his duties, shall execute a bond payable to the state of Indiana, with surety to be approved by the mayor of said city, in the penal sum of fifteen thousand dollars (\$15,000), conditioned upon the faithful performance of the duties of his office and the accounting for all moneys and property that may come into his hands or under his control. The cost of all such bonds shall be paid by the department of public utilities of said city.

(o) Any trustee may be removed from office for neglect of duty, incompetency, disability to perform his duties, or other good cause, by an order and judgment of the circuit or superior court of the county in which such city is located, in the following manner, to wit: An original complaint may be filed by either the mayor, or by a

majority of the city-county council against any such trustee setting forth the charges preferred, and the cause shall be placed on the advanced calendar and be tried as other civil causes are tried, by the court, without the intervention of a jury. If such charges be sustained, the court shall declare such office vacant. The judgment of said court shall be final and no appeal shall lie therefrom by any party.

(p) Said board of trustees shall have power to adopt rules, regulations and by-laws for their own governance, and may meet regularly or specially as often as necessary to transact any business or duties imposed upon them under this chapter or any other statute.

(q) In the event such city shall acquire in any manner herein provided more than one (1) such public utility and the property thereof, said board of trustees may add to such board of directors from time to time one (1) or more additional members, increasing such board to not exceed a total of eleven (11) members; which members shall be appointed and shall serve under all the provisions herein governing the appointment, terms and duties of such board of directors for utilities.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-2

Board of directors; appointment of officers; compensation; meetings; employee bonds

Sec. 2. (a) The members of such board of directors for utilities shall hold a meeting on the second Monday of January of each year for the purpose of organization and to elect officers for the ensuing year. They shall choose one (1) of their members president, another vice-president, another secretary, and another treasurer, who shall perform the duties usually pertaining to those offices. Such officers so chosen shall serve from the date of their election until their successors are duly elected and qualified.

(b) The members of such board of directors for utilities shall each be paid a salary for their services as such directors at the rate of six hundred dollars (\$600) per annum during the period of service. A

majority of the members of said board of directors shall constitute a quorum, and the concurrence of a majority of such membership shall be necessary to any action of such board. Such board of directors shall hold an annual meeting on the second Monday of January of each year, at the general offices of such board, and such other regular meetings at such times as it may determine, and upon such notice as it may fix, by rule or regulation. It shall be authorized to make such by-laws and regulations as it may deem necessary for the safe, economical and efficient management and protection of the properties entrusted to its care. Such board of directors shall require any officer or employee having custody of funds to give bond in such reasonable amount as the board may prescribe, the expense of which bonds shall be paid by the department of public utilities of such city.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-3

Board of directors; powers and duties

Sec. 3. (a) The board of directors for utilities shall have, within and outside such city as provided in this chapter, the exclusive government, management, regulation, and control of all public utilities consisting of any waterworks, gasworks, electric light works, heating and power plants of any kind or character, telephone and other systems of communication, and local transportation systems of any kind operated upon, above, or below any street or territory within the city, or outside the city within the limits authorized by law, and all property held by and relating or belonging thereto. Any of which public utilities any such city may acquire or construct for the service of the public as consumers, users, or patrons, and including any public utility and all property which such city may hold as trustee for the benefit of the inhabitants of such city. Such board of directors may furnish and sell service and products of and make all necessary construction, reconstruction, repairs, renewals, enlargements, extensions, or additions to any such plant or property of any such public utility so owned or at any time so held in trust, which in the judgment of the board of directors is desirable or necessary for the proper conduct of such business and the proper serving of the inhabitants of the city and adjacent, contiguous, or suburban communities or territory within the county wherein such city is situated and served, or reasonably capable of being served, in any manner by or with respect to any such utility.

(b) The board of directors may lease any such utility property for a term not exceeding thirty-five (35) years to any person, partnership, limited liability company, or corporation, and without the approval of the commission, such lease to be upon such terms and conditions as the board may deem to be to the best interest of such city and the city's inhabitants. No such lease shall be valid or effective until it has been approved by the board of trustees and duly ratified and approved by an ordinance of the city. The board and the city-county legislative body must each vote such approval by a two-thirds (2/3) vote of their total membership. In any such lease an option may be given to such lessee to extend the same for a period not to exceed ten (10) additional years.

(c) In connection with the duties devolving upon such board of directors in the government, management, regulation, control, and operation of all such utilities, it may act as follows:

(1) To condemn, appropriate, lease, rent, purchase, and hold any real estate, rights-of-way, materials, or personal property within such city or within five (5) miles of the corporate limits of the city needed for the proper giving of service by any such utility to the inhabitants of the city and the community contiguous thereto and served from any such utility plant.

(2) To design, order, contract for, and construct any and all necessary or desirable extensions of or additions to any utility plant and property owned or so held in trust by the city, and to enter into all necessary contracts with reference thereto, and with reference to the purchase of materials and supplies needed

for the operation of any such plant or plants, in accordance with such rules as may be adopted by such board of directors, and without the necessity of advertising for bids, or without such other restrictions as are imposed by any law of Indiana with reference to the letting of contracts for work, material, or

supplies by municipal bodies or other governmental agencies.

(3) To sell any products or byproducts, and enter into executory contracts for the sale, to anyone whatsoever and without any restriction concerning the taking of bids therefor or otherwise.

(4) To operate any such plant or plants, to receive and collect all money due on account of such operation or otherwise relating to such plant or plants or business and in connection therewith to employ such managers, superintendents, assistant managers, assistant superintendents, engineers, attorneys, auditors, clerks, foremen, and other employees necessary for the proper carrying on and operation of any such utility plant or plants and the business and to fix the compensation of all such employees. No contract of employment shall be made for a longer fixed period than four (4) years. However, a contract of employment may be extended or renewed from time to time thereafter. The directors may elect from their membership an executive committee consisting of not more than three (3), who may be assigned to the supervision of any one (1) or more of such utilities and who shall, in the intervals between the meetings of the directors, exercise all the powers and duties of the directors, all of their acts to be subject, however, to the approval of the directors, and to fix any such additional compensation to the members of the executive committee, in addition to their salaries as directors, as shall be reasonable. The additional compensation shall be fixed by a resolution of the directors entered of record at the time of the appointment of the executive committee. Whenever any such city shall acquire, hold, own, or so hold in trust for the city's inhabitants more than one (1) such public utility and the property of the city, such board of directors shall have power to select additional executive committees from their membership in the same manner and with the same power as the executive committee first selected, which committee may be assigned by such board to any such utilities deemed necessary. In the selection of employees, other than managers, superintendents, assistant managers, assistant superintendents, engineers, attorneys, and auditors, the board of directors shall provide for a merit system of employment to be determined by competitive examination, except as to unskilled and common laborers, in which political, religious, or other personal affiliations may not be considered. In selecting managers the directors shall consider character, training, and general expert and executive fitness and experience for the position in the particular utility to which such manager is to be assigned, as the necessary requirements for appointment.

(5) To rent such offices and other real estate and property for the conduct of the business of such utility or utilities as may be deemed needful and enter into contracts with reference to the rental and use of the offices, real estate, and property. No such contract shall be made for a longer period than ten (10) years.

(6) In the event there be an open mortgage upon any utility property acquired by any such city, either in absolute ownership or in trust, by the terms of which mortgage additional bonds may be taken down from the trustee under such mortgage to meet in whole or in part the cost of extensions and improvements to the mortgaged property, the board of directors may perform all things necessary in order to secure the benefit of such mortgage provisions and to enable the escrow bonds held by the trustee under any such mortgage to be taken down and sold in order to defray the cost of any extensions and betterments to such property and to sell any such bonds so taken down for the purpose of assisting in defraying the costs of any such extensions or betterments to such property.

(7) To take over, adopt, and assume the performance of the provisions of any lease under which any utility property may be held at the time of the acquisition of any utility by any such city, either in absolute ownership or in trust and to take any and all steps necessary to perform and fulfill the terms of any such lease, and to obtain and preserve the benefits from the lease. In the event there be any outstanding open mortgage upon the property covered by such lease so taken over under the provisions of which bonds may be withdrawn from the trustee under such mortgage for the purpose of paying all or part of the cost of additions to the property covered by such mortgage, to do all things necessary in order to secure the benefit of such mortgage provisions and to enable the escrow bonds held by the trustee under any such mortgage to be taken down and sold in order to defray the cost of any extensions and betterments to such leased property and to sell any such bonds so taken down for the purpose of

assisting in defraying the costs of any such extensions or betterments to such leased property.

(8) To preserve the corporate organization of any company engaged in the mining of coal, or any other commercial or manufacturing business, the stock of which may be owned by any utility whose property and assets may be taken over by any such city, either in absolute ownership or in trust and in connection with the taking of the property by the city to cause the stock of any such company to be issued in the name of the board of directors for utilities except as to qualifying shares for directors and to cause such qualifying shares to be issued in the names of such individuals as the board of directors may name and to vote any such stock for the election of directors, who may be members of such board of trustees for utilities. However, no member of such board of directors shall receive any compensation, directly or indirectly, as a director, officer,

or employee of any such company, other than the compensation provided in this chapter as a member of the board of directors for utilities. Through the control thus given of any company, the board of directors for utilities shall be authorized to do all things necessary to cause any such coal mining company or other company efficiently to carry on its operations and to conduct its business in the same manner as if its stocks were owned by private individuals.

(9) To adopt rules for service and rates for service in connection with the furnishing of any public utility service by the city to consumers, users, or patrons. However, any such rules and rates for service shall be in effect only after the rules and rates have been filed with and approved by the commission and such approval shall be granted by the commission only after notice of hearing and hearing as provided by IC 8-1-1 and IC 8-1-2, and only after determining compliance of the rates of service with IC 8-1.5-3-8 and IC 8-1.5-3-10 and only after determining compliance of the rules of service with IC 8-1-1 and IC 8-1-2, along with the rules and standards of service for municipal utilities of Indiana approved by the commission.

(10) To take over all contracts and rights of any kind or character, and to fulfill and perform all obligations relating to the property and business of any utility company whose property may be taken over by any such city, either in absolute ownership or in trust.

(11) To make all rules and bylaws customary in private corporations for their own conduct of business and necessary for the proper government and supervision of the utilities under their control. Any such rules and bylaws shall be subject to the approval of the board of trustees.

As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.23-1988, SEC.42; P.L.3-1989, SEC.57; P.L.8-1993, SEC.122.

IC 8-1-11.1-3.1

Board of directors; certain powers and duties pertaining to municipally owned utilities

Sec. 3.1. In addition to the other powers specified by this chapter and notwithstanding IC 8-1.5-3-1, the board of directors for utilities has all rights and powers conferred on a municipally owned utility by IC 8-1.5-3-4(b), IC 8-1.5-3-6, and IC 8-1.5-3-7. Furthermore, the board of directors for utilities shall operate as both the board and the municipal legislative body for the purposes of IC 8-1.5-3-8.

As added by Acts 1982, P.L.74, SEC.4.

IC 8-1-11.1-3.5

Retirement, survivor, or other benefits; increase

Sec. 3.5. (a) Every person who is receiving retirement benefits, survivor benefits or other benefits from any fund or funds established by, or under the authority of, the board of directors for utilities of the department of public utilities may have such retirement benefits,

survivor benefits or any other benefits increased by an amount not to exceed two dollars (\$2) per month for each year of active service prior to retirement. Such increase may be made if the board of directors for utilities of the department of public utilities shall by resolution so provide which said board of directors is hereby given power to do.

(b) Any person who is receiving a retirement, survivor or other benefit which commenced prior to January 1, 1976, shall receive such increased retirement benefits, survivor benefits or other benefits as long as he or she shall live.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-4

Directors or trustees; adverse interest in contracts

Sec. 4. No contract shall be made for the purchase or sale of any materials or supplies on behalf of said board of directors for utilities with any trustee or director, and no trustee nor director shall have any pecuniary interest in any such contract.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-5

Actions to protect rights of cities

Sec. 5. The board of directors for utilities in every such city may, in the name of the city, bring any such action which it deems proper in order to protect the property rights of said city with reference to any such utility property so under the control of such board, or to secure the more effective carrying out of the purposes of this chapter with reference to the erection, maintenance and operation of any such utility property or properties.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-6

Utility districts; creation

Sec. 6. All of the territory included within the corporate limits of any said city shall become and constitute a utility district for the purpose of providing for the furnishing of utility service in such lines of utility operation as may be taken over or owned by said city, and thereafter said utility district shall be deemed duly created and established under and pursuant to the provisions of this chapter.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-7

Expenses; procedure for payment

Sec. 7. All preliminary expenses actually incurred by such board of directors in providing necessary records, the employment of clerks, engineers, attorneys and other employees, the making of surveys, and all other expenses of whatsoever nature necessary to be paid prior to the actual taking over and operation of any utility plant and the collection of revenues therefrom, shall be met and paid in the following manner: Said board of directors for utilities shall from time

to time certify such items of expense to the controller of such city, directing him to pay the several amounts thereof, and thereupon said controller shall at once draw his warrant or warrants upon the county treasurer, which warrant or warrants shall be paid out of the general funds of such city not theretofore appropriated, without a special appropriation being made therefor by the city-county council; or in case there are no such general funds of said city not otherwise appropriated, the city controller shall recommend to the city-county council the temporary transfer of other funds of such city as is necessary to meet such items of expense, or the making of a temporary loan for such purpose, and such council shall thereupon at once make such transfer of funds or authorize such temporary loan in the same manner that other temporary loans are made by such city: Provided, however, That the fund or funds of such city from which such payments are made shall be fully reimbursed and repaid with six percent (6%) interest by such board of directors for utilities out of the first receipts from the operation of any such utility by said board which are not needed to defray current operating expenses and the expenses of imperative betterments.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-8**Bonds authorized; purposes; terms; sale procedures; disposition of proceeds; mortgage bonds; temporary loans; execution**

Sec. 8. (a) For the purpose of raising money to pay for the acquisition of any utility property which said city shall have the right to and shall determine to acquire, or which any such city may take over as trustee for the inhabitants thereof, including any money required to be paid for the purpose of redeeming or extinguishing the capital stock of any utility whose property may be so taken over and for the purpose of paying any outstanding obligations of any utility company subject to which the property of any such utility may be taken over by any such city, or held by it in trust for the inhabitants thereof; or for the purpose of making necessary betterments, improvements, extensions or additions to any utility property owned, or so held in trust, by said city, the board of directors for utilities shall cause to be issued in the name of the said city the bonds of said utility district not to exceed in amount the total cost of any such utility so purchased, or so held in trust, and for the outstanding obligations of any utility subject to which the property is to be taken over and which it is desired to pay off and discharge and/or of any such additions, betterments, improvements, extensions or additions to any utility owned, or so held in trust, and including all expenses necessarily incurred in connection with the acquisition of any such property, the paying off of any such indebtedness or the making of any such improvements, extensions or additions thereto. Such bonds shall be issued in any denominations not more than one thousand dollars (\$1,000) each, and shall be payable at such period not longer than thirty (30) years after date, and in such series or series as such board of directors may by resolution determine. Said bonds shall be

negotiable as inland bills of exchange, and shall bear interest at any rate, payable semiannually. On adopting a resolution ordering said bonds, said board of directors shall certify a copy of the same to the city controller of said city, who shall thereupon prepare said bonds and the same shall be executed by the mayor of said city and attested by the city controller. Such bonds shall be exempt from taxation for any and all purposes. All of said bonds so issued by the board of directors shall be sold by the city controller to the highest bidder therefor, but in no event for less than par, after giving notice of sale of such bonds by publication in accordance with IC 5-3-1. Any bonds issued pursuant to the provisions of this chapter, whether bonds of said utility district, or mortgage bonds, certificates of indebtedness, or other obligations, as hereinafter provided for in this chapter, shall be valid and binding without obtaining the approval of the commission or the department of local government finance of the state of Indiana. It shall be unlawful for said board of directors for utilities to cause to be issued under this chapter any bonds of said utility district payable by special taxation when the total issue for that purpose, including the bonds already issued and outstanding and those proposed to be issued, is in excess of two percent (2%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15, and all bonds or obligations issued in violation of this provision shall be void. Said bonds shall not in any respect be a corporate obligation or indebtedness of said city, but shall be and constitute an indebtedness of said utility district as a special taxing district, and said bonds and interest thereon shall be payable out of a special tax levy upon all of the property of said utility district, or from surplus earnings as in this chapter provided; and said bonds shall recite such terms upon their face, together with the purpose for which they are issued. No suit to question the validity of said bonds so issued for said utility district or to prevent their issue and sale shall be instituted after the date set for the sale of said bonds, and all said bonds from and after said date shall be incontestable for any cause whatsoever.

(b) In event any such city shall, pursuant to any contract right so to do, determine to take over the property and business of any utility company by the payment to it of the amount necessary to pay off the stock of such company, the proceeds of any such utility district bonds issued and sold as herein provided may, so far as is necessary, be paid over to any such utility company at the time of the conveyance, transfer, or taking over of its property, for the purpose of enabling such company to discharge its obligations to its stockholders in accordance with the provisions of any such contract.

(c) In addition to the authority granted to issue utility district bonds the board of directors of any such utility district for the purpose of providing necessary funds with which to pay the cost of acquiring any

utility property, or paying off any existing indebtedness of or upon any utility property, so acquired, or to pay the expenses of operation of any such utility property, including the cost of any betterments or extensions, may make temporary loans in

the form of certificates of indebtedness, which shall be a charge solely against either the particular utility property or against the earnings thereof, or both, on behalf of which the same is borrowed; or said board of directors may authorize the issuance of mortgage bonds secured by a mortgage upon the property or upon the earnings, or both, of the particular utility for whose benefit such moneys are borrowed; and any such certificates of indebtedness and mortgages shall constitute charges as may be indicated aforesaid by the directors when authorizing the same and shall contain such terms and provisions and shall be sold at such price and shall bear such rate of interest as such board of directors may approve.

(d) Such mortgage indebtedness shall not constitute a general obligation of such city, or of such utility district, but the holders thereof shall be entitled to look solely to the mortgaged property and the revenues derived from the operation thereof for the repayment of such indebtedness.

(e) All such certificates of indebtedness and mortgage bonds shall be signed by the mayor of such city and attested by the city controller, and shall on their face show the purpose for which they are issued and the character of the obligation created thereby. All such certificates of indebtedness and mortgage bonds, or either thereof, shall be exempt from all taxation.

As added by Acts 1981, P.L.11, SEC.43. Amended by Acts 1981, P.L.45, SEC.6; P.L.23-1988, SEC.43; P.L.6-1997, SEC.130; P.L.90-2002, SEC.310.

IC 8-1-11.1-9

Disposition of bond revenues

Sec. 9. All proceeds from the sale of said bonds under and pursuant to section 8 of this chapter shall be kept as a separate and specific fund to pay the cost of the acquisition of any utility property which said city shall have the right to and shall determine to acquire or the payment of obligations of any such utility subject to which its property is purchased, or the cost of making necessary betterments, improvements, extensions or additions to any utility property owned by said city, as hereinabove provided, and no part of the same shall be used for any other purpose whatsoever. Such funds shall be deposited at interest with the depository or depositories of other public funds of such city, and all interest collected therefrom shall belong to such fund. Any surplus of funds remaining out of the proceeds of said bonds after all of said costs and expenses are fully paid shall be paid into and become a part of the utility district bond fund as hereinbefore referred to.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-10

Tax levy to pay for bonds; utility district bond fund

Sec. 10. For the purpose of raising money to pay all bonds issued as provided in section 8 of this chapter, and the interest thereon, to the extent that moneys are not available therefor in the judgment of

the board of directors for utilities from the operations of said utility plant or plants so owned by said city, the board of directors for utilities, as an official board of said utility district, is hereby empowered to levy, and shall levy each year, a special tax upon all the property of said utility district in such manner as to meet and pay the principal of said bonds as they severally mature, together with all accruing interest thereon. Said board of directors shall cause said tax so levied each year to be certified to the city controller of said city and the auditor of the county in which said utility district is located, on or before the first day of October of each year. Such tax so levied and certified shall be estimated and entered upon the tax duplicate by the auditor, and shall be collected and enforced by the county treasurer in the same manner as state and county taxes are estimated, entered, collected and enforced; and as such tax is so collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the "Utility District Bond Fund," and shall be applied to the payment of the aforesaid utility district

bonds and interest as they severally mature, and for no other purpose whatsoever: Provided, That all accumulations of said fund prior to their use for the payment of such bonds and interest shall be deposited, at interest, with the depository or depositories of other public funds in such city, and all interest collected thereon shall belong to such fund.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-11

Surplus earnings; disposition

Sec. 11. Within sixty (60) days after the end of each calendar year, if there be at any time any bonds outstanding issued on account of said utility district, payable in whole or in part through a tax levy against the property in said utility district, said board of directors for utilities shall cause any surplus earnings arising from the operation of any such utility property, which are not pledged to secure the payment of any obligation of, or on account of said utility district, and which are not, in the opinion of such board of directors, necessary to provide against possible unfavorable results from operation, or to provide for contemplated betterments, extensions, improvements, or additions, to be paid over to the county treasurer and to be added to and become a part of said utility district bond fund, and to be used for the same purposes and in the same manner as funds derived from levy of taxes, as in this chapter hereinbefore provided. In event there are no such utility district bonds at the time outstanding, any such surplus operating revenues not needed for the purposes aforesaid shall be paid over to and become a part of the general funds of such city.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-12

Expenditures of current income; vouchers

Sec. 12. The current receipts and all other moneys derived from the operation of any such utility property shall be expended by said

board of directors upon vouchers in a form to be determined by them, and any such funds shall be deposited in such bank or banks as may be determined by said board to the credit of said board of directors for utilities, and any interest earned on any such deposits shall be added to the principal thereof. No appropriation in any form shall be necessary for the expenditure of any of such current income or for the expenditure of the proceeds of any sale of bonds, or of any other obligations, as hereinbefore authorized, but all funds arising under the provisions hereof shall be deemed appropriated for the respective purposes herein named and shall be under the control of the board of directors for utilities as herein provided, and said board of directors shall have full, complete and exclusive authority to expend such funds for the purposes herein provided.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-13

Separate books of account for separate utilities

Sec. 13. In event more than one (1) utility property is operated by said board of directors, separate books of account and records shall be kept for each utility, and the funds of each shall be kept segregated.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-14

Quarterly accounting and report to city controller

Sec. 14. The board of directors for utilities shall make quarterly accounting and reports to the city controller of such city, of all funds received and expended by it, and not less than sixty (60) days after the end of each calendar year the city controller shall make publication in not less than two (2) newspapers of general circulation printed and published within said city of the material facts as set forth

in the report of said board of directors for the preceding calendar year.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-15

Board of directors free from control of department of local government finance

Sec. 15. This chapter being necessary for and intended to secure efficient and economical management and operation of utility properties in any consolidated city taking advantage of the provisions hereof, the said board of directors shall have full power to transact all the business pertaining to said management and operation of each and all such utilities, including the issuance of bonds, mortgages, and other forms of indebtedness, free from all control and supervision of the department of local government finance of Indiana. This chapter shall be liberally construed to effectuate the purpose hereof, and if any one (1) or more sections, clauses, phrases, or parts thereof, of this chapter shall be held invalid, the remaining sections, clauses, phrases, or parts thereof, shall not be affected thereby, and the

legislature declares that it would have enacted all other parts of said chapter even if any or all of the aforesaid portions thereof had not been included therein.

As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.90-2002, SEC.311.

IC 8-1-11.1-16

Budgets; nonapplication of chapters; fixing and review of budgets, tax rates, and levies; limitations on property tax rates or appropriations

Sec. 16. The provisions of IC 6-1.1-17 and IC 6-1.1-18 shall not apply to the board of directors created by this chapter, but such board of directors shall annually, on or before the thirty-first day of December, furnish to the city controller an estimate of the moneys to be expended by them for the succeeding calendar year.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-17

Examination and audit of books and accounts

Sec. 17. The books, accounts, records and transactions of said utility district and of the board of directors thereof shall be subject to examination, audit and supervision by the state board of accounts to the same extent as the books, accounts, records and transactions of other municipal governments or officers or departments of municipal governments are subject thereto.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-18

Application of chapter to currently held or acquired utilities

Sec. 18. Whenever in any sections of this chapter any provisions are made applying or relating to any public utility or utility property owned, held, or acquired by said city, all such provisions shall apply and relate also to any public utility and utility property which said city may hold, possess, be entitled to, or in any manner acquire in trust for the use and benefit of the inhabitants thereof.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-19

"Revenue obligations" defined

Sec. 19. As used in this chapter, "revenue obligations" shall mean any obligations, including bonds, notes, temporary, interim or permanent certificates of indebtedness, debentures or other obligations payable out of the income and revenues derived from utility property.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-20**Revenue obligations; issuance; authorized purposes**

Sec. 20. The board of directors for utilities may issue revenue obligations for any one or more of the following purposes:

(1) For the purpose of obtaining funds with which to pay for the acquisition of any utility property which any such city shall have acquired or shall have the right to and shall determine to acquire, or which any such city may have taken over as trustee for the inhabitants thereof, including any money required to be paid for the purpose of redeeming or extinguishing the capital stock of any utility whose property has been or may be so taken over and for the purpose of paying any outstanding obligations of any utility subject to which the property is or may be held in trust for the inhabitants thereof, or for the purpose of making necessary betterments, improvements, extensions or additions to any utility property owned or held in trust by any such city, including all costs necessarily incurred in connection with the acquisition of any such property or taking it over in trust or the paying off of any such indebtedness or the making of any such betterments, improvements, extensions, or additions thereto.

(2) For the purpose of reimbursing the department of public utilities, or its board of directors for utilities for funds borrowed, expended or advanced for interim financing of the cost of any utility property, or any betterments, improvements, extensions or additions thereto.

(3) Subject to covenants and agreements with the holders of outstanding obligations, for the purpose of funding or refunding revenue obligations. If the board of directors for utilities determines that it would be advantageous to the department of public utilities to exchange funding or refunding obligations for the revenue obligations being funded or refunded, such exchange may be made, provided the actual interest cost is not increased.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-21**Security for revenue obligations; issuance of additional obligations authorized**

Sec. 21. Such revenue obligations shall be secured by a pledge of the unobligated income and revenues of any one (1) or more of the utility properties of the department of public utilities. In addition, the board of directors for utilities may in its discretion secure the payment of such revenue obligations by a mortgage upon the property of the particular utility for whose benefit the proceeds of the revenue obligations are to be used. In authorizing the issuance of such obligations for any particular property or properties, the board of directors for utilities of the department of public utilities may limit the amount of such obligations that may be issued as a first lien and charge against such property or properties and the income and revenues therefrom, or such board of directors for utilities may authorize the issuance from time to time thereafter of additional obligations secured by the same pledge or lien to provide funds for the completion of the property, properties, betterments, improvements, extensions or additions thereto, on account of which

the original obligations were issued, or to provide funds to pay the cost of additional utility properties, betterments, improvements, extensions or additions thereto, or for both such purposes. Such additional obligations shall be issued on such terms and conditions as such board may determine, and may be secured equally and ratably, without preference, priority or distinction, with the original issue of obligations or may be made junior thereto.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-22**Resolution authorizing revenue obligations; trust indenture; terms of obligations**

Sec. 22. (a) Such revenue obligations shall be authorized by resolution adopted by the board of directors for utilities and the terms, conditions and form thereof shall be set out in such resolution or in a form of trust indenture between the corporation and a designated corporate trustee, or both.

(b) Such revenue obligations shall bear interest, not to exceed a maximum rate to be determined by the board of directors for utilities, payable annually or at shorter intervals and shall mature at such time or times as may be determined in such resolution or indenture. The obligations may be made redeemable before maturity at the option of the board of directors for utilities under such terms and conditions as may be fixed by the resolution or indenture.

(c) The principal and interest of the revenue obligations may be made payable in any lawful medium. The resolution or indenture shall determine the form of obligations, including the interest coupons if any to be attached thereto, and shall fix the denomination or denominations of the obligations and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the state.

(d) Provision may be made for the registration of any of the obligations in the name of the owner as to principal alone, or as to both principal and interest, but fully registered obligations shall be made convertible to coupon obligations at the option of the registered owner. The obligations including interest shall be exempt from all taxation: state, county and municipal.

(e) Such resolution or the indenture may also include provisions for protecting and enforcing the rights and remedies of the holders of the obligations being issued and covenants setting forth the duties of the department of public utilities and its officers in relation to the acquisition, construction, operation and maintenance of and insurance to be carried on the property or properties on account of which the obligations are being issued, and, to the fullest extent permitted by law, the maintenance of rates and charges to be collected on account hereof; also, provisions for the custody, safeguarding and application of all moneys and the rights and remedies of the trustee and the holders of the obligations being issued, and for the issuance of additional parity obligations or junior lien obligations secured by a pledge of the revenues or by a pledge

or mortgage of the revenues and property described in said resolution or indenture; also, such other terms, conditions, limitations and covenants as the board of directors for utilities shall deem proper. Such obligations and any interest coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes under the laws of this state, subject only to the provisions for registration of the obligations.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-23

Temporary loans authorized

Sec. 23. For the purpose of providing necessary funds with which to pay the cost of acquiring any utility property, or paying off any indebtedness of or upon any utility property, so acquired, or to pay for interim costs of construction prior to long term financing, including the costs of any betterments, improvements, additions or extensions, or to pay the expenses of operation of any such utility property the board of directors for utilities may also make temporary loans, which shall mature within one (1) year from date of issuance, in the form of certificates of indebtedness, which shall be a charge solely against the income and revenue of the utility, or upon the proceeds of revenue obligations to be issued, or any combination thereof.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-24

Revenue obligations; approval or validation; facsimile signatures; sale; actions to contest validity; certificates of indebtedness; execution

Sec. 24. (a) All such revenue obligations shall be valid without the necessity of any approval of or ratification by either the commission or the department of local government finance. The board of directors for utilities, upon adopting a resolution authorizing such revenue obligations, shall certify a copy thereof to the city controller of such city who shall thereupon prepare said revenue obligations, and the same shall be issued in the name of the city and shall be executed by the mayor of said city and

attested by the city controller and the clerk of the city-county council. Facsimile signatures may be used in executing such revenue obligations, provided that one or more of the signatures on the revenue obligations shall be manually signed, except that all signatures on interest coupons may be facsimile signatures.

(b) Certificates of indebtedness issued under section 23 of this chapter shall be executed solely by the president of the board of directors without the execution of the mayor. The signature of the president must be attested by the secretary of the board.

(c) Such revenue obligations shall be sold by the city controller of said city subject to the requirements of IC 5-1-11; provided, that any revenue obligations maturing within one (1) year of date of issuance need not be sold at public sale but may be sold in such manner as the

board of directors for utilities may determine; and, provided further, that any revenue obligations may be offered for sale and sold to the United States or to any corporation owned or controlled by the United States without notice by publication. No suit to question the validity of any revenue obligations so issued or to prevent their issuance or sale shall be instituted after the date fixed for the sale of such revenue obligations and all such revenue obligations from and after such date shall be incontestable, except for fraud, forgery, or violation of constitutional provisions.

As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.23-1988, SEC.44; P.L.90-2002, SEC.312.

IC 8-1-11.1-25

Revenue obligations; eligible investments; deposit of securities

Sec. 25. Any revenue obligations issued pursuant to the provisions of this chapter shall be eligible investments for the funds of any kind or character of every financial institution, insurance company or private trust, and such obligations shall be eligible for deposit by any financial institution, insurance company or trustee under any law of this state providing for the deposit of securities or funds.

As added by Acts 1981, P.L.11, SEC.43.

Attachment B



Information Maintained by the Office of Code Revision Indiana Legislative Services Agency
IC 36-1-7

Chapter 7. Interlocal Cooperation

IC 36-1-7-1

Application of chapter

Sec. 1. This chapter applies to the following:

- (1) The state.
- (2) All political subdivisions.
- (3) All state agencies.
- (4) Any of the following created by state law:
 - (A) Public instrumentalities.
 - (B) Public corporate bodies.
- (5) Another state to the extent authorized by the law of that state.
- (6) Political subdivisions of states other than Indiana, to the extent authorized by laws of the other states.

(7) Agencies of the federal government, to the extent authorized by federal laws.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.5-1993, SEC.336; P.L.221-2007, SEC.24.

IC 36-1-7-2

Permissible powers

Sec. 2. (a) A power that may be exercised by an Indiana political subdivision and by one (1) or more other governmental entities may be exercised:

- (1) by one (1) or more entities on behalf of others; or
- (2) jointly by the entities.

Entities that want to do this must, by ordinance or resolution, enter into a written agreement under section 3 or 9 of this chapter.

(b) Notwithstanding subsection (a), Indiana governmental entities that want only to buy, sell, or exchange services, supplies, or equipment between or among themselves may enter into contracts to do this and follow section 12 of this chapter.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-3

Agreements; contents; powers under agreements

Sec. 3. (a) An agreement under this section must provide for the following:

- (1) Its duration.
- (2) Its purpose.
- (3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.
- (4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.
- (5) Administration through:
 - (A) a separate legal entity, the nature, organization,

composition, and powers of which must be provided; or

(B) a joint board composed of representatives of the entities that are parties to the agreement, and on which all parties to the agreement must be represented.

(6) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking, whenever a joint board is created under subdivision (5)(B).

In addition, such an agreement may provide for any other appropriate matters.

(b) A separate legal entity or joint board established by an agreement under this section has only the powers delegated to it by the agreement. The agreement may not provide for members, directors, or trustees of the separate legal entity or joint board to make appointments (either individually or jointly) to fill vacancies on the separate legal entity or joint board.

(c) Subsection (a)(6) does not apply to an emergency management assistance compact under IC 10-14-5.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.56-1988, SEC.11; P.L.30-1998, SEC.3; P.L.2-2003, SEC.99.

IC 36-1-7-4

Agreements; when attorney general's approval required

Sec. 4. (a) If an agreement under section 3 of this chapter:

(1) involves as parties:

(A) only Indiana political subdivisions; or

(B) an Indiana political subdivision and:

(i) a public instrumentality; or

(ii) a public corporate body;

created by state law;

(2) is approved by the fiscal body of each party that is an Indiana political subdivision either before or after the agreement is entered into by the executive of the party; and

(3) delegates to the treasurer or disbursing officer of one (1) of the parties that is an Indiana political subdivision the duty to receive, disburse, and account for all monies of the joint undertaking; then the approval of the attorney general is not required.

(b) If subsection (a) does not apply, an agreement under section 3 of this chapter must be submitted to the attorney general for the attorney general's approval. The attorney general shall approve the agreement unless the attorney general finds that it does not comply with the statutes, in which case the attorney general shall detail in writing for the parties the specific respects in which the agreement does not comply. If the attorney general fails to disapprove the agreement within sixty (60) days after it is submitted to the attorney general, it is considered approved.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.221-2007, SEC.25.

IC 36-1-7-5

Agreements; approval of state officer or state agency having power to control services or facilities; reciprocal borrowing agreements

Sec. 5. (a) Except as provided in subsection (b) and regardless of the requirements of section 4 of this chapter, if an agreement under section 3 of this chapter concerns the provision of services or facilities that a state officer or state agency has power to control, the agreement must be submitted to that officer or agency for approval before it takes effect.

(b) If a reciprocal borrowing agreement under section 3 of this chapter concerns the provision of library services or facilities between public libraries that are of the same nature as the services provided under the statewide library card program under IC 4-23-7.1-5.1, the reciprocal borrowing agreement is not required to be submitted to the Indiana library and historical board for approval before the reciprocal borrowing agreement takes effect, but a copy of the reciprocal borrowing agreement shall be submitted to the state library.

(c) Approval or disapproval is governed by the same provisions prescribed by section 4(b) of this

chapter for the attorney general.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.37-1993, SEC.4.

IC 36-1-7-6

Agreements; recording; filing

Sec. 6. Before it takes effect, an agreement under section 3 of this chapter must be recorded with the county recorder. Not later than sixty (60) days after it takes effect, such an agreement must be filed with the state board of accounts for audit purposes.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-7

Agreements; law enforcement or firefighting services

Sec. 7. (a) Except as provided in subsection (c), if an agreement under section 3 of this chapter concerns the provision of law enforcement or firefighting services, the following provisions apply:

(1) Visiting law enforcement officers or firefighters have the same powers and duties as corresponding personnel of the entities they visit, but only for the period they are engaged in activities authorized by the entity they are visiting, and are subject to all provisions of law as if they were providing services within their own jurisdiction.

(2) An entity providing visiting personnel remains responsible for the conduct of its personnel, for their medical expenses, for worker's compensation, and if the entity is a volunteer fire department, for all benefits provided by IC 36-8-12.

(b) A law enforcement or fire service agency of a unit or of the state may request the assistance of a law enforcement or fire service agency of another unit, even if no agreement for such assistance is in effect. In such a case, subsection (a)(1) and (a)(2) apply, the agency requesting assistance shall pay all travel expenses, and all visiting

personnel shall be supervised by the agency requesting assistance.

(c) This subsection applies to a law enforcement officer that visits another state after a request for assistance from another state under the emergency management compact is made under IC 10-14-5. A law enforcement officer that visits another state does not have the power of arrest unless the law enforcement officer is specifically authorized to exercise the power by the receiving state.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.28-1988, SEC.115; P.L.229-1996, SEC.1; P.L.30-1998, SEC.4; P.L.1-1999, SEC.80; P.L.2-2003, SEC.100.

IC 36-1-7-8

Interstate compact

Sec. 8. If any entities of other jurisdictions are parties to an agreement under section 3 of this chapter, the agreement constitutes an interstate compact. However, in a case or controversy involving such an agreement, all parties to the agreement shall be considered real parties in interest; and if the state suffers any damages or incurs any liability as a result of being joined as a party in such a case or controversy, it may bring an action against any entity causing the state to suffer damages or incur liability.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-9

Agreements between municipality and county; contents

Sec. 9. (a) This section may be used only for an agreement between an Indiana municipality and the executive of the county in which it is located concerning highway construction and maintenance and related matters.

(b) An agreement under this section must provide for the following:

(1) Its duration, which may not be more than four (4) years.

(2) The specific functions and services to be performed or furnished by the county on behalf of the

municipality.

In addition, such an agreement may provide for any other appropriate matters.

(c) An agreement under this section may provide for either of the following:

(1) A stipulation that distributions from the motor vehicle highway account under IC 8-14-1, the local road and street account under IC 8-14-2, or both, be made to the county rather than to the municipality.

(2) A stipulation that the municipality will appropriate a specified part of those distributions for purposes listed in the agreement.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-10

Agreements between municipality and county; prerequisites to taking effect

Sec. 10. Before it takes effect, an agreement under section 9 of this chapter must be:

- (1) approved by the fiscal body of each party;
- (2) recorded with the county recorder;
- (3) filed with the executive of the municipality and the auditor of the county; and
- (4) filed with the auditor of state.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-11

Power to appropriate money and provide personnel, services, and facilities

Sec. 11. An entity entering into an agreement under this chapter may:

- (1) appropriate monies; and
- (2) provide personnel, services, and facilities;

to carry out the agreement.

As added by Acts 1980, P.L.211, SEC.1.

IC 36-1-7-11.5

"Economic development project"; agreements related to economic development projects

Sec. 11.5. (a) As used in this section, "economic development project" has the meaning set forth in IC 6-3.5-7-13.1(c). The term also includes any project related to transportation services, transportation infrastructure, or the development or construction of a hotel or other tourism destination.

(b) An entity entering into an agreement under this chapter that is related to an economic development project may do any of the following to carry out the agreement:

(1) After appropriation by the entity's fiscal body, transfer money derived from any source to any of the following:

(A) One (1) or more entities that have entered into the agreement.

(B) An economic development entity (as defined in section 15 of this chapter) established by an entity that has entered into the agreement.

(C) A regional development authority, including the northwest Indiana regional development authority established by IC 36-7.5-2-1.

(D) A regional transportation authority including the regional bus authority established under IC 36-9-3-2(c).

(2) Transfer any property or provide personnel, services, or facilities to any entity or authority described in subdivision (1)(A) through (1)(D).

As added by P.L.169-2006, SEC.45.

IC 36-1-7-12

Purchase, sale, or exchange of services, supplies, or equipment

Sec. 12. (a) Whenever a contract provides for the purchase, sale,

or exchange of services, supplies, or equipment between or among Indiana governmental entities only, no notice by publication or posting is required.

(b) Whenever a contract provides for one (1) Indiana governmental entity to make a purchase for another, compliance by the one with the applicable statutes governing public bids constitutes compliance by the other.

(c) A governmental entity may make a purchase from any other governmental entity or under another governmental entity's referenced written contract if there is compliance with state purchasing law by the original purchasing unit.

(d) Two (2) or more governmental entities may procure together or with a nonprofit entity if the requirements of the public purchasing statutes are met.

As added by Acts 1980, P.L.211, SEC.1. Amended by P.L.195-2007, SEC.6.

IC 36-1-7-13

Agreements between school corporations; rights and privileges of teachers

Sec. 13. Whenever an agreement authorized by this chapter is between school corporations, teachers employed under the agreement have the same rights and privileges as teachers employed under IC 20-26-10-5, IC 20-26-10-6, and IC 20-26-10-7.

As added by P.L.110-1984, SEC.3. Amended by P.L.1-2005, SEC.230.

IC 36-1-7-15

Agreements between economic development entities

Sec. 15. (a) As used in this section, "economic development entity" means any of the following:

- (1) A department of redevelopment organized under IC 36-7-14.
- (2) A department of metropolitan development under IC 36-7-15.1.
- (3) A port authority organized under IC 8-10-5.
- (4) An airport authority organized under IC 8-22-3.
- (5) The Indiana finance authority.

(b) Notwithstanding section 2 of this chapter, two (2) or more economic development entities may enter into a written agreement under section 3 of this chapter if the agreement is approved by each entity's governing body.

(c) A party to an agreement under this section may do one (1) or more of the following:

- (1) Except as provided in subsection (d), grant one (1) or more of its powers to another party to the agreement.
- (2) Exercise any power granted to it by a party to the agreement.
- (3) Pledge any of its revenues, including taxes or allocated taxes under IC 36-7-14, IC 36-7-15.1, or IC 8-22-3.5, to the bonds or lease rental obligations of another party to the agreement under IC 5-1-14-4.

(d) An economic development entity may not grant to another entity the power to tax or to establish an allocation area under IC 8-22-3.5, IC 36-7-14-39, or IC 36-7-15.1.

(e) An agreement under this section does not have to comply with section 3(a)(5) or 4 of this chapter.

(f) An action to challenge the validity of an agreement under this section must be brought within thirty (30) days after the agreement has been approved by all the parties to the agreement. After that period has passed, the agreement is not contestable for any cause.

As added by P.L.108-1993, SEC.12. Amended by P.L.115-1995, SEC.14; P.L.85-1996, SEC.10; P.L.170-2002, SEC.137; P.L.203-2005, SEC.7; P.L.221-2007, SEC.26.

Attachment C

**INTERLOCAL COOPERATION AGREEMENT FOR
THE PROVISION OF UTILITY SERVICES (WASTEWATER)**

Dated as of August 9, 2010

Entered into by and among the City of Indianapolis, the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works, and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities)

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**INTERLOCAL COOPERATION AGREEMENT FOR
THE PROVISION OF UTILITY SERVICES (WASTEWATER)**

This INTERLOCAL COOPERATION AGREEMENT FOR THE PROVISION OF UTILITY SERVICES (WASTEWATER), dated as of August 9, 2010, is being entered into by and among the City, the District and Citizens.

WITNESSETH

WHEREAS, the City is a consolidated city organized and operating pursuant to Indiana Code 36-3-1 and is an Indiana political subdivision;

WHEREAS, the District is an Indiana political subdivision established and operating under Indiana Code 36-9-25;

WHEREAS, Citizens is an executive department of the City established and operating pursuant to Indiana Code 8-1-11.1 and its Board serves as the board of the City's utility special taxing district and is an Indiana political subdivision;

WHEREAS, the Act authorizes the City, the District and Citizens, as political subdivisions, to exercise powers jointly pursuant to a written agreement authorized by ordinance or resolution of each of them and to administer such agreement through a separate legal entity established thereby;

WHEREAS, the City, acting through the District, (a) owns the assets that the Authority would acquire under the Purchase Agreement and (b) is permitted and has the power pursuant to the Indiana Code and its ordinances or resolutions to own and operate the System for the benefit of the City's inhabitants;

WHEREAS, Citizens has the power pursuant to Indiana Code 8-1-11.1 to provide utility services within the City or outside the City within the limits authorized by law and to own all utility property related or belonging thereto;

WHEREAS, the City-County Council is authorized to create and terminate City departments, divisions, offices and other agencies and, except as otherwise provided by Indiana law, to transfer the powers, duties, functions and obligations to or from such entities;

WHEREAS, the purposes of this Agreement are: (a) to establish a separate legal entity organized as an Indiana nonprofit corporation for the purpose of exercising all of the respective rights, powers, functions and duties of the City, the District and Citizens that are necessary, useful or appropriate to furnishing wastewater collection and treatment services, excluding in the case of the City and District, taxing power and taxing authority, that: (i) is qualified to own, operate and finance the System under various federal and state statutes and regulations; (ii) will be governed by the Authority Board, whose members will be the persons appointed as members of the Board, from time to time in the manner set forth in Indiana Code 8-1-11.1, by the Board of

Trustees; (iii) will operate the System through the employees of Citizens and others; (iv) has all of the powers of Citizens, the District and the City that are necessary, useful or appropriate to the acquisition, ownership and operation of the System, including without limitation, the powers required for an Approved POTW Pretreatment Program; (v) is a "qualified entity" under Indiana Code 5-1.4-1-10; (vi) is an "issuer" under Indiana Code 5-1-14-4(a); (vii) is a public body created pursuant to the Act and the Nonprofit Act; (viii) is a political subdivision and instrumentality of the State of Indiana and thus, a "municipality" under 11 United States Code § 101(40); (ix) is an eligible borrower under applicable environmental laws and regulations; (x) satisfies the State Revolving Fund/U.S. Environmental Protection Agency definition of a qualified owner/operator; (xi) has jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifies as a publicly owned treatment works within the meaning of the Clean Water Act and (xii) has the power and authority delegated to it under this Agreement; (b) to provide for the transfer of the System from the City and the District to the Authority to be operated and held to provide wastewater services, as specified in the Purchase Agreement and related conveyance documents, in perpetuity in public charitable trust in the same manner and to the same extent in which Citizens has operated and held its gasworks for over one hundred years, for the benefit of the inhabitants of the City and operated in coordination with any utility property that may be held, owned and/or operated by Citizens or its affiliates (including the Authority); (c) to transfer and/or delegate to, and vest in, the Authority all powers of the City, the District and Citizens that are necessary, useful or appropriate to the acquisition, ownership and operation of the System, excluding in the case of the City and the District, taxing power and taxing authority; and (d) to effectuate the exercise by the Authority of the powers delegated and/or transferred to it on behalf of the City, the District and Citizens for the benefit of the inhabitants of the City and the customers of the System in a manner consistent with Article I;

WHEREAS, the City, the District and Citizens do not have the power to compromise their respective debts or to file or be subject to a petition for relief under 11 United States Code § 101 *et seq.*;

WHEREAS, the City, the District and Citizens are negotiating the Purchase Agreement;

WHEREAS, in connection with the execution of the Purchase Agreement, the performance of the Authority's obligations thereunder and the provision of wastewater collection and treatment services from and after the consummation of the transactions contemplated by the Purchase Agreement, the City, the District and Citizens, having determined that it is in the best interests of the City, the District, Citizens, the inhabitants of the City and the customers of the System, desire to enter into this Agreement to set forth the terms of such joint agreement as required by the Act;

WHEREAS, the City-County Council for and on behalf of the City has adopted an ordinance authorizing the execution, delivery and performance of this Agreement and authorizing the transfer of the powers, duties, functions and obligations set forth herein from the District to the Authority;

WHEREAS, Citizens and the District have adopted resolutions authorizing the execution, delivery and performance of this Agreement;

WHEREAS, the City, the District and Citizens have adopted substantially identical resolutions authorizing the transfer and exchange of the System pursuant to Indiana Code 5-22-22-10 and Indiana Code 36-1-11-8;

WHEREAS, this Agreement shall be submitted for approval to all state bodies having the power to control the provision of services or facilities which would be provided hereunder pursuant to Indiana Code 36-1-7-5; and

WHEREAS, this Agreement involves only Indiana political subdivisions as Parties and has been approved by the fiscal body of each Party.

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, the City, the District and Citizens agree as follows:

ARTICLE I.

PURPOSE

In addition to the purposes set forth above, this Agreement provides for (a) the provision of wastewater collection and treatment services through the formation of the Authority as a separate legal entity organized as a nonprofit corporation, (b) the transfer to the Authority of the System as specified in the Purchase Agreement, (c) the delegation and/or transfer to, and vesting in, the Authority of all powers that are necessary, useful or appropriate, except the taxing power and taxing authority of the City and the District, (i) for the acquisition, ownership and operation of the System and/or (ii) for the Authority to have jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, except the taxing power and taxing authority of the City and the District, and (d) the exercise by the Authority of the powers delegated and/or transferred to it herein on behalf of the City, the District and Citizens for the benefit of the inhabitants of the City and the customers of the System in a manner that (x) protects the City and its inhabitants against further sale or disposition of the System, and forever from private ownership, control or partisan political governance; and (y) is coordinated with other utility properties that may be held, owned and/or operated by the Citizens or its affiliates (including the Authority) and (z) is irrevocable.

ARTICLE II.

DEFINITIONS

As used in this Agreement, the following terms shall have the meanings specified below:

(a) "Act" means Indiana Code 36-1-7, as amended from time to time.

(b) "Agreement" means this Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater), dated as of August 9, 2010, by and among the

City, the District and Citizens, as amended from time to time in accordance with its terms.

(c) "Approved POTW Pretreatment Program" means a program administered by a publicly owned treatment works that meets the criteria established in 40 C.F.R. 403.8 and 403.9, which has been approved in accordance with 40 C.F.R. 403.11.

(d) "Articles" means the Articles of Incorporation of the Authority in the form attached hereto as Exhibit A, as amended from time to time in accordance with their terms.

(e) "Authority" means CWA Authority, Inc., an Indiana nonprofit corporation, established pursuant to the terms of this Agreement, which is an affiliate of Citizens.

(f) "Authority Board" means the board of directors of the Authority.

(g) "Board" means the board of directors of Citizens serving as the fiscal body of Citizens.

(h) "Board of Trustees" means the Board of Trustees for Utilities of the Department of Public Utilities of the City.

(i) "Bylaws" means the Bylaws of the Authority, as amended from time to time in accordance with their terms.

(j) "Citizens" means the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities), which holds, owns and operates utilities in public charitable trust for the benefit of the inhabitants of the City.

(k) "City" means the City of Indianapolis, Indiana.

(l) "City-County Council" means the City-County Council of the City serving as the legislative and fiscal body of the City and the fiscal body of the District.

(m) "Clean Water Act" means the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*

(n) "Closing" means the time at which all of the following shall have occurred: (i) all necessary approvals of this Agreement by state officers or state agencies having the power to control the provision of services by the System shall have taken effect and (ii) the consummation of the sale and purchase of the System in accordance with the terms and conditions of the Purchase Agreement as provided for in Section 14.01 of the Purchase Agreement shall have occurred.

(o) "District" means the Sanitary District of the City, acting by and through the Board of Public Works.

(p) "Effective Time" means the time at which all of the following shall have occurred: (i) this Agreement shall have been recorded with the County Recorder for Marion County, Indiana and (ii) this Agreement shall have been submitted to all state officers or state agencies having the power to control the provision of services by the System.

(q) "Nonprofit Act" means the Indiana Nonprofit Corporation Act of 1991, Indiana Code 23-17, as amended from time to time.

(r) "Party" means a party to this Agreement, and "Parties" means all of them.

(s) "Purchase Agreement" means that certain Asset Purchase Agreement pursuant to which the Authority would, among other things, acquire the System from, and assume certain liabilities of, the District.

(t) "System" means the wastewater collection and treatment system owned and operated by the District, including without limitation, the Belmont and Southport wastewater treatment plants.

(u) "Treasurer" means the treasurer of the Board.

ARTICLE III.

ADMINISTRATION

Section 3.1. Establishment of Authority. Pursuant to the Act, the City, the District and Citizens hereby establish the Authority as a separate legal entity, organized as a political subdivision and instrumentality of the State of Indiana acting by and through an Indiana nonprofit corporation, named "CWA Authority, Inc." By reason of the powers vested in it by this Agreement, the Authority may exercise the powers of the City, the District and Citizens permitted by this Agreement and the Act. Except as otherwise provided and to the extent limited in this Agreement, the Authority shall have all of the powers of an Indiana nonprofit corporation and all of the powers, excluding in the case of the City and the District, taxing power and taxing authority, that may be exercised by the City, the District and Citizens that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws, including, without limitation, the powers specified in Section 3.6. The establishment of the Authority shall become effective upon the filing by Citizens of the Articles with the Indiana Secretary of State and the adoption by the Authority Board of the Bylaws.

Section 3.2. Board of Directors. The business and affairs of the Authority shall be managed by, and the powers of the Authority shall be exercised by, or under the authority of, the Authority Board. The Authority Board may, in its sole discretion, determine the extent to which

it exercises those powers or administers the System through delegation to Citizens. Pursuant to the Bylaws, the members of the Authority Board shall automatically, without necessity of further action, be those individuals who are appointed by the Board of Trustees, from time to time and in the manner set forth in Indiana Code 8-1-11.1-1, as members of the Board. The Authority Board shall have no authority to make appointments (either individually or jointly) to fill vacancies on the Authority Board.

Section 3.3. Governance, Staffing and Organization. Unless otherwise required by applicable law, the Authority shall be governed in accordance with the Nonprofit Act, its Articles and its Bylaws, each as may be amended from time to time. The Authority Board shall have the authority, subject to any restrictions on that authority in any contracts of the Authority, to amend the Articles and Bylaws in a manner not inconsistent with this Agreement, to dissolve the Authority and distribute its assets in accordance with the Articles, to appoint and hire such officers, employees, consultants, agents and other persons and to organize the Authority's business and operations, in each case, as it may determine to be in the best interest of the Authority. Upon the request of the Authority and as needed, Citizens may provide staff and such other support as the Authority may require.

Section 3.4. Budget, Ratemaking and Method of Financing. Pursuant to the Bylaws, the Authority Board shall have the authority and responsibility for establishing and maintaining the Authority's budget. Prior to the consummation of the transactions contemplated by the Purchase Agreement, the expenses of the Authority shall be funded by Citizens. From and after the consummation of the transactions contemplated by the Purchase Agreement, the expenses of the Authority shall be financed from any and all sources that are permitted under applicable law and the powers delegated and/or transferred to the Authority hereunder, including without limitation, rates and charges, user fees, service fees, permit fees, grant proceeds and bond proceeds. To the extent that the Authority shall determine necessary, useful or appropriate, Citizens may, subject to applicable law, use its powers, as a municipal legislative body pursuant to Indiana Code 8-1-11.1-3.1, to adopt rates and charges provided by the Authority, subject to the approval of the Indiana Utility Regulatory Commission, and to provide bond, revenue obligation or certificate of indebtedness financing for the benefit of the Authority.

Section 3.5. Transfer of Assets and Assumption of Liabilities. Upon the consummation of the transactions contemplated by the Purchase Agreement, and pursuant to Indiana law, including, without limitation, Indiana Code 5-22-22-10, 36-1-7 and 36-1-11-8 after adoption of resolutions or ordinances by the Parties, the Authority shall acquire, and the City and the District shall transfer to the Authority, the assets that are specified therein comprising the System, and assume the liabilities specified therein, in accordance with the terms and conditions thereof.

Section 3.6. Powers.

(a) At Closing, the City shall delegate and transfer to, and vest in, the Authority all of its powers, excluding taxing power and taxing authority, that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water

Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

(b) At Closing, the District shall delegate to, and vest in, the Authority all of its powers, excluding taxing power and taxing authority, that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

(c) At Closing, Citizens shall delegate to, and vest in, the Authority all of its powers that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

(d) Notwithstanding anything to the contrary herein, the Authority shall have no more power to compromise its debts or to petition or be subject to a petition for relief under 11 United States Code § 101 *et seq.* than the City, the District and Citizens.

(e) Notwithstanding anything to the contrary herein, to the extent the powers to apply and enforce the requirements of Section 307(b) and 307(c) of the Clean Water Act, including national pretreatment standards as well as applicable state pretreatment standards and requirements described in 327 Indiana Administrative Code 5-18, as amended from time to time, required of an Approved POTW Pretreatment Program are deemed taxing powers or authority, the exclusion of taxing power and taxing authority from the delegation by the City and District shall not apply to such powers.

Section 3.7. Treasurer. The City, the District and Citizens hereby delegate to the Treasurer the duty to, and the Treasurer shall, receive, disburse and account for all monies of the Authority. The City, the District and Citizens agree that the Treasurer may, in his or her discretion, and authorize the Treasurer to, delegate such power and authority to such officers, employees or other agents of the Authority as he or she may determine. The City, the District and Citizens agree that the Treasurer (a) shall exercise on behalf of the Authority, all powers that are necessary, useful or appropriate to the receipt, disbursement, accounting, holding and investment of such monies, including any securities that may come into the possession of the Authority, and (b) shall maintain the Authority's books of accounts and records separate and apart, and its funds segregated, from those of any other of the utilities operated by the Board.

Section 3.8. Duration. The duration of this Agreement shall be perpetual as set forth in Section 5.2(b).

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES

Each of the City, the District and Citizens hereby represents and warrants that:

(a) except for obtaining all necessary approvals of state and federal governmental agencies, it has taken all necessary actions and has received all necessary approvals and consents (including the approval by its fiscal body) and adopted all necessary ordinances or resolutions in order to execute and deliver this Agreement, to perform its obligations hereunder to delegate and in the case of the City, transfer, pursuant to Indiana Code 36-3-4-23, to the Authority, and to vest in it, all powers of such Party that are necessary, appropriate or useful to acquire, own and operate the System, and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, including without limitation the powers described in Section 3.6, but excluding in the case of the City or the District, taxing power and taxing authority;

(b) the execution, delivery and performance of this Agreement by it are within its power and authority and do not violate the laws of the State of Indiana (or any other federal, state or local law) applicable to it or its organizational statute, instrument or documents or any other applicable federal, state or local ordinance, resolution, rule or regulation;

(c) the execution, delivery and performance of this Agreement has been duly authorized and this Agreement is the legal, valid and binding obligation of it enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization and similar laws now or hereafter in effect relating to creditors' rights generally, and subject to general principles of equity (whether applied in a proceeding at law or in equity), and it is to be understood that the rights of the Parties to this Agreement and the enforceability of the Agreement may be subject to the valid exercise of the constitutional powers of the Parties, the State and the United States of America;

(d) the execution, delivery and performance of this Agreement do not conflict with or result in the breach or termination of, or otherwise give any other person the right to terminate, or constitute a default, event of default or an event, which, with notice or lapse of time, or both, would constitute a default or an event of default under the terms of any contract or permit to which it is a Party or by which it or its properties are bound;

(e) it intends that upon consummation of the transaction contemplated by the Purchase Agreement, this Agreement be irrevocable;

(f) it will take no action to impair its obligations under this Agreement or any bonds issued or other contractual obligations entered into by Citizens or the Authority with regard to ownership, operation or management of the System; and

(g) it intends that the System, including the assets acquired pursuant to the Purchase Agreement and the assets transferred hereunder, be protected against further sale or disposition by being operated and held to provide wastewater services as part of an integrated waterworks system in public charitable trust in the same manner and to the same extent in which Citizens has operated and held its gasworks for over one hundred years, for the benefit of the inhabitants of the City, and that such assets will be operated in accordance with this Agreement, the Articles, the Bylaws, the Purchase Agreement, and Indiana Code 8-1-11.1, but not the Indiana Trust Code (Indiana Code 30-4).

ARTICLE V.

AMENDMENT AND TERMINATION

Section 5.1. Amendment. Unless explicitly set forth otherwise in this Agreement, this Agreement may only be changed, amended, modified, appended to or supplemented prior to Closing and then only by a writing consented to as a change, amendment, modification, appendix or supplement to this Agreement by all of the City, the District and Citizens. After Closing, this Agreement shall not be, or deemed to be, changed, amended, modified, appended to or supplemented, for any reason or in any manner by agreement, conduct of the parties, or operation of law or otherwise, it being the intent of the Parties that the formation of the Authority, the delegation and transfer of powers to, and the vesting of such powers in, the Authority pursuant hereto, and the acquisition and transfer of assets pursuant to the Purchase Agreement and this Agreement be permanent and irrevocable.

Section 5.2. Termination.

(a) This Agreement may be terminated by either the City, the District or Citizens upon written notice to the other Parties at any time prior to the consummation of the transactions contemplated by the Purchase Agreement:

(i) if the City, the District and the Authority have not executed the Purchase Agreement prior to September 9, 2010; or

(ii) if the Purchase Agreement is terminated in accordance with its terms.

(b) This Agreement may not be terminated from and after the consummation of the transactions contemplated by the Purchase Agreement and shall continue in perpetuity thereafter.

Section 5.3. Effect of Termination. Upon the termination of this Agreement or any dissolution or winding up of the Authority, the property of the Authority shall be distributed in accordance with its Articles.

ARTICLE VI.

REMEDIES, WAIVER AND IMMUNITY

Section 6.1. Remedies.

(a) In the event of any breach, threatened breach, non-performance or other violation of any obligation of this Agreement by any Party, the sole and exclusive remedy of any other Party under this Agreement shall be the remedy of injunctive relief for specific performance. Under no circumstances shall any Party have a right to any other remedy, including but not limited to rescission, cancellation, or reformation of this Agreement for any reason, or monetary damages of any kind.

(b) Any action, suit or other proceeding related in any way to this Agreement, including but not limited to an action, suit or proceeding that alleges a breach, threatened breach, non-performance or any other violation by a Party of any obligation under this Agreement shall be instituted, prosecuted and maintained exclusively in a court of competent jurisdiction located in Marion County, Indiana. Any right that may exist to a change of venue from Marion County, Indiana to another court outside Marion County, Indiana is hereby WAIVED and shall not be asserted in any litigation.

(c) No action, suit or other proceeding for any breach, threatened breach, non-performance or any other violation by a Party under this Agreement shall be instituted, prosecuted or maintained by another Party, unless, prior to instituting such action, suit or other proceeding: (i) the Party seeking to institute such action, suit or other proceeding has given such other Party notice of such breach, threatened breach, non-performance or any other violation and demand for performance; and (ii) the Party upon which notice was served has failed to cure such breach or violation within thirty (30) days after such notice.

(d) Notwithstanding anything to the contrary herein, this Agreement shall not preclude or otherwise affect the exercise of by a Party of any right, remedy, duty or obligation it may have under the Purchase Agreement, which rights, remedies, duties and obligations shall be governed by the Purchase Agreement.

Section 6.2. Waiver. A failure by a Party to institute any suit, action or other proceeding for any breach or violation by another Party of any obligation under this Agreement shall not constitute a waiver by such Party of such breach or violation.

Section 6.3. Immunity of Officers, Directors, Members, Employees and Agents. No recourse shall be had for any claim based upon any obligation in this Agreement against any past, present or future official, officer, director, member, employee or agent of the Parties, as such, under any rule of law or equity, statute or constitution.

ARTICLE VII.

MISCELLANEOUS

Section 7.1. Governing Law. This Agreement is executed by the Parties and delivered in the State of Indiana, and the rights of the Parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State of Indiana, without reference to principles of conflicts of law.

Section 7.2. Counterparts. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

Section 7.3. Severability. The sections, sentences and provisions of this Agreement are severable, and if any one or more of such sections, sentences or provisions (the "Conflicting Provisions") are in conflict with any applicable laws, the Conflicting Provisions shall be deemed never to have constituted a part of this Agreement and this Agreement may be amended pursuant to Section 5.1 to remove the Conflicting Provisions; provided, however, that such conflict or amendment shall not affect or impair any of the remaining provisions of this Agreement or render invalid or improper any action taken or omitted prior to the delivery or removal of the Conflicting Provisions.

Section 7.4. Agreement; Transfer of Powers. This Agreement is intended to be an interlocal agreement or contract pursuant to the Act, in which the Parties have undertaken to provide that which is required by the Act and is intended to vest in the Authority those powers of the City specified in Section 3.6 that may be transferred to, and vested in it, pursuant to Indiana law. If and to the extent this Agreement is not such an interlocal agreement or contract or does not effectively vest or transfer such powers, this Agreement shall be deemed to include such terms not otherwise included herein and to exclude such terms not otherwise excluded herefrom, as are necessary to cause this Agreement to be deemed a valid interlocal agreement or contract under State law and to transfer and vest such powers pursuant to Indiana law.

Section 7.5. Reasonable Efforts; Cooperation. Subject to the terms and conditions of this Agreement, each Party will use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable laws and regulations to consummate the transactions contemplated by this Agreement. In addition, the Parties each agree to cooperate and take such actions, including any necessary amendments hereto, as may be required in the judgment of the Authority for the Authority to obtain all necessary qualifications and approvals, including any that may be required by any state and federal governmental agencies, and to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement, and from time to time, upon the request of another Party to this Agreement and without further consideration, to execute, acknowledge and deliver in proper form any further instruments, and take such other action as the other Parties may reasonably require, in order to effectively carry out the intent of this Agreement, including without limitation, the delegation of

any further powers that may be necessary, useful or appropriate to permit the Authority to carry out its purposes.

Section 7.6. No Assignment. No Party may sell, assign, pledge or otherwise transfer any of its rights or benefits under this Agreement to any other person, without the consent of all other Parties, and any purported sale, assignment, pledge or other transfer without such consent shall be null and void.

Section 7.7. Limitation of Rights. Nothing expressed or implied in this Agreement is intended to give, or shall give, to any other person, other than the Parties and the Authority, any legal or equitable right, remedy or claim under or with respect to this Agreement or any rights or obligations hereunder. This Agreement and the rights and obligations hereunder are intended to be, and shall be, for the sole and exclusive benefit of the Parties and the Authority.

Section 7.8. Notice. Unless oral notice is otherwise allowed in this Agreement, all notices required to be sent under this Agreement;

(a) shall be in writing;

(b) shall be deemed to be sufficient if given by (i) depositing the same in United States mail, postage prepaid, or (ii) electronically transmitting such notice by any means such as by facsimile transmission or electronic mail or (iii) by depositing the same with a courier delivery service for delivery on the following business day, addressed:

If to the City or the District, to:

City of Indianapolis
Office of the Mayor
2501 City-County Building
200 East Washington Street
Indianapolis, Indiana 46204
Attention: Mayor

with a copy to (which copy shall not constitute notice for the purposes of this Agreement):

City of Indianapolis
Office of Corporation Counsel
1601 City-County Building
200 East Washington Street
Attention: Corporation Counsel

If to Citizens, to:

Citizens Energy Group
2020 N. Meridian Street
Indianapolis, IN 46202
Attention: President and Chief Executive Officer

with a copy to (which copy shall not constitute notice for the purposes of this Agreement);

Citizens Energy Group
2020 N. Meridian Street
Indianapolis, IN 46202
Attention: General Counsel

(c) shall be deemed to have been given on the day of such mailing, transmission or deposit; and

(d) any of the methods specified in Section 7.8(b) hereof shall be sufficient to deliver any notice required hereunder; notwithstanding that one or more of such methods may not be specifically listed in the Sections hereunder requiring such notice.

Section 7.9. Performance Due on other than a Business Day. If the last day for taking any action under this Agreement is a day other than a business day, such action may be taken on the next succeeding business day and, if so taken, shall have the same effect as if taken on the day required by this Agreement.

Section 7.10. Waiver of Assent. Notice of acceptance of or other assent to this Agreement is hereby waived.

Section 7.11. Gender; Section Headings and Table of Contents.

(a) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa. Unless otherwise indicated, the words "hereof," "herein," "hereby" and "hereunder" or words of similar import refer to this Agreement as a whole and not to any particular article, section, subsection, clause or other portion of this Agreement.

(b) Any headings preceding the texts of the several articles and sections of this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

Section 7.12. Entire Agreement. This Agreement and the Purchase Agreement shall constitute the entire agreement of the Parties with respect to the subject matter and shall supersede all prior oral or written agreements in regard thereto.

Section 7.13. Effective Date. This Agreement shall become effective at the Effective Time.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their names and on their behalf as of the date first written above.

CITY

By: Greg A. Ballard
Printed: Gregory A. Ballard
Its: Mayor

DISTRICT

By: David R. Sherman
Printed: David R. Sherman
Its: Director

CITIZENS

By: _____
Printed: _____
Its: _____

APPROVED AS TO FORM AND LEGALITY:

By: Samantha S. Karn Date: 8/1/10
Samantha Karn, Corporation Counsel, City of Indianapolis

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this 9th day of August, 2010, personally appeared Greg Ballard, personally known to me to be the Mayor of the City, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of the City.

WITNESS my hand and notarial seal.

(Seal)

Katrina J. Kimble
(Written Signature)

Katrina J. Kimble
(Printed Signature) Notary Public

My Commission Expires:

July 1, 2017

My County of Residence:

Marion

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this 9th day of August, 2010, personally appeared David Sherman, personally known to me to be the Director of the District, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of the District.

WITNESS my hand and notarial seal.

(Seal)

Katrina J. Kimble
(Written Signature)

Katrina J. Kimble
(Printed Signature) Notary Public

My Commission Expires:

July 1, 2017

My County of Residence:

Marion

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their names and on their behalf as of the date first written above.

CITY

By: _____

Printed: _____

Its: _____

DISTRICT

By: _____

Printed: _____

Its: _____

CITIZENS

By: 

Printed: JOHN R. WHITAKER

Its: SR. V.P. & ASST. SECRETARY

APPROVED AS TO FORM AND LEGALITY:

By: _____ Date: _____

Samantha Karn, Corporation Counsel, City of Indianapolis

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this 6th day of August 2010, personally appeared John R. Whitaker, personally known to me to be the Sr. Vice President & Assistant Secretary of Citizens, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of Citizens.

WITNESS my hand and notarial seal.

Monica E. Kapp
(Written Signature)

(Seal)

Monica E. Kapp
(Printed Signature) Notary Public

My Commission Expires:

Dec. 17, 2015

My County of Residence:

Marion

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Anthony P. Aaron

This instrument was prepared by Anthony P. Aaron, Esquire, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.

EXHIBIT A

[Articles to be attached]

I/2452701.23

ARTICLES OF INCORPORATION
OF
CWA AUTHORITY, INC.

The undersigned incorporator, desiring to form a political subdivision and instrumentality of the State of Indiana acting by and through a non-profit corporation (the "Authority") pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act") and Indiana Code 36-1-7 and pursuant to that certain Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) (the "Interlocal Agreement") by and among the City of Indianapolis (the "City"), the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District"), and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities) ("Citizens"), dated August 9, 2010, executes the following Articles of Incorporation:

ARTICLE I

Name

The name of the Authority is CWA Authority, Inc.

ARTICLE II

Classification of Authority

The Authority is a political subdivision and instrumentality of the State of Indiana acting by and through a non-profit corporation, which is authorized pursuant to the Interlocal Agreement and Indiana Code 36-1-7 and which is a public benefit corporation.

ARTICLE III

Purposes and Powers

Section 3.1. Purposes. The purposes for which the Authority is formed are:

(a) to exercise the powers delegated and/or transferred to it in the Interlocal Agreement on behalf of the City, the District and Citizens for the benefit of the inhabitants of the City and the customers of the District's wastewater collection and treatment system, including, without limitation, the Belmont and Southport wastewater treatment plants (the "System"), in each case, in a manner that:

(i) protects the City and its inhabitants against further sale or disposition of the System, and forever from private ownership, control or partisan political governance; and

(ii) is coordinated with other utility properties that may be held, owned and/or operated by the Citizens or its affiliates (including the Authority) for the achievement of synergies; and

(b) in furtherance of the aforesaid purposes, to transact any and all lawful business for which corporations may be incorporated under the Act.

Section 3.2. Powers. Subject to any limitation or restriction imposed by the Act, any other law, the Interlocal Agreement or any other provisions of these Articles of Incorporation, the Authority shall:

(a) have all of the City's powers (excluding taxing power and taxing authority) that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.* (the "Clean Water Act"), in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(b) have all of the Districts' powers (excluding taxing power and taxing authority) that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(c) have all of Citizen's powers that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(d) have the power to sue and be sued; and

(e) have, exercise and enjoy in furtherance of the purposes hereinbefore set forth all the general rights, privileges and powers granted to corporations by the Act, as now existing or hereafter amended, and by the common law.

(f) Notwithstanding anything to the contrary herein, the Authority shall have no more power to compromise its debts and file or be subject to a petition for relief under 11 United States Code § 101 *et seq.* than the City, District and Citizens.

(g) Notwithstanding anything to the contrary herein, to the extent the powers to apply and enforce the requirements of Section 307(b) and 307(c) of the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*, including national pretreatment standards as well as applicable state pretreatment standards and requirements described in 327 Indiana Administrative Code 5-18, as amended from time to time, required of a program administered by a publicly owned treatment works that meets the criteria established in 40 C.F.R. 403.8 and 403.9, which has been approved in accordance with 40 C.F.R. 403.11, are deemed taxing powers or authority, the exclusion of taxing power and taxing authority from the delegation by the City and District shall not apply to such powers.

ARTICLE IV

Distribution of Assets on Dissolution

Without the approval of the Attorney General of the State of Indiana, the Authority shall not be entitled to file or cause to be filed a petition for relief under the United States Bankruptcy Code or consent to the appointment of a receiver or trustee over its assets. In the event of the filing of an approved petition for relief under the United States Bankruptcy Code, the complete liquidation or dissolution of the Authority or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Authority, including all revenue bonds issued by District and Citizens for the Authority's sewer works, distribute all the assets of the Authority to Citizens or to such other entity as Citizens shall determine, in either case, to be charged with a public charitable trust for the benefit of the inhabitants of the City, in accordance with the purposes of the Authority set forth herein.

ARTICLE V

Term of Existence

The Authority shall have perpetual existence.

ARTICLE VI

Registered Office and Registered Agent

Section 6.1. Registered Office and Registered Agent. The street address of the Authority's registered office is 2020 N. Meridian St. Indianapolis, IN 46202 and the name of the Authority's registered agent at that office is Aaron D. Johnson

Section 6.2. Principal Office. The post office address of the principal office of the Authority is 2020 N. Meridian St. Indianapolis, IN 46202.

ARTICLE VII

No Members

The Authority shall have no members.

ARTICLE VIII

Board of Directors

Section 8.1. Number, Term of Office and Appointment. The Board of Directors shall consist of the seven (7) individuals who are appointed by the Board of Trustees for Utilities of the Department of Public Utilities of the City of Indianapolis (and the utility special taxing district), from time to time and in the manner set forth in Indiana Code 8-1-11.1-1, as members of the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis (and the utility special taxing district). Each director shall serve for a term equal to his or her appointment to the Board of Directors for Utilities. Despite the expiration of a director's term, a director continues to serve until a successor is appointed and qualified so long as such director is also a member of the Board of Directors for Utilities.

Section 8.2. Qualifications. Each director shall be a member of the Board of Directors for Utilities of the Department of Public Utilities for the City of Indianapolis (and the utility special taxing district).

Section 8.3. Initial Board of Directors. The names and addresses of the initial Board of Directors of the Authority are:

<u>Names</u>	<u>Addresses</u>
Lawrence A. O'Connor, Jr.	2020 N. Meridian St. Indianapolis, IN 46202
Anne Nobles	2020 N. Meridian St. Indianapolis, IN 46202
Dorothy J. Jones	2020 N. Meridian St. Indianapolis, IN 46202
James M. McClelland	2020 N. Meridian St. Indianapolis, IN 46202
Anita J. Harden	2020 N. Meridian St. Indianapolis, IN 46202
Daniel C. Appel	2020 N. Meridian St. Indianapolis, IN 46202
Martha D. Lamkin	2020 N. Meridian St. Indianapolis, IN 46202

ARTICLE IX

Name and Address of Incorporator

The name and address of the incorporator of the Authority are:

<u>Name</u>	<u>Address</u>
Aaron D. Johnson	2020 N. Meridian St. Indianapolis, IN 46202

ARTICLE X

Indemnification

Section 10.1. Rights to Indemnification and Advancement of Expenses. The Authority shall indemnify as a matter of right every person made a party to a proceeding because such person is or was:

- (a) a member of the Board of Directors of the Authority,
- (b) an officer of the Authority, or
- (c) while a director or officer of the Authority, serving at the Authority's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, whether for profit or not (each an "Indemnitee"),

against all liability incurred by such person in connection with the proceeding; provided that it is determined in the specific case that indemnification of such person is permissible in the circumstances because such person has met the standard of conduct for indemnification specified in the Act. The Authority shall pay for or reimburse the reasonable expenses incurred by an Indemnitee in connection with any such proceeding in advance of final disposition thereof in accordance with the procedures and subject to the conditions specified in the Act. The Authority shall indemnify as a matter of right an Indemnitee who is wholly successful, on the merits or otherwise, in the defense of any such proceeding against reasonable expenses incurred by the person in connection with the proceeding without the requirement of a determination as set forth in the first sentence of this paragraph.

Upon demand by a person for indemnification or advancement of expenses, as the case may be, the Authority shall expeditiously determine whether the person is entitled thereto in accordance with this Article and the procedures specified in the Act.

The indemnification provided under this Article shall be applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Article.

Section 10.2. Other Rights Not Affected. It is the intent of this Article to provide indemnification to directors and officers to the fullest extent now or hereafter permitted by law consistent with the terms and conditions of this Article. Nothing contained in this Article shall limit or preclude the exercise of, or be deemed exclusive of, any right under the law, by contract or otherwise, relating to indemnification of or advancement of expenses to any person who is or was a director, officer, employee or agent of the Authority, or the ability of the Authority to otherwise indemnify or advance expenses to any such individual.

Notwithstanding any other provision of this Article, there shall be no indemnification with respect to matters as to which indemnification would result in inurement of net earnings of the Authority "to the benefit of any private shareholder or individual," within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or similar provisions of any subsequent Federal tax laws.

Section 10.3. Definitions. For purposes of this Article:

(a) A person is considered to be serving an employee benefit plan at the Authority's request if the person's duties to the Authority also impose duties on, or otherwise involve services by, the person to the plan or to participants in or beneficiaries of the plan.

(b) The estate or personal representative of a person entitled to indemnification or advancement of expenses shall be entitled hereunder to indemnification and advancement of expenses to the same extent as the person.

(c) The term "expenses" includes all direct and indirect costs (including, without limitation, counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or out-of-pocket expenses) actually incurred in connection with the investigation, defense, settlement or appeal of a proceeding or establishing or enforcing a right to indemnification under this Article, applicable law or otherwise.

(d) The term "liability" means the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan) or reasonable expenses incurred with respect to a proceeding.

(e) The term "party" includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(f) The term "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

ARTICLE XI

Amendment

Subject to the Act, the power to amend these Articles of Incorporation shall be vested in the Board of Directors of the Authority; provided however, that any such amendment must not be inconsistent with the Interlocal Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned incorporator executes these Articles of Incorporation and verifies subject to penalties of perjury that the facts contained herein are true.

Dated this _____ day of _____, 2010.

Written Signature

Printed Signature

This instrument was prepared by Anthony P. Aaron, Esq., Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.

I/2464808.11

Appendix C: Ind. Code §8-1-11.1 (the “Citizens Act”)



**Information Maintained by the Office of Code Revision Indiana Legislative Services Agency
IC 8-1-11.1**

Chapter 11.1. Department of Public Utilities of Consolidated City

IC 8-1-11.1-1

Creation; board of trustees; directors; membership; appointment; qualifications; tenure; proceedings

Sec. 1. (a) In addition to the other executive departments of a consolidated city, there is hereby created in any such city a department of public utilities, which shall have as its head and be under the general supervision and control of a board of seven (7) members, to be known as the "Board of Directors for Utilities," to be appointed annually by the board herein provided for and designated as the "Board of Trustees for Utilities."

(b) Said board of trustees for utilities shall consist of five (5) members.

(c) All such trustees and all successors thereof shall hold over after the expiration of their terms until their respective successors have been duly appointed and have qualified.

(d) At the expiration of the respective terms of each of the members of the board of trustees, the said board of trustees shall nominate the successors thereof to membership on such board, each of which nominees shall be appointed by the mayor of the consolidated city within ten (10) days after receiving such nominations, and such succeeding members shall serve for a term of four (4) years. In the event any person who has been appointed at any time as a member of such board of trustees shall fail to qualify within ten (10) days after the mailing to him of notice of his appointment; or if any member after qualifying shall die, resign, vacate such office by becoming a nonresident of such city, or be removed as hereinafter provided; new members of such board of trustees shall be chosen to fill such vacancy in the same manner as is provided for the member as to whom such vacancy occurs, and the member so chosen shall serve for the remainder of the term for which the member whose place is so filled was appointed.

(e) No person shall be appointed as trustee who is less than thirty-five (35) years of age, and who has not been a resident of such city for at least five (5) years immediately preceding his appointment. If any such trustee shall cease to be a legal resident of said city his membership on said board shall thereby terminate and become vacant.

(f) Each member of such board of trustees for utilities, before entering upon his duties, shall take and subscribe an oath of office in the usual form, to be indorsed upon the certificate of his appointment, which shall be promptly filed with the clerk of the city-county council.

(g) A majority of all the members of said board of trustees for utilities shall be necessary to constitute a quorum.

(h) Said board of trustees shall elect one (1) member thereof as president, one (1) as vice-president, and one (1) as secretary, who shall serve from the date of their election until one (1) year from the

first day of January next following their election and until their successors are elected and have qualified.

(i) Said board of trustees shall keep a record of their proceedings. The expense of the meetings and proceedings of said board and of keeping a record thereof and the salary of the members thereof shall be paid upon a written request of the presiding officer and secretary thereof by the board of directors for utilities out of the funds belonging to said utility district. Each member of said board of trustees for utilities shall receive as compensation for his services as such a salary in the sum of fifty dollars (\$50) per year.

(j) The board of trustees for utilities shall meet annually on the first Monday of December of each

year, at the principal office of said department of public utilities, for the purpose of transacting any business pertaining to their duties, and for the purposes of electing officers of such board of trustees and of selecting and appointing members of the board of directors for utilities, who shall serve for one (1) year from the first day of January following and until their successors are appointed and qualified.

(k) All persons so selected and appointed as such directors and all the successors thereof appointed at any time shall be chosen by a majority vote of all the members of said board of trustees. Said board of trustees shall have power to remove summarily and at any time any director and in such event, or if a vacancy occurs in said board of directors from any cause, said board of trustees shall appoint a successor in like manner who shall serve for the balance of the term for which the member whose place is so filled was appointed.

(l) No person shall be appointed a member of said board of directors for utilities unless he is a bona fide resident of said city and has been such for five (5) years immediately preceding such appointment, and is at least thirty-five (35) years of age. If any such director shall cease to be a legal resident of said city during the term for which he was appointed, his membership on such board shall thereby terminate and become vacant.

(m) Each member of said board of directors for utilities before entering upon his duties shall take and subscribe an oath, to be indorsed upon the certificate of his appointment, which shall be promptly filed with the clerk of the city-county council.

(n) Each of said members of said board of directors, before entering upon his duties, shall execute a bond payable to the state of Indiana, with surety to be approved by the mayor of said city, in the penal sum of fifteen thousand dollars (\$15,000), conditioned upon the faithful performance of the duties of his office and the accounting for all moneys and property that may come into his hands or under his control. The cost of all such bonds shall be paid by the department of public utilities of said city.

(o) Any trustee may be removed from office for neglect of duty, incompetency, disability to perform his duties, or other good cause, by an order and judgment of the circuit or superior court of the county in which such city is located, in the following manner, to wit: An original complaint may be filed by either the mayor, or by a

majority of the city-county council against any such trustee setting forth the charges preferred, and the cause shall be placed on the advanced calendar and be tried as other civil causes are tried, by the court, without the intervention of a jury. If such charges be sustained, the court shall declare such office vacant. The judgment of said court shall be final and no appeal shall lie therefrom by any party.

(p) Said board of trustees shall have power to adopt rules, regulations and by-laws for their own governance, and may meet regularly or specially as often as necessary to transact any business or duties imposed upon them under this chapter or any other statute.

(q) In the event such city shall acquire in any manner herein provided more than one (1) such public utility and the property thereof, said board of trustees may add to such board of directors from time to time one (1) or more additional members, increasing such board to not exceed a total of eleven (11) members; which members shall be appointed and shall serve under all the provisions herein governing the appointment, terms and duties of such board of directors for utilities.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-2

Board of directors; appointment of officers; compensation; meetings; employee bonds

Sec. 2. (a) The members of such board of directors for utilities shall hold a meeting on the second Monday of January of each year for the purpose of organization and to elect officers for the ensuing year. They shall choose one (1) of their members president, another vice-president, another secretary, and another treasurer, who shall perform the duties usually pertaining to those offices. Such officers so chosen shall serve from the date of their election until their successors are duly elected and qualified.

(b) The members of such board of directors for utilities shall each be paid a salary for their services as such directors at the rate of six hundred dollars (\$600) per annum during the period of service. A

majority of the members of said board of directors shall constitute a quorum, and the concurrence of a majority of such membership shall be necessary to any action of such board. Such board of directors shall hold an annual meeting on the second Monday of January of each year, at the general offices of such board, and such other regular meetings at such times as it may determine, and upon such notice as it may fix, by rule or regulation. It shall be authorized to make such by-laws and regulations as it may deem necessary for the safe, economical and efficient management and protection of the properties entrusted to its care. Such board of directors shall require any officer or employee having custody of funds to give bond in such reasonable amount as the board may prescribe, the expense of which bonds shall be paid by the department of public utilities of such city.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-3

Board of directors; powers and duties

Sec. 3. (a) The board of directors for utilities shall have, within and outside such city as provided in this chapter, the exclusive government, management, regulation, and control of all public utilities consisting of any waterworks, gasworks, electric light works, heating and power plants of any kind or character, telephone and other systems of communication, and local transportation systems of any kind operated upon, above, or below any street or territory within the city, or outside the city within the limits authorized by law, and all property held by and relating or belonging thereto. Any of which public utilities any such city may acquire or construct for the service of the public as consumers, users, or patrons, and including any public utility and all property which such city may hold as trustee for the benefit of the inhabitants of such city. Such board of directors may furnish and sell service and products of and make all necessary construction, reconstruction, repairs, renewals, enlargements, extensions, or additions to any such plant or property of any such public utility so owned or at any time so held in trust, which in the judgment of the board of directors is desirable or necessary for the proper conduct of such business and the proper serving of the inhabitants of the city and adjacent, contiguous, or suburban communities or territory within the county wherein such city is situated and served, or reasonably capable of being served, in any manner by or with respect to any such utility.

(b) The board of directors may lease any such utility property for a term not exceeding thirty-five (35) years to any person, partnership, limited liability company, or corporation, and without the approval of the commission, such lease to be upon such terms and conditions as the board may deem to be to the best interest of such city and the city's inhabitants. No such lease shall be valid or effective until it has been approved by the board of trustees and duly ratified and approved by an ordinance of the city. The board and the city-county legislative body must each vote such approval by a two-thirds (2/3) vote of their total membership. In any such lease an option may be given to such lessee to extend the same for a period not to exceed ten (10) additional years.

(c) In connection with the duties devolving upon such board of directors in the government, management, regulation, control, and operation of all such utilities, it may act as follows:

(1) To condemn, appropriate, lease, rent, purchase, and hold any real estate, rights-of-way, materials, or personal property within such city or within five (5) miles of the corporate limits of the city needed for the proper giving of service by any such utility to the inhabitants of the city and the community contiguous thereto and served from any such utility plant.

(2) To design, order, contract for, and construct any and all necessary or desirable extensions of or additions to any utility plant and property owned or so held in trust by the city, and to enter into all necessary contracts with reference thereto, and with reference to the purchase of materials and supplies needed

for the operation of any such plant or plants, in accordance with such rules as may be adopted by such board of directors, and without the necessity of advertising for bids, or without such other restrictions as are imposed by any law of Indiana with reference to the letting of contracts for work, material, or

supplies by municipal bodies or other governmental agencies.

(3) To sell any products or byproducts, and enter into executory contracts for the sale, to anyone whatsoever and without any restriction concerning the taking of bids therefor or otherwise.

(4) To operate any such plant or plants, to receive and collect all money due on account of such operation or otherwise relating to such plant or plants or business and in connection therewith to employ such managers, superintendents, assistant managers, assistant superintendents, engineers, attorneys, auditors, clerks, foremen, and other employees necessary for the proper carrying on and operation of any such utility plant or plants and the business and to fix the compensation of all such employees. No contract of employment shall be made for a longer fixed period than four (4) years. However, a contract of employment may be extended or renewed from time to time thereafter. The directors may elect from their membership an executive committee consisting of not more than three (3), who may be assigned to the supervision of any one (1) or more of such utilities and who shall, in the intervals between the meetings of the directors, exercise all the powers and duties of the directors, all of their acts to be subject, however, to the approval of the directors, and to fix any such additional compensation to the members of the executive committee, in addition to their salaries as directors, as shall be reasonable. The additional compensation shall be fixed by a resolution of the directors entered of record at the time of the appointment of the executive committee. Whenever any such city shall acquire, hold, own, or so hold in trust for the city's inhabitants more than one (1) such public utility and the property of the city, such board of directors shall have power to select additional executive committees from their membership in the same manner and with the same power as the executive committee first selected, which committee may be assigned by such board to any such utilities deemed necessary. In the selection of employees, other than managers, superintendents, assistant managers, assistant superintendents, engineers, attorneys, and auditors, the board of directors shall provide for a merit system of employment to be determined by competitive examination, except as to unskilled and common laborers, in which political, religious, or other personal affiliations may not be considered. In selecting managers the directors shall consider character, training, and general expert and executive fitness and experience for the position in the particular utility to which such manager is to be assigned, as the necessary requirements for appointment.

(5) To rent such offices and other real estate and property for the conduct of the business of such utility or utilities as may be deemed needful and enter into contracts with reference to the rental and use of the offices, real estate, and property. No such contract shall be made for a longer period than ten (10) years.

(6) In the event there be an open mortgage upon any utility property acquired by any such city, either in absolute ownership or in trust, by the terms of which mortgage additional bonds may be taken down from the trustee under such mortgage to meet in whole or in part the cost of extensions and improvements to the mortgaged property, the board of directors may perform all things necessary in order to secure the benefit of such mortgage provisions and to enable the escrow bonds held by the trustee under any such mortgage to be taken down and sold in order to defray the cost of any extensions and betterments to such property and to sell any such bonds so taken down for the purpose of assisting in defraying the costs of any such extensions or betterments to such property.

(7) To take over, adopt, and assume the performance of the provisions of any lease under which any utility property may be held at the time of the acquisition of any utility by any such city, either in absolute ownership or in trust and to take any and all steps necessary to perform and fulfill the terms of any such lease, and to obtain and preserve the benefits from the lease. In the event there be any outstanding open mortgage upon the property covered by such lease so taken over under the provisions of which bonds may be withdrawn from the trustee under such mortgage for the purpose of paying all or part of the cost of additions to the property covered by such mortgage, to do all things necessary in order to secure the benefit of such mortgage provisions and to enable the escrow bonds held by the trustee under any such mortgage to be taken down and sold in order to defray the cost of any extensions and betterments to such leased property and to sell any such bonds so taken down for the purpose of

assisting in defraying the costs of any such extensions or betterments to such leased property.

(8) To preserve the corporate organization of any company engaged in the mining of coal, or any other commercial or manufacturing business, the stock of which may be owned by any utility whose property and assets may be taken over by any such city, either in absolute ownership or in trust and in connection with the taking of the property by the city to cause the stock of any such company to be issued in the name of the board of directors for utilities except as to qualifying shares for directors and to cause such qualifying shares to be issued in the names of such individuals as the board of directors may name and to vote any such stock for the election of directors, who may be members of such board of trustees for utilities. However, no member of such board of directors shall receive any compensation, directly or indirectly, as a director, officer,

or employee of any such company, other than the compensation provided in this chapter as a member of the board of directors for utilities. Through the control thus given of any company, the board of directors for utilities shall be authorized to do all things necessary to cause any such coal mining company or other company efficiently to carry on its operations and to conduct its business in the same manner as if its stocks were owned by private individuals.

(9) To adopt rules for service and rates for service in connection with the furnishing of any public utility service by the city to consumers, users, or patrons. However, any such rules and rates for service shall be in effect only after the rules and rates have been filed with and approved by the commission and such approval shall be granted by the commission only after notice of hearing and hearing as provided by IC 8-1-1 and IC 8-1-2, and only after determining compliance of the rates of service with IC 8-1.5-3-8 and IC 8-1.5-3-10 and only after determining compliance of the rules of service with IC 8-1-1 and IC 8-1-2, along with the rules and standards of service for municipal utilities of Indiana approved by the commission.

(10) To take over all contracts and rights of any kind or character, and to fulfill and perform all obligations relating to the property and business of any utility company whose property may be taken over by any such city, either in absolute ownership or in trust.

(11) To make all rules and bylaws customary in private corporations for their own conduct of business and necessary for the proper government and supervision of the utilities under their control. Any such rules and bylaws shall be subject to the approval of the board of trustees.

As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.23-1988, SEC.42; P.L.3-1989, SEC.57; P.L.8-1993, SEC.122.

IC 8-1-11.1-3.1

Board of directors; certain powers and duties pertaining to municipally owned utilities

Sec. 3.1. In addition to the other powers specified by this chapter and notwithstanding IC 8-1.5-3-1, the board of directors for utilities has all rights and powers conferred on a municipally owned utility by IC 8-1.5-3-4(b), IC 8-1.5-3-6, and IC 8-1.5-3-7. Furthermore, the board of directors for utilities shall operate as both the board and the municipal legislative body for the purposes of IC 8-1.5-3-8.

As added by Acts 1982, P.L.74, SEC.4.

IC 8-1-11.1-3.5

Retirement, survivor, or other benefits; increase

Sec. 3.5. (a) Every person who is receiving retirement benefits, survivor benefits or other benefits from any fund or funds established by, or under the authority of, the board of directors for utilities of the department of public utilities may have such retirement benefits,

survivor benefits or any other benefits increased by an amount not to exceed two dollars (\$2) per month for each year of active service prior to retirement. Such increase may be made if the board of directors for utilities of the department of public utilities shall by resolution so provide which said board of directors is hereby given power to do.

(b) Any person who is receiving a retirement, survivor or other benefit which commenced prior to January 1, 1976, shall receive such increased retirement benefits, survivor benefits or other benefits as long as he or she shall live.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-4

Directors or trustees; adverse interest in contracts

Sec. 4. No contract shall be made for the purchase or sale of any materials or supplies on behalf of said board of directors for utilities with any trustee or director, and no trustee nor director shall have any pecuniary interest in any such contract.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-5

Actions to protect rights of cities

Sec. 5. The board of directors for utilities in every such city may, in the name of the city, bring any such action which it deems proper in order to protect the property rights of said city with reference to any such utility property so under the control of such board, or to secure the more effective carrying out of the purposes of this chapter with reference to the erection, maintenance and operation of any such utility property or properties.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-6

Utility districts; creation

Sec. 6. All of the territory included within the corporate limits of any said city shall become and constitute a utility district for the purpose of providing for the furnishing of utility service in such lines of utility operation as may be taken over or owned by said city, and thereafter said utility district shall be deemed duly created and established under and pursuant to the provisions of this chapter.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-7

Expenses; procedure for payment

Sec. 7. All preliminary expenses actually incurred by such board of directors in providing necessary records, the employment of clerks, engineers, attorneys and other employees, the making of surveys, and all other expenses of whatsoever nature necessary to be paid prior to the actual taking over and operation of any utility plant and the collection of revenues therefrom, shall be met and paid in the following manner: Said board of directors for utilities shall from time

to time certify such items of expense to the controller of such city, directing him to pay the several amounts thereof, and thereupon said controller shall at once draw his warrant or warrants upon the county treasurer, which warrant or warrants shall be paid out of the general funds of such city not theretofore appropriated, without a special appropriation being made therefor by the city-county council; or in case there are no such general funds of said city not otherwise appropriated, the city controller shall recommend to the city-county council the temporary transfer of other funds of such city as is necessary to meet such items of expense, or the making of a temporary loan for such purpose, and such council shall thereupon at once make such transfer of funds or authorize such temporary loan in the same manner that other temporary loans are made by such city: Provided, however, That the fund or funds of such city from which such payments are made shall be fully reimbursed and repaid with six percent (6%) interest by such board of directors for utilities out of the first receipts from the operation of any such utility by said board which are not needed to defray current operating expenses and the expenses of imperative betterments.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-8**Bonds authorized; purposes; terms; sale procedures; disposition of proceeds; mortgage bonds; temporary loans; execution**

Sec. 8. (a) For the purpose of raising money to pay for the acquisition of any utility property which said city shall have the right to and shall determine to acquire, or which any such city may take over as trustee for the inhabitants thereof, including any money required to be paid for the purpose of redeeming or extinguishing the capital stock of any utility whose property may be so taken over and for the purpose of paying any outstanding obligations of any utility company subject to which the property of any such utility may be taken over by any such city, or held by it in trust for the inhabitants thereof; or for the purpose of making necessary betterments, improvements, extensions or additions to any utility property owned, or so held in trust, by said city, the board of directors for utilities shall cause to be issued in the name of the said city the bonds of said utility district not to exceed in amount the total cost of any such utility so purchased, or so held in trust, and for the outstanding obligations of any utility subject to which the property is to be taken over and which it is desired to pay off and discharge and/or of any such additions, betterments, improvements, extensions or additions to any utility owned, or so held in trust, and including all expenses necessarily incurred in connection with the acquisition of any such property, the paying off of any such indebtedness or the making of any such improvements, extensions or additions thereto. Such bonds shall be issued in any denominations not more than one thousand dollars (\$1,000) each, and shall be payable at such period not longer than thirty (30) years after date, and in such series or series as such board of directors may by resolution determine. Said bonds shall be

negotiable as inland bills of exchange, and shall bear interest at any rate, payable semiannually. On adopting a resolution ordering said bonds, said board of directors shall certify a copy of the same to the city controller of said city, who shall thereupon prepare said bonds and the same shall be executed by the mayor of said city and attested by the city controller. Such bonds shall be exempt from taxation for any and all purposes. All of said bonds so issued by the board of directors shall be sold by the city controller to the highest bidder therefor, but in no event for less than par, after giving notice of sale of such bonds by publication in accordance with IC 5-3-1. Any bonds issued pursuant to the provisions of this chapter, whether bonds of said utility district, or mortgage bonds, certificates of indebtedness, or other obligations, as hereinafter provided for in this chapter, shall be valid and binding without obtaining the approval of the commission or the department of local government finance of the state of Indiana. It shall be unlawful for said board of directors for utilities to cause to be issued under this chapter any bonds of said utility district payable by special taxation when the total issue for that purpose, including the bonds already issued and outstanding and those proposed to be issued, is in excess of two percent (2%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15, and all bonds or obligations issued in violation of this provision shall be void. Said bonds shall not in any respect be a corporate obligation or indebtedness of said city, but shall be and constitute an indebtedness of said utility district as a special taxing district, and said bonds and interest thereon shall be payable out of a special tax levy upon all of the property of said utility district, or from surplus earnings as in this chapter provided; and said bonds shall recite such terms upon their face, together with the purpose for which they are issued. No suit to question the validity of said bonds so issued for said utility district or to prevent their issue and sale shall be instituted after the date set for the sale of said bonds, and all said bonds from and after said date shall be incontestable for any cause whatsoever.

(b) In event any such city shall, pursuant to any contract right so to do, determine to take over the property and business of any utility company by the payment to it of the amount necessary to pay off the stock of such company, the proceeds of any such utility district bonds issued and sold as herein provided may, so far as is necessary, be paid over to any such utility company at the time of the conveyance, transfer, or taking over of its property, for the purpose of enabling such company to discharge its obligations to its stockholders in accordance with the provisions of any such contract.

(c) In addition to the authority granted to issue utility district bonds the board of directors of any such utility district for the purpose of providing necessary funds with which to pay the cost of acquiring any

utility property, or paying off any existing indebtedness of or upon any utility property, so acquired, or to pay the expenses of operation of any such utility property, including the cost of any betterments or extensions, may make temporary loans in

the form of certificates of indebtedness, which shall be a charge solely against either the particular utility property or against the earnings thereof, or both, on behalf of which the same is borrowed; or said board of directors may authorize the issuance of mortgage bonds secured by a mortgage upon the property or upon the earnings, or both, of the particular utility for whose benefit such moneys are borrowed; and any such certificates of indebtedness and mortgages shall constitute charges as may be indicated aforesaid by the directors when authorizing the same and shall contain such terms and provisions and shall be sold at such price and shall bear such rate of interest as such board of directors may approve.

(d) Such mortgage indebtedness shall not constitute a general obligation of such city, or of such utility district, but the holders thereof shall be entitled to look solely to the mortgaged property and the revenues derived from the operation thereof for the repayment of such indebtedness.

(e) All such certificates of indebtedness and mortgage bonds shall be signed by the mayor of such city and attested by the city controller, and shall on their face show the purpose for which they are issued and the character of the obligation created thereby. All such certificates of indebtedness and mortgage bonds, or either thereof, shall be exempt from all taxation.

As added by Acts 1981, P.L.11, SEC.43. Amended by Acts 1981, P.L.45, SEC.6; P.L.23-1988, SEC.43; P.L.6-1997, SEC.130; P.L.90-2002, SEC.310.

IC 8-1-11.1-9

Disposition of bond revenues

Sec. 9. All proceeds from the sale of said bonds under and pursuant to section 8 of this chapter shall be kept as a separate and specific fund to pay the cost of the acquisition of any utility property which said city shall have the right to and shall determine to acquire or the payment of obligations of any such utility subject to which its property is purchased, or the cost of making necessary betterments, improvements, extensions or additions to any utility property owned by said city, as hereinabove provided, and no part of the same shall be used for any other purpose whatsoever. Such funds shall be deposited at interest with the depository or depositories of other public funds of such city, and all interest collected therefrom shall belong to such fund. Any surplus of funds remaining out of the proceeds of said bonds after all of said costs and expenses are fully paid shall be paid into and become a part of the utility district bond fund as hereinbefore referred to.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-10

Tax levy to pay for bonds; utility district bond fund

Sec. 10. For the purpose of raising money to pay all bonds issued as provided in section 8 of this chapter, and the interest thereon, to the extent that moneys are not available therefor in the judgment of

the board of directors for utilities from the operations of said utility plant or plants so owned by said city, the board of directors for utilities, as an official board of said utility district, is hereby empowered to levy, and shall levy each year, a special tax upon all the property of said utility district in such manner as to meet and pay the principal of said bonds as they severally mature, together with all accruing interest thereon. Said board of directors shall cause said tax so levied each year to be certified to the city controller of said city and the auditor of the county in which said utility district is located, on or before the first day of October of each year. Such tax so levied and certified shall be estimated and entered upon the tax duplicate by the auditor, and shall be collected and enforced by the county treasurer in the same manner as state and county taxes are estimated, entered, collected and enforced; and as such tax is so collected by the county treasurer, it shall be accumulated and kept in a separate fund to be known as the "Utility District Bond Fund," and shall be applied to the payment of the aforesaid utility district

bonds and interest as they severally mature, and for no other purpose whatsoever: Provided, That all accumulations of said fund prior to their use for the payment of such bonds and interest shall be deposited, at interest, with the depository or depositories of other public funds in such city, and all interest collected thereon shall belong to such fund.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-11

Surplus earnings; disposition

Sec. 11. Within sixty (60) days after the end of each calendar year, if there be at any time any bonds outstanding issued on account of said utility district, payable in whole or in part through a tax levy against the property in said utility district, said board of directors for utilities shall cause any surplus earnings arising from the operation of any such utility property, which are not pledged to secure the payment of any obligation of, or on account of said utility district, and which are not, in the opinion of such board of directors, necessary to provide against possible unfavorable results from operation, or to provide for contemplated betterments, extensions, improvements, or additions, to be paid over to the county treasurer and to be added to and become a part of said utility district bond fund, and to be used for the same purposes and in the same manner as funds derived from levy of taxes, as in this chapter hereinbefore provided. In event there are no such utility district bonds at the time outstanding, any such surplus operating revenues not needed for the purposes aforesaid shall be paid over to and become a part of the general funds of such city.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-12

Expenditures of current income; vouchers

Sec. 12. The current receipts and all other moneys derived from the operation of any such utility property shall be expended by said

board of directors upon vouchers in a form to be determined by them, and any such funds shall be deposited in such bank or banks as may be determined by said board to the credit of said board of directors for utilities, and any interest earned on any such deposits shall be added to the principal thereof. No appropriation in any form shall be necessary for the expenditure of any of such current income or for the expenditure of the proceeds of any sale of bonds, or of any other obligations, as hereinbefore authorized, but all funds arising under the provisions hereof shall be deemed appropriated for the respective purposes herein named and shall be under the control of the board of directors for utilities as herein provided, and said board of directors shall have full, complete and exclusive authority to expend such funds for the purposes herein provided.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-13

Separate books of account for separate utilities

Sec. 13. In event more than one (1) utility property is operated by said board of directors, separate books of account and records shall be kept for each utility, and the funds of each shall be kept segregated.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-14

Quarterly accounting and report to city controller

Sec. 14. The board of directors for utilities shall make quarterly accounting and reports to the city controller of such city, of all funds received and expended by it, and not less than sixty (60) days after the end of each calendar year the city controller shall make publication in not less than two (2) newspapers of general circulation printed and published within said city of the material facts as set forth

in the report of said board of directors for the preceding calendar year.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-15

Board of directors free from control of department of local government finance

Sec. 15. This chapter being necessary for and intended to secure efficient and economical management and operation of utility properties in any consolidated city taking advantage of the provisions hereof, the said board of directors shall have full power to transact all the business pertaining to said management and operation of each and all such utilities, including the issuance of bonds, mortgages, and other forms of indebtedness, free from all control and supervision of the department of local government finance of Indiana. This chapter shall be liberally construed to effectuate the purpose hereof, and if any one (1) or more sections, clauses, phrases, or parts thereof, of this chapter shall be held invalid, the remaining sections, clauses, phrases, or parts thereof, shall not be affected thereby, and the

legislature declares that it would have enacted all other parts of said chapter even if any or all of the aforesaid portions thereof had not been included therein.

As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.90-2002, SEC.311.

IC 8-1-11.1-16

Budgets; nonapplication of chapters; fixing and review of budgets, tax rates, and levies; limitations on property tax rates or appropriations

Sec. 16. The provisions of IC 6-1.1-17 and IC 6-1.1-18 shall not apply to the board of directors created by this chapter, but such board of directors shall annually, on or before the thirty-first day of December, furnish to the city controller an estimate of the moneys to be expended by them for the succeeding calendar year.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-17

Examination and audit of books and accounts

Sec. 17. The books, accounts, records and transactions of said utility district and of the board of directors thereof shall be subject to examination, audit and supervision by the state board of accounts to the same extent as the books, accounts, records and transactions of other municipal governments or officers or departments of municipal governments are subject thereto.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-18

Application of chapter to currently held or acquired utilities

Sec. 18. Whenever in any sections of this chapter any provisions are made applying or relating to any public utility or utility property owned, held, or acquired by said city, all such provisions shall apply and relate also to any public utility and utility property which said city may hold, possess, be entitled to, or in any manner acquire in trust for the use and benefit of the inhabitants thereof.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-19

"Revenue obligations" defined

Sec. 19. As used in this chapter, "revenue obligations" shall mean any obligations, including bonds, notes, temporary, interim or permanent certificates of indebtedness, debentures or other obligations payable out of the income and revenues derived from utility property.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-20**Revenue obligations; issuance; authorized purposes**

Sec. 20. The board of directors for utilities may issue revenue obligations for any one or more of the following purposes:

(1) For the purpose of obtaining funds with which to pay for the acquisition of any utility property which any such city shall have acquired or shall have the right to and shall determine to acquire, or which any such city may have taken over as trustee for the inhabitants thereof, including any money required to be paid for the purpose of redeeming or extinguishing the capital stock of any utility whose property has been or may be so taken over and for the purpose of paying any outstanding obligations of any utility subject to which the property is or may be held in trust for the inhabitants thereof, or for the purpose of making necessary betterments, improvements, extensions or additions to any utility property owned or held in trust by any such city, including all costs necessarily incurred in connection with the acquisition of any such property or taking it over in trust or the paying off of any such indebtedness or the making of any such betterments, improvements, extensions, or additions thereto.

(2) For the purpose of reimbursing the department of public utilities, or its board of directors for utilities for funds borrowed, expended or advanced for interim financing of the cost of any utility property, or any betterments, improvements, extensions or additions thereto.

(3) Subject to covenants and agreements with the holders of outstanding obligations, for the purpose of funding or refunding revenue obligations. If the board of directors for utilities determines that it would be advantageous to the department of public utilities to exchange funding or refunding obligations for the revenue obligations being funded or refunded, such exchange may be made, provided the actual interest cost is not increased.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-21**Security for revenue obligations; issuance of additional obligations authorized**

Sec. 21. Such revenue obligations shall be secured by a pledge of the unobligated income and revenues of any one (1) or more of the utility properties of the department of public utilities. In addition, the board of directors for utilities may in its discretion secure the payment of such revenue obligations by a mortgage upon the property of the particular utility for whose benefit the proceeds of the revenue obligations are to be used. In authorizing the issuance of such obligations for any particular property or properties, the board of directors for utilities of the department of public utilities may limit the amount of such obligations that may be issued as a first lien and charge against such property or properties and the income and revenues therefrom, or such board of directors for utilities may authorize the issuance from time to time thereafter of additional obligations secured by the same pledge or lien to provide funds for the completion of the property, properties, betterments, improvements, extensions or additions thereto, on account of which

the original obligations were issued, or to provide funds to pay the cost of additional utility properties, betterments, improvements, extensions or additions thereto, or for both such purposes. Such additional obligations shall be issued on such terms and conditions as such board may determine, and may be secured equally and ratably, without preference, priority or distinction, with the original issue of obligations or may be made junior thereto.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-22**Resolution authorizing revenue obligations; trust indenture; terms of obligations**

Sec. 22. (a) Such revenue obligations shall be authorized by resolution adopted by the board of directors for utilities and the terms, conditions and form thereof shall be set out in such resolution or in a form of trust indenture between the corporation and a designated corporate trustee, or both.

(b) Such revenue obligations shall bear interest, not to exceed a maximum rate to be determined by the board of directors for utilities, payable annually or at shorter intervals and shall mature at such time or times as may be determined in such resolution or indenture. The obligations may be made redeemable before maturity at the option of the board of directors for utilities under such terms and conditions as may be fixed by the resolution or indenture.

(c) The principal and interest of the revenue obligations may be made payable in any lawful medium. The resolution or indenture shall determine the form of obligations, including the interest coupons if any to be attached thereto, and shall fix the denomination or denominations of the obligations and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the state.

(d) Provision may be made for the registration of any of the obligations in the name of the owner as to principal alone, or as to both principal and interest, but fully registered obligations shall be made convertible to coupon obligations at the option of the registered owner. The obligations including interest shall be exempt from all taxation: state, county and municipal.

(e) Such resolution or the indenture may also include provisions for protecting and enforcing the rights and remedies of the holders of the obligations being issued and covenants setting forth the duties of the department of public utilities and its officers in relation to the acquisition, construction, operation and maintenance of and insurance to be carried on the property or properties on account of which the obligations are being issued, and, to the fullest extent permitted by law, the maintenance of rates and charges to be collected on account hereof; also, provisions for the custody, safeguarding and application of all moneys and the rights and remedies of the trustee and the holders of the obligations being issued, and for the issuance of additional parity obligations or junior lien obligations secured by a pledge of the revenues or by a pledge

or mortgage of the revenues and property described in said resolution or indenture; also, such other terms, conditions, limitations and covenants as the board of directors for utilities shall deem proper. Such obligations and any interest coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes under the laws of this state, subject only to the provisions for registration of the obligations.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-23

Temporary loans authorized

Sec. 23. For the purpose of providing necessary funds with which to pay the cost of acquiring any utility property, or paying off any indebtedness of or upon any utility property, so acquired, or to pay for interim costs of construction prior to long term financing, including the costs of any betterments, improvements, additions or extensions, or to pay the expenses of operation of any such utility property the board of directors for utilities may also make temporary loans, which shall mature within one (1) year from date of issuance, in the form of certificates of indebtedness, which shall be a charge solely against the income and revenue of the utility, or upon the proceeds of revenue obligations to be issued, or any combination thereof.

As added by Acts 1981, P.L.11, SEC.43.

IC 8-1-11.1-24

Revenue obligations; approval or validation; facsimile signatures; sale; actions to contest validity; certificates of indebtedness; execution

Sec. 24. (a) All such revenue obligations shall be valid without the necessity of any approval of or ratification by either the commission or the department of local government finance. The board of directors for utilities, upon adopting a resolution authorizing such revenue obligations, shall certify a copy thereof to the city controller of such city who shall thereupon prepare said revenue obligations, and the same shall be issued in the name of the city and shall be executed by the mayor of said city and

attested by the city controller and the clerk of the city-county council. Facsimile signatures may be used in executing such revenue obligations, provided that one or more of the signatures on the revenue obligations shall be manually signed, except that all signatures on interest coupons may be facsimile signatures.

(b) Certificates of indebtedness issued under section 23 of this chapter shall be executed solely by the president of the board of directors without the execution of the mayor. The signature of the president must be attested by the secretary of the board.

(c) Such revenue obligations shall be sold by the city controller of said city subject to the requirements of IC 5-1-11; provided, that any revenue obligations maturing within one (1) year of date of issuance need not be sold at public sale but may be sold in such manner as the

board of directors for utilities may determine; and, provided further, that any revenue obligations may be offered for sale and sold to the United States or to any corporation owned or controlled by the United States without notice by publication. No suit to question the validity of any revenue obligations so issued or to prevent their issuance or sale shall be instituted after the date fixed for the sale of such revenue obligations and all such revenue obligations from and after such date shall be incontestable, except for fraud, forgery, or violation of constitutional provisions.

As added by Acts 1981, P.L.11, SEC.43. Amended by P.L.23-1988, SEC.44; P.L.90-2002, SEC.312.

IC 8-1-11.1-25

Revenue obligations; eligible investments; deposit of securities

Sec. 25. Any revenue obligations issued pursuant to the provisions of this chapter shall be eligible investments for the funds of any kind or character of every financial institution, insurance company or private trust, and such obligations shall be eligible for deposit by any financial institution, insurance company or trustee under any law of this state providing for the deposit of securities or funds.

As added by Acts 1981, P.L.11, SEC.43.

Appendix D: CWA Authority, Inc., Articles of Incorporation

**State of Indiana
Office of the Secretary of State**

CERTIFICATE OF INCORPORATION

of

CWA AUTHORITY, INC.

I, TODD ROKITA, Secretary of State of Indiana, hereby certify that Articles of Incorporation of the above Non-Profit Domestic Corporation have been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Nonprofit Corporation Act of 1991.

NOW, THEREFORE, with this document I certify that said transaction will become effective Tuesday, August 10, 2010.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, August 10, 2010.

A handwritten signature in black ink that reads "Todd Rokita".

TODD ROKITA,
SECRETARY OF STATE

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ARTICLES OF INCORPORATION
OF
CWA AUTHORITY, INC.

The undersigned incorporator, desiring to form a political subdivision and instrumentality of the State of Indiana acting by and through a non-profit corporation (the "Authority") pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act") and Indiana Code 36-1-7 and pursuant to that certain Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) (the "Interlocal Agreement") by and among the City of Indianapolis (the "City"), the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District"), and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities) ("Citizens"), dated August 9, 2010, executes the following Articles of Incorporation:

ARTICLE I

Name

The name of the Authority is CWA Authority, Inc.

ARTICLE II

Classification of Authority

The Authority is a political subdivision and instrumentality of the State of Indiana acting by and through a non-profit corporation, which is authorized pursuant to the Interlocal Agreement and Indiana Code 36-1-7 and which is a public benefit corporation.

ARTICLE III

Purposes and Powers

Section 3.1. Purposes. The purposes for which the Authority is formed are:

(a) to exercise the powers delegated and/or transferred to it in the Interlocal Agreement on behalf of the City, the District and Citizens for the benefit of the inhabitants of the City and the customers of the District's wastewater collection and treatment system, including, without limitation, the Belmont and Southport wastewater treatment plants (the "System"), in each case, in a manner that:

APPROVED
AND
FILED
Paul Roberts
IND. SECRETARY OF STATE

(i) protects the City and its inhabitants against further sale or disposition of the System, and forever from private ownership, control or partisan political governance; and

(ii) is coordinated with other utility properties that may be held, owned and/or operated by the Citizens or its affiliates (including the Authority) for the achievement of synergies; and

(b) in furtherance of the aforesaid purposes, to transact any and all lawful business for which corporations may be incorporated under the Act.

Section 3.2. Powers. Subject to any limitation or restriction imposed by the Act, any other law, the Interlocal Agreement or any other provisions of these Articles of Incorporation, the Authority shall:

(a) have all of the City's powers (excluding taxing power and taxing authority) that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.* (the "Clean Water Act"), in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(b) have all of the Districts' powers (excluding taxing power and taxing authority) that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(c) have all of Citizen's powers that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(d) have the power to sue and be sued; and

(e) have, exercise and enjoy in furtherance of the purposes hereinbefore set forth all the general rights, privileges and powers granted to corporations by the Act, as now existing or hereafter amended, and by the common law.

(f) Notwithstanding anything to the contrary herein, the Authority shall have no more power to compromise its debts and file or be subject to a petition for relief under 11 United States Code § 101 *et seq.* than the City, District and Citizens.

(g) Notwithstanding anything to the contrary herein, to the extent the powers to apply and enforce the requirements of Section 307(b) and 307(c) of the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*, including national pretreatment standards as well as applicable state pretreatment standards and requirements described in 327 Indiana Administrative Code 5-18, as amended from time to time, required of a program administered by a publicly owned treatment works that meets the criteria established in 40 C.F.R. 403.8 and 403.9, which has been approved in accordance with 40 C.F.R. 403.11, are deemed taxing powers or authority, the exclusion of taxing power and taxing authority from the delegation by the City and District shall not apply to such powers.

ARTICLE IV

Distribution of Assets on Dissolution

Without the approval of the Attorney General of the State of Indiana, the Authority shall not be entitled to file or cause to be filed a petition for relief under the United States Bankruptcy Code or consent to the appointment of a receiver or trustee over its assets. In the event of the filing of an approved petition for relief under the United States Bankruptcy Code, the complete liquidation or dissolution of the Authority or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Authority, including all revenue bonds issued by District and Citizens for the Authority's sewer works, distribute all the assets of the Authority to Citizens or to such other entity as Citizens shall determine, in either case, to be charged with a public charitable trust for the benefit of the inhabitants of the City, in accordance with the purposes of the Authority set forth herein.

ARTICLE V

Term of Existence

The Authority shall have perpetual existence.

ARTICLE VI

Registered Office and Registered Agent

Section 6.1. Registered Office and Registered Agent. The street address of the Authority's registered office is 2020 N. Meridian St. Indianapolis, IN 46202 and the name of the Authority's registered agent at that office is Aaron D. Johnson

Section 6.2. Principal Office. The post office address of the principal office of the Authority is 2020 N. Meridian St. Indianapolis, IN 46202.

ARTICLE VII

No Members

The Authority shall have no members.

ARTICLE VIII

Board of Directors

Section 8.1. Number, Term of Office and Appointment. The Board of Directors shall consist of the seven (7) individuals who are appointed by the Board of Trustees for Utilities of the Department of Public Utilities of the City of Indianapolis (and the utility special taxing district), from time to time and in the manner set forth in Indiana Code 8-1-11.1-1, as members of the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis (and the utility special taxing district). Each director shall serve for a term equal to his or her appointment to the Board of Directors for Utilities. Despite the expiration of a director's term, a director continues to serve until a successor is appointed and qualified so long as such director is also a member of the Board of Directors for Utilities.

Section 8.2. Qualifications. Each director shall be a member of the Board of Directors for Utilities of the Department of Public Utilities for the City of Indianapolis (and the utility special taxing district).

Section 8.3. Initial Board of Directors. The names and addresses of the initial Board of Directors of the Authority are:

<u>Names</u>	<u>Addresses</u>
Lawrence A. O'Connor, Jr.	2020 N. Meridian St. Indianapolis, IN 46202
Anne Nobles	2020 N. Meridian St. Indianapolis, IN 46202
Dorothy J. Jones	2020 N. Meridian St. Indianapolis, IN 46202
James M. McClelland	2020 N. Meridian St. Indianapolis, IN 46202
Anita J. Harden	2020 N. Meridian St. Indianapolis, IN 46202
Daniel C. Appel	2020 N. Meridian St. Indianapolis, IN 46202
Martha D. Lamkin	2020 N. Meridian St. Indianapolis, IN 46202

ARTICLE IX

Name and Address of Incorporator

The name and address of the incorporator of the Authority are:

<u>Name</u>	<u>Address</u>
Aaron D. Johnson	2020 N. Meridian St. Indianapolis, IN 46202

ARTICLE X

Indemnification

Section 10.1. Rights to Indemnification and Advancement of Expenses. The Authority shall indemnify as a matter of right every person made a party to a proceeding because such person is or was:

- (a) a member of the Board of Directors of the Authority,
- (b) an officer of the Authority, or
- (c) while a director or officer of the Authority, serving at the Authority's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, whether for profit or not (each an "Indemnatee"),

against all liability incurred by such person in connection with the proceeding; provided that it is determined in the specific case that indemnification of such person is permissible in the circumstances because such person has met the standard of conduct for indemnification specified in the Act. The Authority shall pay for or reimburse the reasonable expenses incurred by an Indemnatee in connection with any such proceeding in advance of final disposition thereof in accordance with the procedures and subject to the conditions specified in the Act. The Authority shall indemnify as a matter of right an Indemnatee who is wholly successful, on the merits or otherwise, in the defense of any such proceeding against reasonable expenses incurred by the person in connection with the proceeding without the requirement of a determination as set forth in the first sentence of this paragraph.

Upon demand by a person for indemnification or advancement of expenses, as the case may be, the Authority shall expeditiously determine whether the person is entitled thereto in accordance with this Article and the procedures specified in the Act.

The indemnification provided under this Article shall be applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Article.

Section 10.2. Other Rights Not Affected. It is the intent of this Article to provide indemnification to directors and officers to the fullest extent now or hereafter permitted by law consistent with the terms and conditions of this Article. Nothing contained in this Article shall limit or preclude the exercise of, or be deemed exclusive of, any right under the law, by contract or otherwise, relating to indemnification of or advancement of expenses to any person who is or was a director, officer, employee or agent of the Authority, or the ability of the Authority to otherwise indemnify or advance expenses to any such individual.

Notwithstanding any other provision of this Article, there shall be no indemnification with respect to matters as to which indemnification would result in inurement of net earnings of the Authority "to the benefit of any private shareholder or individual," within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or similar provisions of any subsequent Federal tax laws.

Section 10.3. Definitions. For purposes of this Article:

(a) A person is considered to be serving an employee benefit plan at the Authority's request if the person's duties to the Authority also impose duties on, or otherwise involve services by, the person to the plan or to participants in or beneficiaries of the plan.

(b) The estate or personal representative of a person entitled to indemnification or advancement of expenses shall be entitled hereunder to indemnification and advancement of expenses to the same extent as the person.

(c) The term "expenses" includes all direct and indirect costs (including, without limitation, counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or out-of-pocket expenses) actually incurred in connection with the investigation, defense, settlement or appeal of a proceeding or establishing or enforcing a right to indemnification under this Article, applicable law or otherwise.

(d) The term "liability" means the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan) or reasonable expenses incurred with respect to a proceeding.

(e) The term "party" includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(f) The term "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

ARTICLE XI

Amendment

Subject to the Act, the power to amend these Articles of Incorporation shall be vested in the Board of Directors of the Authority; provided however, that any such amendment must not be inconsistent with the Interlocal Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned incorporator executes these Articles of Incorporation and verifies subject to penalties of perjury that the facts contained herein are true.

Dated this 6th day of August, 2010.


Written Signature

Aaron D. Johnson
Printed Signature

This instrument was prepared by Anthony P. Aaron, Esq., Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.

I/2464808.11

Appendix E: Interlocal Agreement

August 9, 2010

Dept. Of Environmental Management
Commissioner's Office

AUG 09 2010

Mr. Thomas Easterly
Indiana Department of Environmental Management
100 North Senate Avenue, N1301
Mail Code 50-01
Indianapolis, IN 46204-2251

Dear Mr. Easterly:

The City of Indianapolis, the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works, and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities, d/b/a Citizens Energy Group have entered into the attached Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) (the "Interlocal Agreement"). Pursuant to the Interlocal Agreement, a separate legal entity, CWA Authority, Inc., will be created for the purpose of entering into an Asset Purchase Agreement for the acquisition of wastewater utility assets from the Sanitary District.

The Interlocal Agreement is an agreement between the foregoing Indiana political subdivisions in accordance with Ind. Code § 36-1-7-1, et seq.. The Interlocal Agreement was entered into under Ind. Code § 36-1-7-3. Pursuant to Ind. Code § 36-1-7-5(a), if an agreement under Ind. Code § 36-1-7-3 concerns the provision of services or facilities that a state agency has power to control, the agreement must be submitted to that agency for approval before it takes effect. Consequently, to the extent Ind. Code § 36-1-7-5(a) applies to the Indiana Department of Environmental Management ("Department") regarding the Interlocal Agreement, this submission to the Department is being made to ensure all prerequisites to the effectiveness of the Interlocal Agreement and the ability to form CWA Authority, Inc. have been met.

Pursuant to Ind. Code § 36-1-7-4(b), the Department's review of this submission of the Interlocal Agreement is limited to whether the Interlocal Agreement complies with the statutes. CWA Authority, Inc. will subsequently discuss with the Department and file all documents, as appropriate, regarding the transfer or obtaining by CWA Authority, Inc. of all permits and programs related to the proposed acquisition and CWA Authority, Inc.'s provision of wastewater utility services.

Citizens Energy Group believes the Interlocal Agreement complies with the statutes. Accordingly, Citizens Energy Group respectfully requests that the Department approve the Interlocal Agreement or take no action regarding this submission, in which case the Interlocal Agreement will be deemed approved sixty (60) days from the date of this submission.

We appreciate your consideration of this submission. We look forward to the opportunity to discuss this submittal at your convenience and will contact you to set up a mutually agreeable time to discuss. In the meantime, if you have any questions or would like to discuss this submission, please contact me at (317) 236-2266 or feel free to contact Ann McIver at Citizens Energy Group. Ann can be reached at (317) 927-4393.

Very truly yours,

ICE MILLER LLP

Kristina M. Tridico / drn
Kristina M. Tridico

KMT:drn

Enclosure

cc: Kent Abernathy, IDEM
Ann McIver, Citizens Energy Group
Anthony Aaron, Ice Miller LLP

**INTERLOCAL COOPERATION AGREEMENT FOR
THE PROVISION OF UTILITY SERVICES (WASTEWATER)**

Dated as of August 9, 2010

Entered into by and among the City of Indianapolis, the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works, and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities)

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**INTERLOCAL COOPERATION AGREEMENT FOR
THE PROVISION OF UTILITY SERVICES (WASTEWATER)**

This INTERLOCAL COOPERATION AGREEMENT FOR THE PROVISION OF UTILITY SERVICES (WASTEWATER), dated as of August 9, 2010, is being entered into by and among the City, the District and Citizens.

WITNESSETH

WHEREAS, the City is a consolidated city organized and operating pursuant to Indiana Code 36-3-1 and is an Indiana political subdivision;

WHEREAS, the District is an Indiana political subdivision established and operating under Indiana Code 36-9-25;

WHEREAS, Citizens is an executive department of the City established and operating pursuant to Indiana Code 8-1-11.1 and its Board serves as the board of the City's utility special taxing district and is an Indiana political subdivision;

WHEREAS, the Act authorizes the City, the District and Citizens, as political subdivisions, to exercise powers jointly pursuant to a written agreement authorized by ordinance or resolution of each of them and to administer such agreement through a separate legal entity established thereby;

WHEREAS, the City, acting through the District, (a) owns the assets that the Authority would acquire under the Purchase Agreement and (b) is permitted and has the power pursuant to the Indiana Code and its ordinances or resolutions to own and operate the System for the benefit of the City's inhabitants;

WHEREAS, Citizens has the power pursuant to Indiana Code 8-1-11.1 to provide utility services within the City or outside the City within the limits authorized by law and to own all utility property related or belonging thereto;

WHEREAS, the City-County Council is authorized to create and terminate City departments, divisions, offices and other agencies and, except as otherwise provided by Indiana law, to transfer the powers, duties, functions and obligations to or from such entities;

WHEREAS, the purposes of this Agreement are: (a) to establish a separate legal entity organized as an Indiana nonprofit corporation for the purpose of exercising all of the respective rights, powers, functions and duties of the City, the District and Citizens that are necessary, useful or appropriate to furnishing wastewater collection and treatment services, excluding in the case of the City and District, taxing power and taxing authority, that: (i) is qualified to own, operate and finance the System under various federal and state statutes and regulations; (ii) will be governed by the Authority Board, whose members will be the persons appointed as members of the Board, from time to time in the manner set forth in Indiana Code 8-1-11.1, by the Board of

Trustees; (iii) will operate the System through the employees of Citizens and others; (iv) has all of the powers of Citizens, the District and the City that are necessary, useful or appropriate to the acquisition, ownership and operation of the System, including without limitation, the powers required for an Approved POTW Pretreatment Program; (v) is a "qualified entity" under Indiana Code 5-1.4-1-10; (vi) is an "issuer" under Indiana Code 5-1-14-4(a); (vii) is a public body created pursuant to the Act and the Nonprofit Act; (viii) is a political subdivision and instrumentality of the State of Indiana and thus, a "municipality" under 11 United States Code § 101(40); (ix) is an eligible borrower under applicable environmental laws and regulations; (x) satisfies the State Revolving Fund/U.S. Environmental Protection Agency definition of a qualified owner/operator; (xi) has jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifies as a publicly owned treatment works within the meaning of the Clean Water Act and (xii) has the power and authority delegated to it under this Agreement; (b) to provide for the transfer of the System from the City and the District to the Authority to be operated and held to provide wastewater services, as specified in the Purchase Agreement and related conveyance documents, in perpetuity in public charitable trust in the same manner and to the same extent in which Citizens has operated and held its gasworks for over one hundred years, for the benefit of the inhabitants of the City and operated in coordination with any utility property that may be held, owned and/or operated by Citizens or its affiliates (including the Authority); (c) to transfer and/or delegate to, and vest in, the Authority all powers of the City, the District and Citizens that are necessary, useful or appropriate to the acquisition, ownership and operation of the System, excluding in the case of the City and the District, taxing power and taxing authority; and (d) to effectuate the exercise by the Authority of the powers delegated and/or transferred to it on behalf of the City, the District and Citizens for the benefit of the inhabitants of the City and the customers of the System in a manner consistent with Article I;

WHEREAS, the City, the District and Citizens do not have the power to compromise their respective debts or to file or be subject to a petition for relief under 11 United States Code § 101 *et seq.*;

WHEREAS, the City, the District and Citizens are negotiating the Purchase Agreement;

WHEREAS, in connection with the execution of the Purchase Agreement, the performance of the Authority's obligations thereunder and the provision of wastewater collection and treatment services from and after the consummation of the transactions contemplated by the Purchase Agreement, the City, the District and Citizens, having determined that it is in the best interests of the City, the District, Citizens, the inhabitants of the City and the customers of the System, desire to enter into this Agreement to set forth the terms of such joint agreement as required by the Act;

WHEREAS, the City-County Council for and on behalf of the City has adopted an ordinance authorizing the execution, delivery and performance of this Agreement and authorizing the transfer of the powers, duties, functions and obligations set forth herein from the District to the Authority;

WHEREAS, Citizens and the District have adopted resolutions authorizing the execution, delivery and performance of this Agreement;

WHEREAS, the City, the District and Citizens have adopted substantially identical resolutions authorizing the transfer and exchange of the System pursuant to Indiana Code 5-22-22-10 and Indiana Code 36-1-11-8;

WHEREAS, this Agreement shall be submitted for approval to all state bodies having the power to control the provision of services or facilities which would be provided hereunder pursuant to Indiana Code 36-1-7-5; and

WHEREAS, this Agreement involves only Indiana political subdivisions as Parties and has been approved by the fiscal body of each Party.

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, the City, the District and Citizens agree as follows:

ARTICLE I.

PURPOSE

In addition to the purposes set forth above, this Agreement provides for (a) the provision of wastewater collection and treatment services through the formation of the Authority as a separate legal entity organized as a nonprofit corporation, (b) the transfer to the Authority of the System as specified in the Purchase Agreement, (c) the delegation and/or transfer to, and vesting in, the Authority of all powers that are necessary, useful or appropriate, except the taxing power and taxing authority of the City and the District, (i) for the acquisition, ownership and operation of the System and/or (ii) for the Authority to have jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, except the taxing power and taxing authority of the City and the District, and (d) the exercise by the Authority of the powers delegated and/or transferred to it herein on behalf of the City, the District and Citizens for the benefit of the inhabitants of the City and the customers of the System in a manner that (x) protects the City and its inhabitants against further sale or disposition of the System, and forever from private ownership, control or partisan political governance; and (y) is coordinated with other utility properties that may be held, owned and/or operated by the Citizens or its affiliates (including the Authority) and (z) is irrevocable.

ARTICLE II.

DEFINITIONS

As used in this Agreement, the following terms shall have the meanings specified below:

(a) "Act" means Indiana Code 36-1-7, as amended from time to time.

(b) "Agreement" means this Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater), dated as of August 9, 2010, by and among the

City, the District and Citizens, as amended from time to time in accordance with its terms.

(c) "Approved POTW Pretreatment Program" means a program administered by a publicly owned treatment works that meets the criteria established in 40 C.F.R. 403.8 and 403.9, which has been approved in accordance with 40 C.F.R. 403.11.

(d) "Articles" means the Articles of Incorporation of the Authority in the form attached hereto as Exhibit A, as amended from time to time in accordance with their terms.

(e) "Authority" means CWA Authority, Inc., an Indiana nonprofit corporation, established pursuant to the terms of this Agreement, which is an affiliate of Citizens.

(f) "Authority Board" means the board of directors of the Authority.

(g) "Board" means the board of directors of Citizens serving as the fiscal body of Citizens.

(h) "Board of Trustees" means the Board of Trustees for Utilities of the Department of Public Utilities of the City.

(i) "Bylaws" means the Bylaws of the Authority, as amended from time to time in accordance with their terms.

(j) "Citizens" means the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities), which holds, owns and operates utilities in public charitable trust for the benefit of the inhabitants of the City.

(k) "City" means the City of Indianapolis, Indiana.

(l) "City-County Council" means the City-County Council of the City serving as the legislative and fiscal body of the City and the fiscal body of the District.

(m) "Clean Water Act" means the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*

(n) "Closing" means the time at which all of the following shall have occurred: (i) all necessary approvals of this Agreement by state officers or state agencies having the power to control the provision of services by the System shall have taken effect and (ii) the consummation of the sale and purchase of the System in accordance with the terms and conditions of the Purchase Agreement as provided for in Section 14.01 of the Purchase Agreement shall have occurred.

(o) "District" means the Sanitary District of the City, acting by and through the Board of Public Works.

(p) "Effective Time" means the time at which all of the following shall have occurred: (i) this Agreement shall have been recorded with the County Recorder for Marion County, Indiana and (ii) this Agreement shall have been submitted to all state officers or state agencies having the power to control the provision of services by the System.

(q) "Nonprofit Act" means the Indiana Nonprofit Corporation Act of 1991, Indiana Code 23-17, as amended from time to time.

(r) "Party" means a party to this Agreement, and "Parties" means all of them.

(s) "Purchase Agreement" means that certain Asset Purchase Agreement pursuant to which the Authority would, among other things, acquire the System from, and assume certain liabilities of, the District.

(t) "System" means the wastewater collection and treatment system owned and operated by the District, including without limitation, the Belmont and Southport wastewater treatment plants.

(u) "Treasurer" means the treasurer of the Board.

ARTICLE III.

ADMINISTRATION

Section 3.1. Establishment of Authority. Pursuant to the Act, the City, the District and Citizens hereby establish the Authority as a separate legal entity, organized as a political subdivision and instrumentality of the State of Indiana acting by and through an Indiana nonprofit corporation, named "CWA Authority, Inc." By reason of the powers vested in it by this Agreement, the Authority may exercise the powers of the City, the District and Citizens permitted by this Agreement and the Act. Except as otherwise provided and to the extent limited in this Agreement, the Authority shall have all of the powers of an Indiana nonprofit corporation and all of the powers, excluding in the case of the City and the District, taxing power and taxing authority, that may be exercised by the City, the District and Citizens that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws, including, without limitation, the powers specified in Section 3.6. The establishment of the Authority shall become effective upon the filing by Citizens of the Articles with the Indiana Secretary of State and the adoption by the Authority Board of the Bylaws.

Section 3.2. Board of Directors. The business and affairs of the Authority shall be managed by, and the powers of the Authority shall be exercised by, or under the authority of, the Authority Board. The Authority Board may, in its sole discretion, determine the extent to which

it exercises those powers or administers the System through delegation to Citizens. Pursuant to the Bylaws, the members of the Authority Board shall automatically, without necessity of further action, be those individuals who are appointed by the Board of Trustees, from time to time and in the manner set forth in Indiana Code 8-1-11.1-1, as members of the Board. The Authority Board shall have no authority to make appointments (either individually or jointly) to fill vacancies on the Authority Board.

Section 3.3. Governance, Staffing and Organization. Unless otherwise required by applicable law, the Authority shall be governed in accordance with the Nonprofit Act, its Articles and its Bylaws, each as may be amended from time to time. The Authority Board shall have the authority, subject to any restrictions on that authority in any contracts of the Authority, to amend the Articles and Bylaws in a manner not inconsistent with this Agreement, to dissolve the Authority and distribute its assets in accordance with the Articles, to appoint and hire such officers, employees, consultants, agents and other persons and to organize the Authority's business and operations, in each case, as it may determine to be in the best interest of the Authority. Upon the request of the Authority and as needed, Citizens may provide staff and such other support as the Authority may require.

Section 3.4. Budget, Ratemaking and Method of Financing. Pursuant to the Bylaws, the Authority Board shall have the authority and responsibility for establishing and maintaining the Authority's budget. Prior to the consummation of the transactions contemplated by the Purchase Agreement, the expenses of the Authority shall be funded by Citizens. From and after the consummation of the transactions contemplated by the Purchase Agreement, the expenses of the Authority shall be financed from any and all sources that are permitted under applicable law and the powers delegated and/or transferred to the Authority hereunder, including without limitation, rates and charges, user fees, service fees, permit fees, grant proceeds and bond proceeds. To the extent that the Authority shall determine necessary, useful or appropriate, Citizens may, subject to applicable law, use its powers, as a municipal legislative body pursuant to Indiana Code 8-1-11.1-3.1, to adopt rates and charges provided by the Authority, subject to the approval of the Indiana Utility Regulatory Commission, and to provide bond, revenue obligation or certificate of indebtedness financing for the benefit of the Authority.

Section 3.5. Transfer of Assets and Assumption of Liabilities. Upon the consummation of the transactions contemplated by the Purchase Agreement, and pursuant to Indiana law, including, without limitation, Indiana Code 5-22-22-10, 36-1-7 and 36-1-11-8 after adoption of resolutions or ordinances by the Parties, the Authority shall acquire, and the City and the District shall transfer to the Authority, the assets that are specified therein comprising the System, and assume the liabilities specified therein, in accordance with the terms and conditions thereof.

Section 3.6. Powers.

(a) At Closing, the City shall delegate and transfer to, and vest in, the Authority all of its powers, excluding taxing power and taxing authority, that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water

Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

(b) At Closing, the District shall delegate to, and vest in, the Authority all of its powers, excluding taxing power and taxing authority, that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

(c) At Closing, Citizens shall delegate to, and vest in, the Authority all of its powers that are necessary, useful or appropriate to acquiring, owning and operating the System and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth herein, the Purchase Agreement and all applicable laws.

(d) Notwithstanding anything to the contrary herein, the Authority shall have no more power to compromise its debts or to petition or be subject to a petition for relief under 11 United States Code § 101 *et seq.* than the City, the District and Citizens.

(e) Notwithstanding anything to the contrary herein, to the extent the powers to apply and enforce the requirements of Section 307(b) and 307(c) of the Clean Water Act, including national pretreatment standards as well as applicable state pretreatment standards and requirements described in 327 Indiana Administrative Code 5-18, as amended from time to time, required of an Approved POTW Pretreatment Program are deemed taxing powers or authority, the exclusion of taxing power and taxing authority from the delegation by the City and District shall not apply to such powers.

Section 3.7. Treasurer. The City, the District and Citizens hereby delegate to the Treasurer the duty to, and the Treasurer shall, receive, disburse and account for all monies of the Authority. The City, the District and Citizens agree that the Treasurer may, in his or her discretion, and authorize the Treasurer to, delegate such power and authority to such officers, employees or other agents of the Authority as he or she may determine. The City, the District and Citizens agree that the Treasurer (a) shall exercise on behalf of the Authority, all powers that are necessary, useful or appropriate to the receipt, disbursement, accounting, holding and investment of such monies, including any securities that may come into the possession of the Authority, and (b) shall maintain the Authority's books of accounts and records separate and apart, and its funds segregated, from those of any other of the utilities operated by the Board.

Section 3.8. Duration. The duration of this Agreement shall be perpetual as set forth in Section 5.2(b).

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES

Each of the City, the District and Citizens hereby represents and warrants that:

(a) except for obtaining all necessary approvals of state and federal governmental agencies, it has taken all necessary actions and has received all necessary approvals and consents (including the approval by its fiscal body) and adopted all necessary ordinances or resolutions in order to execute and deliver this Agreement, to perform its obligations hereunder to delegate and in the case of the City, transfer, pursuant to Indiana Code 36-3-4-23, to the Authority, and to vest in it, all powers of such Party that are necessary, appropriate or useful to acquire, own and operate the System, and/or having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, including without limitation the powers described in Section 3.6, but excluding in the case of the City or the District, taxing power and taxing authority;

(b) the execution, delivery and performance of this Agreement by it are within its power and authority and do not violate the laws of the State of Indiana (or any other federal, state or local law) applicable to it or its organizational statute, instrument or documents or any other applicable federal, state or local ordinance, resolution, rule or regulation;

(c) the execution, delivery and performance of this Agreement has been duly authorized and this Agreement is the legal, valid and binding obligation of it enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency, moratorium, fraudulent conveyance, reorganization and similar laws now or hereafter in effect relating to creditors' rights generally, and subject to general principles of equity (whether applied in a proceeding at law or in equity), and it is to be understood that the rights of the Parties to this Agreement and the enforceability of the Agreement may be subject to the valid exercise of the constitutional powers of the Parties, the State and the United States of America;

(d) the execution, delivery and performance of this Agreement do not conflict with or result in the breach or termination of, or otherwise give any other person the right to terminate, or constitute a default, event of default or an event, which, with notice or lapse of time, or both, would constitute a default or an event of default under the terms of any contract or permit to which it is a Party or by which it or its properties are bound;

(e) it intends that upon consummation of the transaction contemplated by the Purchase Agreement, this Agreement be irrevocable;

(f) it will take no action to impair its obligations under this Agreement or any bonds issued or other contractual obligations entered into by Citizens or the Authority with regard to ownership, operation or management of the System; and

(g) it intends that the System, including the assets acquired pursuant to the Purchase Agreement and the assets transferred hereunder, be protected against further sale or disposition by being operated and held to provide wastewater services as part of an integrated waterworks system in public charitable trust in the same manner and to the same extent in which Citizens has operated and held its gasworks for over one hundred years, for the benefit of the inhabitants of the City, and that such assets will be operated in accordance with this Agreement, the Articles, the Bylaws, the Purchase Agreement, and Indiana Code 8-1-11.1, but not the Indiana Trust Code (Indiana Code 30-4).

ARTICLE V.

AMENDMENT AND TERMINATION

Section 5.1. Amendment. Unless explicitly set forth otherwise in this Agreement, this Agreement may only be changed, amended, modified, appended to or supplemented prior to Closing and then only by a writing consented to as a change, amendment, modification, appendix or supplement to this Agreement by all of the City, the District and Citizens. After Closing, this Agreement shall not be, or deemed to be, changed, amended, modified, appended to or supplemented, for any reason or in any manner by agreement, conduct of the parties, or operation of law or otherwise, it being the intent of the Parties that the formation of the Authority, the delegation and transfer of powers to, and the vesting of such powers in, the Authority pursuant hereto, and the acquisition and transfer of assets pursuant to the Purchase Agreement and this Agreement be permanent and irrevocable.

Section 5.2. Termination.

(a) This Agreement may be terminated by either the City, the District or Citizens upon written notice to the other Parties at any time prior to the consummation of the transactions contemplated by the Purchase Agreement:

(i) if the City, the District and the Authority have not executed the Purchase Agreement prior to September 9, 2010; or

(ii) if the Purchase Agreement is terminated in accordance with its terms.

(b) This Agreement may not be terminated from and after the consummation of the transactions contemplated by the Purchase Agreement and shall continue in perpetuity thereafter.

Section 5.3. Effect of Termination. Upon the termination of this Agreement or any dissolution or winding up of the Authority, the property of the Authority shall be distributed in accordance with its Articles.

ARTICLE VI.

REMEDIES, WAIVER AND IMMUNITY

Section 6.1. Remedies.

(a) In the event of any breach, threatened breach, non-performance or other violation of any obligation of this Agreement by any Party, the sole and exclusive remedy of any other Party under this Agreement shall be the remedy of injunctive relief for specific performance. Under no circumstances shall any Party have a right to any other remedy, including but not limited to rescission, cancellation, or reformation of this Agreement for any reason, or monetary damages of any kind.

(b) Any action, suit or other proceeding related in any way to this Agreement, including but not limited to an action, suit or proceeding that alleges a breach, threatened breach, non-performance or any other violation by a Party of any obligation under this Agreement shall be instituted, prosecuted and maintained exclusively in a court of competent jurisdiction located in Marion County, Indiana. Any right that may exist to a change of venue from Marion County, Indiana to another court outside Marion County, Indiana is hereby WAIVED and shall not be asserted in any litigation.

(c) No action, suit or other proceeding for any breach, threatened breach, non-performance or any other violation by a Party under this Agreement shall be instituted, prosecuted or maintained by another Party, unless, prior to instituting such action, suit or other proceeding: (i) the Party seeking to institute such action, suit or other proceeding has given such other Party notice of such breach, threatened breach, non-performance or any other violation and demand for performance; and (ii) the Party upon which notice was served has failed to cure such breach or violation within thirty (30) days after such notice.

(d) Notwithstanding anything to the contrary herein, this Agreement shall not preclude or otherwise affect the exercise of by a Party of any right, remedy, duty or obligation it may have under the Purchase Agreement, which rights, remedies, duties and obligations shall be governed by the Purchase Agreement.

Section 6.2. Waiver. A failure by a Party to institute any suit, action or other proceeding for any breach or violation by another Party of any obligation under this Agreement shall not constitute a waiver by such Party of such breach or violation.

Section 6.3. Immunity of Officers, Directors, Members, Employees and Agents. No recourse shall be had for any claim based upon any obligation in this Agreement against any past, present or future official, officer, director, member, employee or agent of the Parties, as such, under any rule of law or equity, statute or constitution.

ARTICLE VII.

MISCELLANEOUS

Section 7.1. Governing Law. This Agreement is executed by the Parties and delivered in the State of Indiana, and the rights of the Parties and the validity, construction and effect of every provision hereof shall be subject to and construed according to the laws of the State of Indiana, without reference to principles of conflicts of law.

Section 7.2. Counterparts. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

Section 7.3. Severability. The sections, sentences and provisions of this Agreement are severable, and if any one or more of such sections, sentences or provisions (the "Conflicting Provisions") are in conflict with any applicable laws, the Conflicting Provisions shall be deemed never to have constituted a part of this Agreement and this Agreement may be amended pursuant to Section 5.1 to remove the Conflicting Provisions; provided, however, that such conflict or amendment shall not affect or impair any of the remaining provisions of this Agreement or render invalid or improper any action taken or omitted prior to the delivery or removal of the Conflicting Provisions.

Section 7.4. Agreement; Transfer of Powers. This Agreement is intended to be an interlocal agreement or contract pursuant to the Act, in which the Parties have undertaken to provide that which is required by the Act and is intended to vest in the Authority those powers of the City specified in Section 3.6 that may be transferred to, and vested in it, pursuant to Indiana law. If and to the extent this Agreement is not such an interlocal agreement or contract or does not effectively vest or transfer such powers, this Agreement shall be deemed to include such terms not otherwise included herein and to exclude such terms not otherwise excluded herefrom, as are necessary to cause this Agreement to be deemed a valid interlocal agreement or contract under State law and to transfer and vest such powers pursuant to Indiana law.

Section 7.5. Reasonable Efforts; Cooperation. Subject to the terms and conditions of this Agreement, each Party will use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary or desirable under applicable laws and regulations to consummate the transactions contemplated by this Agreement. In addition, the Parties each agree to cooperate and take such actions, including any necessary amendments hereto, as may be required in the judgment of the Authority for the Authority to obtain all necessary qualifications and approvals, including any that may be required by any state and federal governmental agencies, and to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be necessary or desirable in order to consummate or implement expeditiously the transactions contemplated by this Agreement, and from time to time, upon the request of another Party to this Agreement and without further consideration, to execute, acknowledge and deliver in proper form any further instruments, and take such other action as the other Parties may reasonably require, in order to effectively carry out the intent of this Agreement, including without limitation, the delegation of

any further powers that may be necessary, useful or appropriate to permit the Authority to carry out its purposes.

Section 7.6. No Assignment. No Party may sell, assign, pledge or otherwise transfer any of its rights or benefits under this Agreement to any other person, without the consent of all other Parties, and any purported sale, assignment, pledge or other transfer without such consent shall be null and void.

Section 7.7. Limitation of Rights. Nothing expressed or implied in this Agreement is intended to give, or shall give, to any other person, other than the Parties and the Authority, any legal or equitable right, remedy or claim under or with respect to this Agreement or any rights or obligations hereunder. This Agreement and the rights and obligations hereunder are intended to be, and shall be, for the sole and exclusive benefit of the Parties and the Authority.

Section 7.8. Notice. Unless oral notice is otherwise allowed in this Agreement, all notices required to be sent under this Agreement:

(a) shall be in writing;

(b) shall be deemed to be sufficient if given by (i) depositing the same in United States mail, postage prepaid, or (ii) electronically transmitting such notice by any means such as by facsimile transmission or electronic mail or (iii) by depositing the same with a courier delivery service for delivery on the following business day, addressed:

If to the City or the District, to:

City of Indianapolis
Office of the Mayor
2501 City-County Building
200 East Washington Street
Indianapolis, Indiana 46204
Attention: Mayor

with a copy to (which copy shall not constitute notice for the purposes of this Agreement):

City of Indianapolis
Office of Corporation Counsel
1601 City-County Building
200 East Washington Street
Attention: Corporation Counsel

If to Citizens, to:

Citizens Energy Group
2020 N. Meridian Street
Indianapolis, IN 46202
Attention: President and Chief Executive Officer

with a copy to (which copy shall not constitute notice for the purposes of this Agreement):

Citizens Energy Group
2020 N. Meridian Street
Indianapolis, IN 46202
Attention: General Counsel

(c) shall be deemed to have been given on the day of such mailing, transmission or deposit; and

(d) any of the methods specified in Section 7.8(b) hereof shall be sufficient to deliver any notice required hereunder; notwithstanding that one or more of such methods may not be specifically listed in the Sections hereunder requiring such notice.

Section 7.9. Performance Due on other than a Business Day. If the last day for taking any action under this Agreement is a day other than a business day, such action may be taken on the next succeeding business day and, if so taken, shall have the same effect as if taken on the day required by this Agreement.

Section 7.10. Waiver of Assent. Notice of acceptance of or other assent to this Agreement is hereby waived.

Section 7.11. Gender; Section Headings and Table of Contents.

(a) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa. Unless otherwise indicated, the words "hereof," "herein," "hereby" and "hereunder" or words of similar import refer to this Agreement as a whole and not to any particular article, section, subsection, clause or other portion of this Agreement.

(b) Any headings preceding the texts of the several articles and sections of this Agreement and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Agreement nor affect its meaning, construction or effect.

Section 7.12. Entire Agreement. This Agreement and the Purchase Agreement shall constitute the entire agreement of the Parties with respect to the subject matter and shall supersede all prior oral or written agreements in regard thereto.

Section 7.13. Effective Date. This Agreement shall become effective at the Effective Time.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their names and on their behalf as of the date first written above.

CITY

By: Greg A. Ballard
Printed: Gregory A. Ballard
Its: Mayor

DISTRICT

By: David R. Sherman
Printed: David R. Sherman
Its: Director

CITIZENS

By: _____
Printed: _____
Its: _____

APPROVED AS TO FORM AND LEGALITY:

By: Samantha S. Karn Date: 8/9/10
Samantha Karn, Corporation Counsel, City of Indianapolis

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this 9th day of August, 2010, personally appeared Greg Ballard, personally known to me to be the Mayor of the City, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of the City.

WITNESS my hand and notarial seal.

(Seal)

Katrina J. Kimble
(Written Signature)

Katrina J. Kimble
(Printed Signature) Notary Public

My Commission Expires:

July 1, 2017

My County of Residence:

Marion

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this 9th day of August, 2010, personally appeared David Sherman, personally known to me to be the Director of the District, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of the District.

WITNESS my hand and notarial seal.

(Seal)

Katrina J. Kimble
(Written Signature)

Katrina J. Kimble
(Printed Signature) Notary Public

My Commission Expires:

July 1, 2017

My County of Residence:

Marion

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their names and on their behalf as of the date first written above.

CITY

By: _____

Printed: _____

Its: _____

DISTRICT

By: _____

Printed: _____

Its: _____

CITIZENS

By: John R. Whitaker

Printed: JOHN R. WHITAKER

Its: SR. V.P. + ASST. SECRETARY

APPROVED AS TO FORM AND LEGALITY:

By: _____ Date: _____

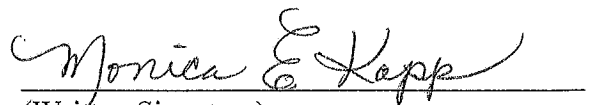
Samantha Karn, Corporation Counsel, City of Indianapolis

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, the undersigned, a Notary Public in and for said County and State, this 6th day of August 2010, personally appeared John R. Whitaker, personally known to me to be the Sr. Vice President & Assistant Secretary of Citizens, and acknowledged the execution of the foregoing Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) for and on behalf of Citizens.

WITNESS my hand and notarial seal.

(Seal)


(Written Signature)

Monica E. Kapp
(Printed Signature) Notary Public

My Commission Expires:

Dec. 17, 2015

My County of Residence:

Marion

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Anthony P. Aaron

This instrument was prepared by Anthony P. Aaron, Esquire, Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.

EXHIBIT A

[Articles to be attached]

I/2452701.23

ARTICLES OF INCORPORATION
OF
CWA AUTHORITY, INC.

The undersigned incorporator, desiring to form a political subdivision and instrumentality of the State of Indiana acting by and through a non-profit corporation (the "Authority") pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended (the "Act") and Indiana Code 36-1-7 and pursuant to that certain Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater) (the "Interlocal Agreement") by and among the City of Indianapolis (the "City"), the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District"), and the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities) ("Citizens"), dated August 9, 2010, executes the following Articles of Incorporation:

ARTICLE I

Name

The name of the Authority is CWA Authority, Inc.

ARTICLE II

Classification of Authority

The Authority is a political subdivision and instrumentality of the State of Indiana acting by and through a non-profit corporation, which is authorized pursuant to the Interlocal Agreement and Indiana Code 36-1-7 and which is a public benefit corporation.

ARTICLE III

Purposes and Powers

Section 3.1. Purposes. The purposes for which the Authority is formed are:

(a) to exercise the powers delegated and/or transferred to it in the Interlocal Agreement on behalf of the City, the District and Citizens for the benefit of the inhabitants of the City and the customers of the District's wastewater collection and treatment system, including, without limitation, the Belmont and Southport wastewater treatment plants (the "System"), in each case, in a manner that:

(i) protects the City and its inhabitants against further sale or disposition of the System, and forever from private ownership, control or partisan political governance; and

(ii) is coordinated with other utility properties that may be held, owned and/or operated by the Citizens or its affiliates (including the Authority) for the achievement of synergies; and

(b) in furtherance of the aforesaid purposes, to transact any and all lawful business for which corporations may be incorporated under the Act.

Section 3.2. Powers. Subject to any limitation or restriction imposed by the Act, any other law, the Interlocal Agreement or any other provisions of these Articles of Incorporation, the Authority shall:

(a) have all of the City's powers (excluding taxing power and taxing authority) that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.* (the "Clean Water Act"), in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(b) have all of the Districts' powers (excluding taxing power and taxing authority) that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(c) have all of Citizen's powers that are necessary, useful or appropriate to (i) acquiring, owning and operating the System and (ii) having jurisdiction over disposal of sewage, industrial wastes or other wastes and qualifying as a publicly owned treatment works within the meaning of the Clean Water Act, in each case, in accordance with the purposes set forth in the Interlocal Agreement, the purchase agreement pursuant to which the Authority acquired the System and all applicable laws;

(d) have the power to sue and be sued; and

(e) have, exercise and enjoy in furtherance of the purposes hereinbefore set forth all the general rights, privileges and powers granted to corporations by the Act, as now existing or hereafter amended, and by the common law.

(f) Notwithstanding anything to the contrary herein, the Authority shall have no more power to compromise its debts and file or be subject to a petition for relief under 11 United States Code § 101 *et seq.* than the City, District and Citizens.

(g) Notwithstanding anything to the contrary herein, to the extent the powers to apply and enforce the requirements of Section 307(b) and 307(c) of the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*, including national pretreatment standards as well as applicable state pretreatment standards and requirements described in 327 Indiana Administrative Code 5-18, as amended from time to time, required of a program administered by a publicly owned treatment works that meets the criteria established in 40 C.F.R. 403.8 and 403.9, which has been approved in accordance with 40 C.F.R. 403.11, are deemed taxing powers or authority, the exclusion of taxing power and taxing authority from the delegation by the City and District shall not apply to such powers.

ARTICLE IV

Distribution of Assets on Dissolution

Without the approval of the Attorney General of the State of Indiana, the Authority shall not be entitled to file or cause to be filed a petition for relief under the United States Bankruptcy Code or consent to the appointment of a receiver or trustee over its assets. In the event of the filing of an approved petition for relief under the United States Bankruptcy Code, the complete liquidation or dissolution of the Authority or the winding up of its affairs, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the Authority, including all revenue bonds issued by District and Citizens for the Authority's sewer works, distribute all the assets of the Authority to Citizens or to such other entity as Citizens shall determine, in either case, to be charged with a public charitable trust for the benefit of the inhabitants of the City, in accordance with the purposes of the Authority set forth herein.

ARTICLE V

Term of Existence

The Authority shall have perpetual existence.

ARTICLE VI

Registered Office and Registered Agent

Section 6.1. Registered Office and Registered Agent. The street address of the Authority's registered office is 2020 N. Meridian St. Indianapolis, IN 46202 and the name of the Authority's registered agent at that office is Aaron D. Johnson

Section 6.2. Principal Office. The post office address of the principal office of the Authority is 2020 N. Meridian St. Indianapolis, IN 46202.

ARTICLE VII

No Members

The Authority shall have no members.

ARTICLE VIII

Board of Directors

Section 8.1. Number, Term of Office and Appointment. The Board of Directors shall consist of the seven (7) individuals who are appointed by the Board of Trustees for Utilities of the Department of Public Utilities of the City of Indianapolis (and the utility special taxing district), from time to time and in the manner set forth in Indiana Code 8-1-11.1-1, as members of the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis (and the utility special taxing district). Each director shall serve for a term equal to his or her appointment to the Board of Directors for Utilities. Despite the expiration of a director's term, a director continues to serve until a successor is appointed and qualified so long as such director is also a member of the Board of Directors for Utilities.

Section 8.2. Qualifications. Each director shall be a member of the Board of Directors for Utilities of the Department of Public Utilities for the City of Indianapolis (and the utility special taxing district).

Section 8.3. Initial Board of Directors. The names and addresses of the initial Board of Directors of the Authority are:

<u>Names</u>	<u>Addresses</u>
Lawrence A. O'Connor, Jr.	2020 N. Meridian St. Indianapolis, IN 46202
Anne Nobles	2020 N. Meridian St. Indianapolis, IN 46202
Dorothy J. Jones	2020 N. Meridian St. Indianapolis, IN 46202
James M. McClelland	2020 N. Meridian St. Indianapolis, IN 46202
Anita J. Harden	2020 N. Meridian St. Indianapolis, IN 46202
Daniel C. Appel	2020 N. Meridian St. Indianapolis, IN 46202
Martha D. Lamkin	2020 N. Meridian St. Indianapolis, IN 46202

ARTICLE IX

Name and Address of Incorporator

The name and address of the incorporator of the Authority are:

<u>Name</u>	<u>Address</u>
Aaron D. Johnson	2020 N. Meridian St. Indianapolis, IN 46202

ARTICLE X

Indemnification

Section 10.1. Rights to Indemnification and Advancement of Expenses. The Authority shall indemnify as a matter of right every person made a party to a proceeding because such person is or was:

- (a) a member of the Board of Directors of the Authority,
- (b) an officer of the Authority, or
- (c) while a director or officer of the Authority, serving at the Authority's request as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, limited liability company, joint venture, trust, employee benefit plan or other enterprise, whether for profit or not (each an "Indemnitee"),

against all liability incurred by such person in connection with the proceeding; provided that it is determined in the specific case that indemnification of such person is permissible in the circumstances because such person has met the standard of conduct for indemnification specified in the Act. The Authority shall pay for or reimburse the reasonable expenses incurred by an Indemnitee in connection with any such proceeding in advance of final disposition thereof in accordance with the procedures and subject to the conditions specified in the Act. The Authority shall indemnify as a matter of right an Indemnitee who is wholly successful, on the merits or otherwise, in the defense of any such proceeding against reasonable expenses incurred by the person in connection with the proceeding without the requirement of a determination as set forth in the first sentence of this paragraph.

Upon demand by a person for indemnification or advancement of expenses, as the case may be, the Authority shall expeditiously determine whether the person is entitled thereto in accordance with this Article and the procedures specified in the Act.

The indemnification provided under this Article shall be applicable to any proceeding arising from acts or omissions occurring before or after the adoption of this Article.

Section 10.2. Other Rights Not Affected. It is the intent of this Article to provide indemnification to directors and officers to the fullest extent now or hereafter permitted by law consistent with the terms and conditions of this Article. Nothing contained in this Article shall limit or preclude the exercise of, or be deemed exclusive of, any right under the law, by contract or otherwise, relating to indemnification of or advancement of expenses to any person who is or was a director, officer, employee or agent of the Authority, or the ability of the Authority to otherwise indemnify or advance expenses to any such individual.

Notwithstanding any other provision of this Article, there shall be no indemnification with respect to matters as to which indemnification would result in inurement of net earnings of the Authority "to the benefit of any private shareholder or individual," within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or similar provisions of any subsequent Federal tax laws.

Section 10.3. Definitions. For purposes of this Article:

(a) A person is considered to be serving an employee benefit plan at the Authority's request if the person's duties to the Authority also impose duties on, or otherwise involve services by, the person to the plan or to participants in or beneficiaries of the plan.

(b) The estate or personal representative of a person entitled to indemnification or advancement of expenses shall be entitled hereunder to indemnification and advancement of expenses to the same extent as the person.

(c) The term "expenses" includes all direct and indirect costs (including, without limitation, counsel fees, retainers, court costs, transcripts, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and all other disbursements or out-of-pocket expenses) actually incurred in connection with the investigation, defense, settlement or appeal of a proceeding or establishing or enforcing a right to indemnification under this Article, applicable law or otherwise.

(d) The term "liability" means the obligation to pay a judgment, settlement, penalty, fine, excise tax (including an excise tax assessed with respect to an employee benefit plan) or reasonable expenses incurred with respect to a proceeding.

(e) The term "party" includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(f) The term "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

ARTICLE XI

Amendment

Subject to the Act, the power to amend these Articles of Incorporation shall be vested in the Board of Directors of the Authority; provided however, that any such amendment must not be inconsistent with the Interlocal Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned incorporator executes these Articles of Incorporation and verifies subject to penalties of perjury that the facts contained herein are true.

Dated this _____ day of _____, 2010.

Written Signature

Printed Signature

This instrument was prepared by Anthony P. Aaron, Esq., Ice Miller LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282.

I/2464808.11

**Appendix F: Ruling from the Internal Revenue Service related to the status of
CWA Authority, Inc., as a municipal entity**

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Index Number: 103.00-00, 103.02-00,
103.02-01, 150.00-00,
150.01-00

Third Party Communication: None
Date of Communication: Not Applicable

John R. Whitaker
Sr. Vice President, Corporate & Legal Affairs
Citizens Energy Group
2020 North Meridian Street
Indianapolis, Indiana 46202

Person To Contact:
David E. White

Telephone Number:
(202) 622-3980

Refer Reply To:
CC:FIP:BR5
PLR-132892-10

Date:
December 10, 2010

LEGEND:

Department	=	the Department of Public Utilities of the City of Indianapolis, Indiana, acting by and through the Board of Directors of Utilities (and on behalf of the utility special taxing district owned and operated by the Board), doing business as the Citizens Energy Group, E.I.N. 35-6000930
Trustees	=	the Board of Trustees for Utilities of the Department of Public Utilities of the City of Indianapolis, Indiana
Authority	=	the CWA Authority, Inc.
City	=	the City of Indianapolis, Indiana
District	=	the Sanitary District of the City of Indianapolis, Indiana, acting by and through the Board of Public Works
State	=	the State of Indiana
County	=	Marion County, Indiana
System	=	a wastewater collection and treatment system
<u>a</u>	=	75
<u>b</u>	=	266,000

PLR-132892-10

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c = 7d = 5

Dear Mr. Whitaker:

This responds to Department's request for rulings that (1) Authority qualifies as a political subdivision for purposes of § 103 of the Internal Revenue Code (the "Code"), and (2) Authority is not a "related party" to either City or District under § 1.150-1(b) of the Income Tax Regulations.

Facts and Representations

You make the following factual representations. Department, a political subdivision, was created over a years ago by the State legislature pursuant to State statute as an independent department of City free from political influence from the Mayor of City or the City-County Council. Department is a broad-based utility that serves more than b customers and manages a growing utility services business. Exclusive management and control of Department is vested in its c-member board of directors (the "Department Board").

Members of the Department Board must be residents of City and are appointed annually by the Trustees, a d-member board of trustees with no oversight by City. The initial Trustees were appointed by the City Mayor, the City-County Council, and the County Circuit Court judge with varying initial terms. Thereafter, the Trustees have served staggered terms of four years. Upon expiration of a Trustee's term (or if a Trustee dies, resigns, becomes a nonresident of City or is otherwise removed), the remaining Trustees nominate a successor, who is appointed by the City Mayor within 10 days. A Trustee may be removed from office only for cause, and only by an order and judgment following the filing of a complaint by City in the local circuit or superior courts. The Trustees may remove summarily and at any time any member of the Department Board. City has no power to remove a member of the Department Board.

Department Board is granted the power to adopt rules for service and rates for service in connection with the furnishing of service to its customers, subject to State approval. Department Board has exclusive authority over expenditure of its funds. While Department Board is required to make certain accounting and other reports to the City controller, the books, accounts, records and transactions of Department and of Department Board are only subject to examination, audit, and supervision by the State Board of Accounts to the same extent as other municipal governments or departments of municipal governments.

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Department is granted the power of eminent domain by State statute. Department may act to condemn and hold any real estate within the City or within five miles of the corporate limits of the City needed for the proper giving of service. There are no conditions or restrictions on Department's exercise of its power of eminent domain other than those imposed on all government entities exercising eminent domain in State. Department is not required to seek approval from or act through City or State to exercise its power of eminent domain. Title to any property so acquired remains with Department.

Department is also granted by State statute the power to levy a special tax upon all property within the corporate limits of City for the purpose of raising money to pay the principal of and interest accruing on bonds issued by Department.

Department has exclusive authority under State statute to issue utility district bonds in the name of City, and may issue such bonds without City's authorization. These bonds are an indebtedness of Department as a special taxing district and are not an obligation or indebtedness of City.

City and District own and operate the System. District was established under City's municipal code. City has the power to appoint and remove the members of District's board of directors.

District has financed a portion of the System with revenue bonds (the "District Bonds") which were authorized by resolution of City and were issued by the District in the name of the City. The District Bonds are payable from the revenues of the operation of the System.

Department, City, and District have entered into an agreement (the "Agreement") pursuant to State's interlocal cooperation statute, to form Authority, a non-profit corporation, to acquire and operate the System. The Agreement provides that Authority will possess all of the "appropriate and requisite authorizations, powers, functions and duties" of the three creating entities to allow it to administer and operate the Wastewater System. City and District will vest in Authority all of their respective powers and authority related to the operation of the System (other than their powers of taxation). Department will transfer all of its relevant powers to Authority, including its eminent domain, taxing, and regulatory powers, and the Department Board is charged under the Agreement to use such powers as the board of directors of Authority. Authority will be authorized to exercise eminent domain powers on its own, without Department's approval.

While Authority will own the System as a separate entity, the Agreement requires that Authority be wholly controlled by, and the System solely operated by, Department. The Department Board will serve as the board of directors of Authority and will have responsibility for Authority's budget. Department's treasurer is responsible to receive, disburse, and account for all monies of Authority which are required to be segregated

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from those of any other utility. Upon dissolution of Authority and after all liabilities of Authority have been paid, all assets of Authority will be distributed to Department or such other entity as Department shall determine to be operating for the benefit of the inhabitants of City.

After Authority was created, and the Department (and Authority) Board adopted an approving resolution, Department and Authority entered into an asset purchase agreement (the "Purchase Agreement") with City and District for the acquisition of the System assets to be held by Authority. Authority will issue bonds (the "Authority Bonds") to pay at least a portion of the purchase price.

Law and Analysis

Political Subdivision

Section 103(a) provides generally that gross income does not include interest on any State or local bond.

Section 1.103-1(a) provides, in part, that interest upon obligations of a state, territory, possession of the United States, the District of Columbia, or any political subdivision thereof (hereinafter collectively or individually called "state or local government unit") is not includable in gross income.

Section 1.103-1(b) provides that the term "political subdivision" denotes any division of any state or local governmental unit that is a municipal corporation or that has been delegated the right to exercise part of the sovereign power of the unit. As thus defined, a political subdivision of any state or local governmental unit may or may not, for purposes of this section, include special assessment districts so created, such as road, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvement, and similar districts and divisions of these units.

Three generally acknowledged sovereign powers of states are the power to tax, the power of eminent domain, and the police power. Commissioner of Estate of Alexander v. Shamberg, 3 T.C. 131 (1944), acq., 1945 C.B. 6, aff'd 144 F.2d 998 (2d Cir. 1944), cert denied, 323 U.S. 792 (1945). It is not necessary that all three of these powers be delegated in order to treat an entity as a political subdivision for purposes of the Code. However, possession of only an insubstantial amount of any or all of the sovereign powers is not sufficient. All of the facts and circumstances must be taken into consideration, including the public purposes of the entity and its control by a government. Rev. Rul. 77-164, 1977-1 C.B. 20.

Consideration of these principles as they apply to the facts of this case, leads us to conclude that Authority is a political subdivision for purposes of § 1.103-1(b). Authority will be wholly controlled by Department, a political subdivision. The Department Board will serve as the board of directors of Authority. Department is responsible for receiving,

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disbursing, and accounting for all monies of Authority. Upon dissolution of Authority all remaining assets of Authority will be distributed to Department or such other entity operating for the benefit of the inhabitants of City as Department shall designate.

Department will transfer its powers to Authority, including its eminent domain, taxing, and regulatory powers, and the Department Board is charged under the Agreement to use such powers as the board of directors of Authority. Department's power of eminent domain allows it to condemn and hold any real estate within the City or within five miles of the corporate limits of the City needed for the proper giving of service. Department is not required to seek approval from or act through City or State to exercise its power of eminent domain. Authority will be authorized to exercise eminent domain powers on its own, without Department's approval.

Authority's purpose of operating the System is a wholly public purpose.

Related Party

Under § 1.150-1(a)(1), except as otherwise provided, the definitions in § 1.150-1 apply for all purposes of §§ 103 and 141 through 150. Section 1.150-1(b) provides, in part, that "related party" means, in reference to a governmental unit or a 501(c)(3) organization any member of the same controlled group.

A "controlled group" is defined in § 1.150-1(e) as a group of entities controlled directly or indirectly by the same entity or group of entities. Section 1.150-1(e)(1) provides that the determination of direct control is made on the basis of all the facts and circumstances. One entity or group of entities (the controlling entity) generally controls another entity or group of entities (the controlled entity) if the controlling entity possesses either of the following rights or powers and the rights or powers are discretionary and non-ministerial – (i) the right or power both to approve and to remove without cause a controlling portion of the governing body of the controlled entity; or (ii) the right or power to require the use of funds or assets of the controlled entity for any purpose of the controlling entity.

Section 1.150-1(e)(2) states that if a controlling entity controls a controlled entity under this test, then the controlling entity also controls all entities controlled, directly or indirectly, by the controlled entity or entities.

An entity is not a controlled entity under § 1.150-1(e)(3) if the entity possesses substantial taxing, eminent domain, and police powers. For example, a city possessing substantial amounts of each of these sovereign powers is not a controlled entity of the state.

The issue is whether Authority is related to City or District. Section 1.150-1(e)(3), which provides an entity is not a "controlled entity" if it possesses substantial taxing, eminent domain, and police powers, is not applicable in this case, because Authority does not

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possess substantial amounts of all three sovereign powers. Thus, in order to determine whether Authority is controlled by City or District under § 1.150-1(e), we must examine all the relevant facts and circumstances.

Authority has been created as a separate entity wholly controlled by and solely operated by Department. Department Board serves as Authority's board of directors and is responsible for its budget. Neither City nor District has the power to appoint, remove, or to cause the removal of, a member of the Department Board. Neither City nor District has the power to appoint any Trustee. Trustees may be removed from office only for cause, and only by an order and judgment from a circuit or superior court. In addition, neither City nor District has control over Department Board's ability to set rules and rates. Department Board is granted the power to adopt rules for service and rates for service, subject only to State approval. While Department Board is required to make certain accounting and other reports to the City controller, the books, accounts, records and transactions of Department and of Department Board are only subject to examination, audit, and supervision by the State Board of Accounts. Neither City nor District has the right to use the funds or assets of Department or Authority. Accordingly, based on all the relevant circumstances, neither Department nor Authority is controlled within the meaning of § 1.150-1(e) by either City or District. As neither City nor District controls Department or Authority, Authority is not a member of City's or District's controlled group. Therefore, Authority will not be a related party as described in § 1.150-1(b) to either City or District.

Conclusions

Based on the information submitted and representations made, we conclude that (1) Authority qualifies as a political subdivision for purposes of § 103, and (2) Authority is not a related party to either City or District under § 1.150-1(b).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with a Power of Attorney on file with this office, a copy of this letter is being sent to the authorized representatives of Department.

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The ruling contained in this letter is based upon information and representations submitted by Department and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the materials submitted in support of the request for a ruling, it is subject to verification upon examination.

Sincerely,

Associate Chief Counsel
(Financial Institutions and Products)

By: 
Johanna Som de Cerff
Senior Technician Reviewer
Branch 5

**Appendix G: Terms & Conditions of Service for CWA Authority, Inc., as approved
by the IURC**

**SEWAGE DISPOSAL SERVICE TARIFF
RATES, TERMS AND CONDITIONS
FOR SEWAGE DISPOSAL SERVICE WITHIN
MARION COUNTY, INDIANA
AND CONTIGUOUS AREAS**

Issued By The

**Department of Public Utilities for the City of Indianapolis,
acting by and through the Board of Directors for Utilities,
as Trustee, in furtherance of the Public Charitable Trust
for the Wastewater System, and CWA Authority, Inc.**

**2020 North Meridian Street
Indianapolis, Indiana 46202**

**Martha D. Lamkin
President of
Board of Directors**

**Carey B. Lykins
President, and
Chief Executive Officer**

**SEWAGE DISPOSAL SERVICE TERMS AND CONDITIONS
I.U.R.C. CAUSE NO. 43936**

EFFECTIVE: October 1, 2012

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**TERMS AND CONDITIONS
FOR
SEWAGE DISPOSAL SERVICE**

The rules set forth in these Terms and Conditions for Sewage Disposal Service have been filed with and approved by the Indiana Utility Regulatory Commission, to provide a uniform and equitable basis upon which the transactions between the Utility and its Customers are conducted.

1. DEFINITIONS

Except where the context indicates a different meaning or intent, the following terms, when used in any Section of the Utility's Rates and Terms and Conditions for Sewage Disposal Service, shall have the meanings ascribed below:

1.1 ACCIDENTAL DISCHARGE

An unintentional release of a material that could potentially violate the requirements of Section 17 of these Terms and Conditions for Sewage Disposal Service.

1.2 APPLICANT

Any individual, partnership, association, firm, public or private corporation, limited liability company, government agency, institution or group thereof applying to receive or use the Utility's Sewage Disposal Service.

1.3 BIOCHEMICAL OXYGEN DEMAND ("BOD")

The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, (68°F) expressed in milligrams per liter. BOD measurements are used as a measure of the organic strength of wastes in water.

1.4 BOARD

The Board of Directors for Utilities, as Trustee, in furtherance of the Public Charitable Trust for the Wastewater System, which serves as the Board of Directors of CWA Authority, Inc.

1.5 BUILDING DRAIN

That part of the lowest horizontal piping of a drainage system that receives the discharge from solid waste and other drainage pipes inside the walls of the building and conveys it to the Building Sewer, beginning five (5) feet (one and one-half (1.5) meters) outside the inner face of the building wall.

1.6 BUILDING SEWER

The extension from the Building Drain to the Public Sewer or other place of disposal and shall include that portion of the drain within the public right-of-way.

1.7 CITIZENS GAS

The Board of Utilities of the Department of Public Utilities of the City of Indianapolis, successor trustee of a public charitable trust for the gas system, doing business as Citizens Gas, 2020 North Meridian Street, Indianapolis, Indiana 46202.

1.8 CITIZENS WATER

The Department of Public Utilities for the City of Indianapolis, acting by and through the Board of Directors for Utilities, as trustee of a public charitable trust for the water system, doing business as Citizens Water, 2020 N. Meridian Street, Indianapolis, Indiana 46202, or any professional management firm that has been retained by Citizens Water to operate its water utility facilities and that is acting in its capacity as the agent or representative of Citizens Water.

1.9 CLEAN WATER ACT

The primary federal law in the United States governing water pollution, which is codified at 33 U.S.C. § 1251 *et seq.*

1.10 COMBINED BILL

A bill issued to Residential Service and commercial Customer for any combination of more than one of the Utility Services. A Combined Bill will not be issued to an Industrial Customer.

1.11 COMMISSION

The Indiana Utility Regulatory Commission.

1.12 COMMISSION'S RULES

Rules, Regulations and Standards of Service for Utilities Rendering Sewage Disposal Service in Indiana pursuant to 170 IAC 8.5-1 et al, as revised, supplemented and replaced from time to time.

1.13 COOLING WATER

The water discharged from any system of condensation, air conditioning, cooling, refrigeration or other, but which shall be free from odor and oil. Cooling Water shall not contain polluting substances that would produce BOD or Suspended Solids each in excess of ten (10) milligrams per liter.

1.14 CUSTOMER

Any individual, partnership, association, firm, public or private corporation, limited liability company, government agency, institution or group thereof receiving Sewage Disposal Service from the Utility.

1.15 DOMESTIC WASTEWATER

Wastewater of the type commonly introduced into Sewage Disposal System by residential users.

1.16 EQUIVALENT DWELLING UNIT ("EDU")

Shall be determined in accordance with industry standards and shall reflect the greater of the actual daily flow requirements (per 327 IAC 3), the area ratio of the water meter size serving a particular user, or such means of determination deemed appropriate by the Utility. One (1) EDU shall be estimated as equal to three hundred ten (310) gallons per day.

1.17 FOUNDATION DRAINS

Any network of pipes, pumps or drainage mechanism located at, near or under a footing, foundation or floor slab of any building or structure that intentionally or unintentionally conveys groundwater away from a building or structure.

1.18 GARBAGE

Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

1.19 HEAT PUMP DISCHARGE

Water discharged from a heat pump or other device that uses water as a heat source or heat sink.

1.20 INDUSTRIAL CUSTOMER

Any Customer of Utility who discharges, causes or permits the discharge of nondomestic wastewater into the Sewage Disposal System.

1.21 INTERFERENCE

Any discharge that, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the Sewage Disposal System, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the Sewage Disposal System's National Pollutant Discharge Elimination System ("NPDES") permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

1.22 MONTH

One-twelfth (1/12) of a year, or the period between two (2) consecutive readings of the Utility's meters, as nearly every thirty (30) days as practicable.

1.23 NH3-N

Denotes ammonia nitrogen. All of the nitrogen in water, sewage or other liquid waste present in the form of ammonia, ammonia ion or in the equilibrium $\text{NH}_4^+ \rightleftharpoons \text{NH}_3 + \text{H}^+$.

1.24 NONINDUSTRIAL CUSTOMER

All Customers of the Utility that discharge into the Sewage Disposal System Sewage Normally Discharged by a Residence.

1.25 PASS-THROUGH

A discharge that exits the Sewage Disposal System into waters of the State in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Sewage Disposal System's NPDES permit (including an increase in the magnitude or duration of a violation).

1.26 PH

The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

1.27 POLLUTANT

Includes, but is not limited to, any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical materials, chemical wastes, biological materials, Radioactive Materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

1.28 PREMISES

One contiguous piece of property owned by a single Customer, which is not intersected by a public right-of-way or thoroughfare.

1.29 PROPERLY SHREDDED GARBAGE

Wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in Public Sewers, with no particle greater than one-half (1/2) inch (one and twenty-seven one-hundredths (1.27) centimeters) in any dimension.

1.30 PUBLIC SEWER

Any combined or sanitary sewer or lift station located within the public right-of-way or a dedicated easement.

1.31 RADIOACTIVE MATERIAL

Any material (solid, liquid or gas) that spontaneously emits ionizing radiation and that is regulated by the Nuclear Regulatory Commission or the Indiana State Board of Health. This may include naturally occurring radioactive material, by-product material, accelerator produced material, source material or special nuclear material.

1.32 RESIDENTIAL SERVICE

A person being supplied with Sewage Disposal Service by the Utility exclusively for residential purposes and introduces only Domestic Wastewater into the Sewage Disposal System.

1.33 SEWAGE DISPOSAL SERVICE

Utility service whereby liquid and solid waste, sewage, night soil and industrial waste (except as limited by the Rules and Regulations of the Commission) of any single territorial area is collected, treated, purified and disposed of in a sanitary manner, and includes all sewage treatment plant or plants, main Sewers, submain Sewers, local and/or lateral Sewers, intercepting Sewers, outfall Sewers; force mains, pumping stations, ejector stations and all other equipment and appurtenances necessary or useful and convenient for the rendition of such service.

1.34 SEWAGE DISPOSAL SYSTEM

The system by which the Utility provides Sewage Disposal Service, which includes the sewage treatment plant or plants, main Sewers, submain Sewers, local and/or lateral Sewers, intercepting Sewers, outfall Sewers; force mains, pumping stations, ejector stations and all other equipment and appurtenances necessary or useful and convenient for the rendition of such service.

1.35 SEWAGE NORMALLY DISCHARGED BY A RESIDENCE

The liquid waste contributed by a residential living unit and shall not exceed a volume of ten thousand five hundred (10,500) gallons per Month, thirty (30) pounds of BOD per month, and thirty-five (35) pounds of Suspended Solids per Month.

1.36 SEWER

A pipe or conduit for carrying sewage.

1.37 SLUG

Any discharge of wastewater that, in concentrations of any given constituent, as measured by a grab sample, exceeds more than five (5) times the allowable discharge limits as specified in these Terms and Conditions for Sewage Disposal Service and/or in quantity of flow exceeds more than five (5) times the user's average flow rate as authorized in the user's industrial discharge permit, for a period of duration longer than fifteen (15) minutes.

1.38 SUSPENDED SOLID ("SS")

Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and that are removable by laboratory filtering.

1.39 UPSET

An exceptional incident in an Industrial Customer's facility, in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the Industrial Customer. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

1.40 UTILITY

CWA Authority, Inc., 2020 North Meridian Street, Indianapolis, Indiana 46202 or any professional management firm that has been retained by CWA Authority, Inc. to operate its Sewage Disposal System and that is acting in its capacity as the agent or representative of CWA Authority, Inc.

1.41 UTILITY SERVICES

Shall include one or more of the following services: (1) sewage disposal service provided by the Utility; (2) water services provided by Citizens Water; and/or (3) gas delivery and gas supply services provided by Citizens Gas.

1.42 WASTEWATER HAULER

Any person who engages in the activity, service, business or leasing of vehicles for the purpose of transporting domestic wastewater to another location for disposal.

2. RATES AND UNIFORM CONDITIONS OF SERVICE

2.1 A copy of all rates and charges and these Terms and Conditions for Sewage Disposal Service is on file with the Commission and may be inspected by the public in the principal office of the Utility at 2020 North Meridian Street, Indianapolis, Indiana 46202.

2.2 All Sewage Disposal Service furnished by the Utility shall be subject to said rates and charges and these Terms and Conditions for Sewage Disposal Service, which are by reference made a part of all standard contracts for service, (except when modified by special contract approved by the Commission or as otherwise provided herein).

2.3 The failure of the Utility to enforce any rate and/or provision of these Terms and Conditions for Sewage Disposal Service shall not be deemed a waiver of its rights to do so.

3. WRITTEN APPLICATION OR CONTRACT FOR SERVICE MAY BE REQUIRED

3.1 A written application or contract properly executed in a form acceptable to the Utility, may be required from the Customer before the Utility is obligated to supply Sewage Disposal Service to the Customer, or as a condition for the continued supply of Sewage Disposal Service, provided, however, that the Utility shall have the right to reject any application for any valid reason.

3.2 The taking of Sewage Disposal Service shall constitute a contract between the Customer and the Utility, obligating the Customer to pay for, and the Utility to furnish, service as specified herein and to comply with all applicable provisions of these Terms and Conditions for Sewage Disposal Service.

- 3.3 Where two or more parties join in one application for Sewage Disposal Service, such parties shall be jointly and severally liable thereunder, and only one bill shall be rendered for service supplied in accordance therewith.
- 3.4 No promises, agreements or representations of any agent, employee or authorized representative of the Utility, or its predecessor, shall be binding upon the Utility unless the same shall have been incorporated in a written contract or application.
- 3.5 Sewage Disposal Service furnished to any Customer is for the use of that Customer on his or her designated Premises, and shall not be resold or extended by Customer to serve additional lots, Premises or improvements.
- 3.6 Any contractor, builder or developer shall be liable for the minimum Monthly charge from the time of connection until notification of occupancy, if such contractor, builder or developer fails to notify the Utility of such occupancy.

4. WRITTEN APPLICATION AND PERMIT REQUIRED FOR NEW CONNECTION

- 4.1 No person shall be allowed to connect to the Utility's system until after he or she has obtained a permit to do so from the Utility. If any person connects to the Sewage Disposal System without obtaining said permit, the Utility shall have the right to disconnect such Customer from its system and refuse to connect him or her to the Utility's system until the Utility has been reimbursed for its expense incurred in disconnecting such person from its system.
- 4.2 No person shall do any form of work on or in connection with lines or facilities owned by Utility until he or she has received a permit from the Utility to do such work.
- 4.3 A baseline connection fee per EDU, as set forth in Appendix B, will be assessed for all new connections to the Sewage Disposal System. A new connection includes new Sewage Disposal Service or modification of an existing Sewage Disposal Service agreement; however, replacement or repair of an existing individual Building Sewer that does not increase EDUs will not constitute a new connection.
- 4.4 An application for a new connection to the Sewage Disposal System shall be made on a form prescribed by the Utility and may require the following information:
 - 4.4.1 Name and address of the owner;
 - 4.4.2 Name, address and telephone number of the contractor;
 - 4.4.3 Address and, if necessary, the legal description of the Premises where the work is to be done;

- 4.4.4** Plans for the Building Sewer and connections, which at a minimum must consist of drawing(s) of the building, the parcel boundaries, the connection detail, including grease interceptor connection detail where applicable, materials of construction and installation method; and
- 4.4.5** Any other information as may be deemed reasonable and necessary by the Utility.
- 4.4.5** Application for a connection to the Sewage Disposal System shall be made only by the following:
- 4.5.1** A plumbing contractor licensed by the State and registered in accordance with Chapter 875 of the Revised Code of the Consolidated City of Indianapolis; or
- 4.5.2** A contractor (other than a plumbing contractor) who has met the surety bond and insurance requirements of the City of Indianapolis Department of Code Enforcement. Surety bond requirements are met if the Building Sewer contractor has filed and maintains with the City of Indianapolis a surety bond, as set forth in Chapter 875 of the Revised Code of the Consolidated City of Indianapolis. Insurance requirements are met if the contractor has secured and maintains a public liability and property damage insurance policy as set forth in Chapter 875 of the Revised Code of the Consolidated City of Indianapolis.
- 4.6** All Sewer work and other construction actually performed on or associated with the Building Drain, Building Sewer and the connection of the Building Sewer to the Sewage Disposal System shall be in accordance with the rules and regulations of the Indiana Fire Prevention and Building Safety Commission and standard specifications of the Utility.
- 4.7** The permit granted by the Utility to connect to the Sewage Disposal System shall be given in writing and expire by operation of law and shall no longer be of any force or effect if work is not initiated within one hundred eighty (180) days from the date thereof. The Utility may, however, for good cause shown in writing, extend the duration of the permit for an additional period that is reasonable under the circumstances to allow commencement of the construction activity. In no event shall the extension exceed a period of sixty (60) days. If the construction activity has been commenced but only partially completed, and thereafter substantially no construction activity occurs on the construction site over a period of one hundred eighty (180) days, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the Utility may, for good cause shown in writing, extend the authority to connect to the Sewage Disposal System for an additional period that is reasonable under the circumstances to allow resumption of construction activity. The fee for an extension under this Section shall be as provided for in Appendix B, and the extension shall be confirmed in writing.

- 4.8** After the Utility has granted the permit, the contractor shall give prompt written notice to the Utility of any addition to or change in the information contained in the permit application.
- 4.9** After the Utility has in writing, granted authority to connect to the Sewage Disposal System, any material deviation or change in the information contained in the application or the plans shall be considered an amendment subject to approval by Utility. Prior to the time construction activity involving the change occurs; the contractor shall file with the Utility a written request for amendment, including a detailed statement of the requested change and the submission of any amended plans. The Utility shall give the contractor written notice that the request for amendment has been approved or denied. The fee for the amendment of an application for connection is set forth in Appendix B.
- 4.10** A permit may be transferred with the approval of the Utility to a person, partnership or corporation that would be eligible to obtain such authority in the first instance (hereinafter called "Transferee"), after both the payment of a fee as provided in Appendix B and the execution and filing of a form furnished by the Utility. Such transfer form shall contain, in substance, the following certifications, release and agreement:
- 4.10.1** The person who obtained the original approval of the connection from the Utility or a person who is employed by and authorized to act for the obtainer (hereinafter called "Transferor") shall:
- a. Certify under penalties for perjury that such person is familiar with the sanitary Sewer construction activity to be accomplished pursuant to the permit; such person is familiar with the construction standards and procedures of the Utility; and to the best of such person's knowledge, information and belief the construction activity, to the extent performed, is in conformity with all standards and procedures required by the Utility; and
 - b. Sign a statement releasing all rights and privileges secured under the permit granted by the Utility to the Transferee.
- 4.10.2** The Transferee shall:
- a. Certify that the Transferee is familiar with the information contained in the original application requesting authority to connect to the Sewage Disposal System, the design plans and specifications, and any other documents filed in support of the application;

- b. Certify that the Transferee is familiar with the present condition of the Premises on which the construction activity is to be accomplished pursuant to the permit; and
- c. Agree to adopt and be bound by the information contained in the original application, the design plans and specifications, and other documents supporting the original application; or in the alternative, agree to be bound by such application plans and documents modified by plan amendments submitted to the Utility for approval.

The Transferee shall assume the responsibilities and obligations of and shall comply with the same procedures required of the Transferor, and shall be subject to any written directives issued by the Utility. Authority granted by the Utility for construction activity at a specified location may not be transferred to construction activity at another location.

4.11 The Utility may revoke a permit when:

- 4.11.1** The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact; or
- 4.11.2** The application, plans or supporting documents reflect a lack of compliance with the requirements of these Terms and Conditions for Sewage Disposal Service or other Resolution of the Board.

4.12 The Utility may order the suspension of the pertinent construction activity ("Stop-Work Order") if the Utility determines that:

- 4.12.1** Construction activity is proceeding in an unsafe manner;
- 4.12.2** Construction activity is proceeding in violation of a requirement of these Terms and Conditions for Sewage Disposal Service or other Resolution of the Board;
- 4.12.3** Construction activity is proceeding in a manner that is materially different from the application, plans, or supporting documents; or
- 4.12.4** Construction activity for which Utility authority under this Section is required is proceeding without such authority having been obtained. In such an instance, the Stop-Work Order shall indicate that the effect of the order terminates when the required authority is obtained.

- 4.13** The Stop-Work Order shall be in writing and shall state the reason for its issuance. The Stop-Work Order shall be posted on the property in a conspicuous place and, if conveniently possible, shall be given to the person doing the construction and to the owner of the property or his or her agent. The Stop-Work Order shall state the conditions under which construction may be resumed.

5. SEWER CONTRUCTION REQUIREMENTS

- 5.1** Except for Building Sewers serving single- or double-family residences or single-owner industrial facilities, connection permits will not be issued by the Utility for Building Sewers exceeding six hundred (600) feet in length as measured from the outside of the building to the center of the Public Sewer, unless the Sewer is constructed in a dedicated easement or right-of-way. No more than one hundred (100) feet of a Building Sewer shall exist within a public right-of-way.
- 5.2** No more than one (1) building will be permitted to connect to a Building Sewer. Sewers with more than one (1) connection must be constructed as a Public Sewer in a dedicated easement, unless the Utility determines that an exception is justified.
- 5.3** It shall be the responsibility of the property owner(s) whose property is benefitted to provide for, install and make private connections for the use of their Premises to an existing Public or Building Sewer. As further provided in Section 22 of these Terms and Conditions for Sewage Disposal Service, it shall be the responsibility of the owner to make all necessary repairs, extensions, relocations, changes or replacements thereof, and of any accessories thereto.

6. MANDATORY INSPECTION AND RIGHT OF ENTRY

- 6.1** Upon completion of the work described in a permit, it shall be the duty of the holder of a permit to notify the Utility that the work is available for inspection. The Utility will conduct inspections on Building Sewer connections from 8:00 a.m. to 3:00 p.m., local time, Monday through Friday, except for observed holidays. The Building Sewer, in its entirety from the foundation to the connection with the Public Sewer or existing lateral, must be exposed for inspection and be properly bedded in accordance with the Utility's standard specifications to one-half (1/2) the diameter of the Building Sewer. It is further the duty of the permit holder to install safety barricades, fences or other safety measures while waiting for an inspection. The permit holder may backfill the Building Sewer trench if the Utility has not made an inspection within a twenty-four (24) hour period after notice has been given to the Utility. In the event the Building Sewer is not completed and ready for inspection upon the inspector's arrival or if the notification is made after 1:00 p.m., local time, Monday through Friday, the permit holder shall make the Building Sewer and connection available for a four (4) hour period on the following Utility work day. An inspection may be waived with or without conditions with the approval of the Utility.

- 6.2** The Utility shall have the right of entry to, upon or through any Premises for purposes of inspection of Sewer work and any other construction activity performed on or associated with the connection of the Building Sewer to the Sewage Disposal System including inspection for clear water discharges into the Sewage Disposal System.

7. DEPOSITS

- 7.1** In accordance with the Rules and Regulations of the Commission, pursuant to 170 IAC 8.5 et al, the Utility may require a Residential Service Customer (a Customer receiving Residential Service) or Applicant to pay a cash deposit as a condition of receiving or continuing to receive Sewage Disposal Service, if the Utility determines that the Residential Customer or Applicant does not meet the criteria for creditworthiness set forth in 170 IAC 8.5-2-3 of the Rules and Regulations of the Commission's Rules.

- 7.2** The Utility may require non-residential Customers or Applicants to make a cash deposit at any time to assure payment of bills, and as a condition of receiving or continuing to receive Sewage Disposal Service.

Such deposit shall not be less than forty dollars (\$40.00), nor more than the amount of the bill for any three (3) consecutive months known or estimated to have the highest volume of waste. The Utility shall determine the appropriate deposit.

- 7.3** Any deposit held for more than twelve (12) months shall earn interest from the date the deposit is paid in full to the Utility at a rate of six percent (6%) per annum.

- 7.4** Deposits from Residential Service Customers will be refunded after the Residential Service Customer has established an acceptable payment record in accordance with the Commission's Rules and is not delinquent on any active or inactive Utility Services.

- 7.5** Upon discontinuance of Utility Services, the deposit and earned interest, if any, will be applied to the balance of any outstanding Utility Services bills or unbilled amounts. The remaining unapplied portion, if any, of the deposit and earned interest will be refunded to the Customer. The Customer will be billed for any balance due the Utility. The balance of any deposit and interest, after being applied to any outstanding bills which cannot be returned to the Customer after termination of service, shall be reported and disposed of as required by the Disclaimer of Property Interests Act (Indiana Code 32-17.5 *et seq.*).

8. BILLING AND PAYMENT OF BILLS

8.1 The Utility will issue bills to Customers on a Monthly basis for the applicable Utility Services. Bills are payable to the office of the Utility or to an authorized agent within seventeen (17) days from the date mailed. When the seventeenth (17th) day falls on Sunday or a legal holiday, the seventeen-day period shall be considered to end with the next business day.

8.1.1 If payment for a Utility Services bill from a Customer is not received by the Utility or its agent within seventeen (17) days from the date the bill is mailed, the bill shall be considered delinquent.

8.1.1.1 All charges follow the Customer and moving from one Premises to another in no way absolves the Customer from any unpaid charges incurred at a previous location. In the case of leased property, the landlord shall be responsible to the Utility for payment of the bill, even though the tenant may pay it.

8.1.1.2 The Utility may add a late payment charge to a Customer's delinquent Utility Services bill as set forth in Appendix A.

8.1.1.3 A single charge may be made for each visit to the Customer's Premises to collect a delinquent account for applicable Utility Services; such charge to the Customer shall be pursuant to the Delinquent Account Collection Charge reflected in Appendix A.

8.1.1.4 A single charge may be made for handling a single check from a Customer for Utility Services returned unpaid by any financial institution; such charge shall be pursuant to the Returned Check Charge set forth in Appendix A.

8.1.1.5 A single charge may be made for providing a Customer with usage summary by meter beyond the twenty-four (24) month period available online; such charge to the Customer shall be pursuant to the Usage Information Charge set forth in Appendix A.

8.1.2 The Utility may provide an Automatic Bank Deduction Plan for Nonindustrial Customers, which will be a payment plan whereby the Combined Bill amount is deducted each month from the Nonindustrial Customer's checking account by the Nonindustrial Customer's authorized financial institution. The Utility shall continue to provide to the Nonindustrial Customer a Monthly bill.

- 8.1.3** The Utility may provide a budget plan for payment of Utility Services bills by the Customer whereby the annual bill as estimated by the Utility is divided into even monthly payments. The annual amount actually paid by the Customer shall be balanced with the annual amount actually billed to the Customer and any differences shall be paid by (or credited to) Customer.
- 8.2** The Utility shall prorate Combined Bill payments based upon billed charges for applicable active Utility Services and apply payments first to the oldest outstanding charges for Utility Services and then to current charges pertaining to Utility Services where applicable. Payments will be applied to non-Utility Services last.
- 8.3** A Customer may direct Combined Bill payments by contacting the Utility prior to the due date. For all other payments, the Utility is not obligated to direct payments.
- 8.4** Payments in excess of the charges for applicable active Utility Services will be applied to inactive Utility Service balances and prorated according to the balances of the inactive Utility Services.
- 8.5** The Utility shall measure usage and bill Nonindustrial Customers in the following manner:
- 8.5.1** To the extent possible, bills to Nonindustrial Customers will be based on the Customer's metered water usage or estimated water usage in any given month.
- 8.5.2** In the event a Nonindustrial Customer is not served by a public water supply or water used is not completely metered, the Utility shall estimate the volume and strength of the waste and use such estimate for the purposes of billing rates and charges. The foregoing estimates shall be based upon analyses and volumes of a similar installation to the Nonindustrial Customer or the volume and analysis as determined by measurements and samples taken by the Utility or an estimate determined by the Utility or by any combination of the foregoing or other equitable method.
- 8.6** The Utility shall measure usage and bill Industrial Customers in the following manner:
- 8.6.1** The Utility may require any Industrial Customer to construct at the Industrial Customer's own expense, facilities to allow inspection, sampling and flow measurement and may also require sampling or metering equipment to be provided, installed and operated at the Industrial Customer's expense.

- 8.6.2** To the extent the Utility does not require installation of metering equipment as provided in the foregoing section, each Industrial Customer shall report to the Utility by the twenty-fifth (25th) day of the following Month on a form prescribed by the Utility an estimate of the volume discharged in the prior Month and a representative value of the strength of the waste including, but not limited to, BOD, SS and NH₃-N, unless alternate reporting procedures are otherwise specified in writing by the Utility. All measurements, tests and analyses of the characteristics of such waste shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Sewage" as published jointly by the American Public Health Association and the Water Pollution Control Federation consistent with 40 CFR Part 136 or by other methods generally accepted under established sanitary engineering practices and approved by the Utility. The reports submitted shall be subject to verification by the Utility but may serve as the basis for billing with all necessary adjustments in the amounts to be made after verification. In the event an analysis and volume of the industrial waste are not furnished to the Utility by the aforementioned time, the charges shall be based upon estimates made by the Utility, in the manner provided in Section 8.2.2.
- 8.6.3** In the event that a self-reporting Industrial Customer described in section 8.6.2 fails to submit the report required by Section 8.6.2 by the twenty-fifth (25th) day of the following Month, the Industrial Customer shall pay late reporting charges according to the schedule set forth in Appendix A.
- 8.6.4** The Utility shall have the right to enter upon the land of any Industrial Customer and to set up such equipment as is necessary to certify the reports submitted. It shall be the duty of the Industrial Customer to provide all necessary clearance before entry and not to unnecessarily delay or hinder the Utility in carrying out the measuring and sampling. The right of entry shall exist during any time the Industrial Customer is operating or open for business.
- 8.6.5** In cases where measurements are difficult to make, or the industrial waste composition changes frequently, or representative samples are difficult to get, or where other methods of measurement are necessitated for other sound engineering reasons as determined by the Utility, the Utility shall have the authority to use such other basis for determining such charges as shall be reliably indicative of volume and BOD, SS and NH₃-N strengths of particular industrial waste, such as, but not limited to, water purchase or usage, character of products, comparisons between the Industrial Customer data and collected data from like industries.

8.6.6 The cost of all tests, measurements and analyses taken by the Utility pursuant to the above Sections or otherwise shall be charged to the Industrial Customer tested in an amount equal to the actual average cost of such test, measurement or analysis as determined at the close of each Year. These costs shall be due and payable as provided in Section 8.1.

8.7 The Utility may make adjustments to bills for Sewage Disposal Service as described below:

8.7.1 If any water meter, on which a Sewage Disposal Service bill is based, shall be found to have a percentage of error greater than two percent (2%), the following provisions for the adjustment of bills shall be observed:

8.7.1.1 When a meter is found to have a positive average error, *i.e.*, is fast, in excess of two percent (2%), the Utility shall refund or credit the Customer's account with the amount in excess of that determined to be an average charge for one-half of the time elapsed since the previous meter test, or one (1) year, whichever period is shorter. This average charge shall be calculated on the basis of units registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be fast. No part of a minimum service charge shall be refunded.

8.7.1.2 When a meter is stopped or has a negative average error, *i.e.*, is slow, in excess of two percent (2%), the Utility will charge the Customer an amount estimated to be an average charge for one-half of the time elapsed since the previous meter test or one (1) year, whichever period is shorter. The average charge shall be calculated on the basis of units registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be slow or stopped. Such action may be taken only in cases where the Utility is not at fault for allowing the stopped or slow meter to remain in service.

8.7.1.3 In the event the Customer's service is interrupted for a reason other than the act of the Customer or the condition of Customer-controlled equipment, and the service remains interrupted for more than two (2) days after being reported or found to be out of order, appropriate adjustments or refunds may be made to the Customer.

8.7.2 When an error is discovered in any billing or when billing is omitted, the Utility may adjust such error to the known date of error, but in any event within not more than twelve (12) Months from the date of such billing.

- 8.7.3** Upon detecting a device or scheme which has been utilized to avoid or attempted to avoid full payment for Sewage Disposal Service, the Utility may, after estimating the volume waste:
- 8.7.3.1** Immediately disconnect water or Sewage Disposal Service without notice pursuant to Rule 9.1.3.
- 8.7.3.2** Bill and demand immediate payment from the person benefiting from such device or scheme the actual cost of the volume of waste, corrections and repairs, or two hundred dollars (\$200.00), whichever is more.
- 8.7.3.3** Bill any and all damages as provided by Indiana Code 34-24-3-1 et seq. based upon the Utility's reasonable and customary estimate thereof.
- 8.7.4** Where a metered water supply is used for fire protection as well as for other uses, the Utility may, at its sole discretion, make adjustments in the Sewage Disposal Service charge as may be equitable. In such cases the burden of proof as to the type of water usage shall be upon the Customer. Where a metered water supply is used for fire protection only, the sewer user charge shall not apply.

9. DISCONTINUANCE OF SERVICE

- 9.1** Water and/or Sewage Disposal Services rendered under any application, contract, agreement or otherwise may be discontinued by the Utility without request by the Customer and without notice, and the Utility may remove any of its property from the Customer's Premises without legal process for any one of the following reasons:
- 9.1.1** Where a condition dangerous or hazardous to life, physical safety, or property exists.
- 9.1.2** Upon order by any Court, the Commission, or other duly authorized public authority, or upon written instruction by a law enforcement agency acting within its jurisdiction pursuant to Indiana Code 35-45-5-4(c).
- 9.1.3** A fraudulent or unauthorized use of Sewage Disposal Service is detected and the Utility has reasonable grounds to believe the affected Customer is responsible for such use, including when the Utility has reasonable evidence that a Customer who is indebted to the Utility for Sewage Disposal Service at his present or other location is receiving Sewage Disposal Service under the same or a different name.

- 9.1.4** Where the Utility's equipment has been tampered with and the Utility has reasonable grounds to believe that the affected Customer is responsible for such tampering.
 - 9.1.5** Detection of a device or scheme which has been utilized to avoid or attempted to avoid full payment for Sewage Disposal Service as defined by Indiana Code 35-43-5-6.
 - 9.1.6** The Customer fails to meet the terms of the Utility's 24-hour payment arrangement set forth in Section 11.5.
- 9.2** Water and/or Sewage Disposal Service rendered under any application, contract, agreement or otherwise may be discontinued by the Utility with notice as provided in Section 11 of these Terms and Conditions for Sewage Disposal Service for any of the following reasons:
 - 9.2.1** For failure to protect and maintain the Customer service pipe or other fixtures on the Customer's property in a condition satisfactory to the Utility, and consistent with Section 22 of these Terms and Conditions for Sewage Disposal Service and the provisions of the Indiana Plumbing Code.
 - 9.2.2** For violation of the Sewage Restrictions set forth in Sections 15, 16 and 17 of these Terms and Conditions for Sewage Disposal Service.
 - 9.2.3** For failure to provide the Utility's employees free and reasonable access to the Premises or property served, or for obstructing the way of ingress to Customer or Utility Sewer laterals, fixtures, or other appliances.
 - 9.2.4** Nonpayment of a delinquent bill.
 - 9.2.5** For failure of the Customer to make a cash deposit as provided for in Section 7 of these Terms and Conditions for Sewage Disposal Service, or failure to pay for the same class of service rendered at a different meter point, residence, or location, provided such bill has remained unpaid for at least forty-five (45) days. A Residential Service Customer shall not be disconnected for indebtedness incurred for Sewage Disposal Service at a different location if such bill has remained unpaid for less than forty-five (45) days.
 - 9.2.6** In case of vacancy of the Premises by the Customer, when no one has assumed responsibility for payment of the bill for Sewage Disposal Service to the Premises.
 - 9.2.7** For material misrepresentation in an application as to the Premises or property to be supplied service or type of service to be supplied or failure to report a change in the type of service.

- 9.2.8** When continuation of Sewage Disposal Service to the Customer creates conditions that jeopardize the integrity of the service provided to other Customers.
- 9.3** A Residential Customer may request the Utility notify a predesignated third party of a Utility Service disconnection notice issued to the Residential Customer. Such request shall be made in writing in the form of a Duplicate Notice Protection Plan Enrollment Application. When requested, the Utility shall notify the predesignated third party, by mail, of the pending Utility Service disconnection at the time the Utility renders the disconnection notice to the Residential Customer. The Utility may restrict the use of the Duplicate Notice Protection Plan to its Residential Customers who are elderly, handicapped, ill, or otherwise unable to act upon a service disconnection notice, as determined by the Utility.
- 9.4** The Utility reserves the right, at any time, to temporarily discontinue Sewage Disposal Service for the purpose of making repairs or extensions. The Utility will attempt to give reasonable notice, to the extent practicable, to all owners to be affected by the discontinuance, provided, however, that the Utility is not required to give notice of discontinuance of water and/or Sewage Disposal Service under such circumstances.
- 9.5** Owners or Customers requesting temporary discontinuance of Sewage Disposal Service for repairs within their property will be charged a sum equal to the costs to the Utility for disconnecting and restoring service.
- 9.6** Discontinuance of the water or Sewage Disposal Service to a property or Premises under the provisions of these Terms and Conditions for Sewage Disposal Service shall not prevent the Utility from pursuing any lawful remedy by action at law or otherwise for the collection of moneys due.

10. PROHIBITED DISCONNECTIONS

- 10.1** The Utility shall postpone the disconnection of water or Sewage Disposal Service for ten (10) days if, prior to the disconnect date specified in the disconnect notice, the Residential Service Customer provides the Utility with a medical statement from a licensed physician or public health official which states that a disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the Residential Service Customer. The postponement of disconnection shall be continued for one additional ten (10) day period upon the provisions of an additional such medical statement.

- 10.2** The Utility may not disconnect water or Sewage Disposal Services to a Residential Service Customer: (a) Upon his or her failure to pay for the service rendered at a different metered point, residence or location if such bill has remained unpaid for less than forty-five (45) days; or (b) Upon his or her failure to pay for services to a previous occupant of the Premises to be served, unless the Utility has good reason to believe the Customer is attempting to defraud the Utility by using another name; or (c) Upon his failure to pay for a different form or class of Sewage Disposal Service.
- 10.3** The Utility may not disconnect Utility Services to the Residential Service Customer if he or she shows cause for his or her inability to pay the full amount due (financial hardship shall constitute cause) and (a) the Customer pays a reasonable portion (not to exceed \$10.00 or one tenth of the bill, whichever is less, unless the Customer agrees to a greater portion) of the bill; and (b) he or she agrees to pay the remainder of the outstanding bill within three (3) Months; and (c) he or she agrees to pay all undisputed future bills for service as they become due, and (d) he or she has not breached a similar agreement with the Utility made pursuant to this rule within the past twelve (12) Months. Such agreement shall be put in writing. The Utility may add to the Customer's outstanding bill a late payment charge in the amount prescribed in the schedule set forth in Appendix A.
- 10.4** If a Customer is unable to pay a bill, which is unusually large due to prior incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection or functioning of the meter, prior estimates where no actual reading was taken for over two (2) Months, stopped or slow water meter, or any human or mechanical error of the Utility and the Customer (a) pays a reasonable portion of the bill, not to exceed an amount equal to the Customer's average bill for the twelve bills immediately preceding the bill in question, and (b) agrees to pay the remainder within three months, and (c) agrees to pay all undisputed future bills for service as they become due, providing such agreement is put in writing.
- 10.5** The Utility shall not add to the outstanding bill referred to in the preceding rule any late fee.
- 10.6** If a Customer requests a review pursuant to the Rules and Regulations of the Commission's Rules, the Utility will disconnect only as provided in Section 14.3 of these Terms and Conditions for Sewage Disposal Service.
- 10.7** The Utility shall disconnect water or Sewage Disposal Services only between the hours of 8:00 a.m. and 3:00 p.m., prevailing local time. Disconnections pursuant to Section 9.1 are not subject to this limitation.
- 10.8** The Utility shall not disconnect water or Sewage Disposal Service for nonpayment on any day on which the Utility office is closed to the public, or after 12:00 noon of the day immediately preceding any day when the Utility office is not open to the public.

11. NOTICE OF DISCONNECTION

- 11.1** Except as otherwise provided by these Terms and Conditions for Sewage Disposal Service, water and/or Sewage Disposal Service to any Nonindustrial Customer shall not be disconnected for a violation of these Terms and Conditions for Sewage Disposal Service or for the nonpayment of a bill, except after fourteen (14) days prior written notice to the Customer by either:
 - 11.1.1** Mailing the notice to such Residential Service Customer at the address shown on the records of the Utility; or
 - 11.1.2** Personal delivery of the notice to the Residential Service Customer or a responsible member of his or her household at the address shown on the records of the Utility. No disconnect notice for nonpayment may be rendered by the Utility prior to the date on which the account becomes delinquent.
- 11.2** The language of a disconnect notice must be clear, concise and easily understandable to a layman and shall state in separately numbered large type or printed paragraphs:
 - 11.2.1** The date of the proposed disconnection;
 - 11.2.2** The specific actual basis and reason for the proposed disconnection;
 - 11.2.3** The telephone number of the Utility office at which the Customer may call during regular business hours in order to question the proposed disconnection or seek information concerning his or her rights; and
 - 11.2.4** A reference to these Terms and Conditions for Sewage Disposal Service furnished to the Customer for information as to the Customer's rights.
- 11.3** Immediately preceding the actual disconnection of Utility Services, the employee of the Utility designated to perform such function shall make a reasonable attempt to identify himself to the Customer or any other responsible person then upon the Premises and shall make a record thereof to be maintained for at least thirty (30) days.
- 11.4** The employee shall have in his or her possession information sufficient to enable him or her to inform the Customer or other responsible person of the reason for the disconnection, including the amount of any delinquent bill of the Customer, and shall request from the Customer any available verification that the outstanding bill has been satisfied or is currently in dispute pursuant to review under the Commission's Rules. Upon the presentation of such credible evidence, service shall not be disconnected.

- 11.5** The employee is not required to, but may, accept payment from the Customer or other responsible person or offer the Utility's 24 hour payment arrangement in order to prevent Utility Services from being disconnected. The Customer may make payment to the Utility at its office in order to prevent Utility Services from being disconnected, and the Customer will be so informed.
- 11.6** When the employee has disconnected Utility Services, he or she shall give a responsible person on the Premises, or if no one is at home, shall leave at a conspicuous place on the Premises, a notice stating which Utility Services have been disconnected and stating the address or telephone number of the Utility where the Customer may arrange to have the Utility Services reconnected.

12. RECONNECTION OF SERVICE

- 12.1** In the event a Customer is not served by a public water supply, or water used is not completely metered, restoration of Sewage Disposal Service or reconnection of a Customer Sewer lateral connection will be made at the Utility's discretion after the Customer has:
- 12.1.1** Paid all unpaid bills for Sewage Disposal Service;
- 12.1.2** Made a deposit to ensure future payment of Sewage Disposal Service bills;
- 12.1.3** Reimbursed the Utility for any labor, material and associated restoration costs involved in disconnecting and reconnecting Sewage Disposal Service (which disconnection and reconnection charges are set forth in Appendix A); and
- 12.1.4** Corrected any condition found in violation of any applicable provision of these Terms and Conditions for Sewage Disposal Service.

13. INTERRUPTION OF SERVICE

- 13.1** Whenever the service is intentionally interrupted for any purpose, such interruption shall, except in emergencies, be at a time during regular working hours of the Utility which will cause the least inconvenience to Customers. Customers who will be affected by such interruption shall, to the extent practical, be notified in advance.

14. COMPLAINTS AND REVIEW

- 14.1** A Customer may complain at any time to the Utility about the amount of any Utility Services bill, security deposit, disconnection notice, or any other matter relating to its Utility Services and may request a conference thereon provided there is no Utility Services bill which is delinquent at that time. Such complaints may be made in person, in writing, or by completing a form available from either the Commission or from the Utility at its business offices. A complaint shall be considered filed upon receipt by the Utility, except mailed complaints shall be considered filed as of the postmark date. In making a complaint and/or request for conference, the Customer shall state at a minimum, his name, service address, and the general nature of this complaint. Upon receiving each such complaint or request for conference, the Utility:
- 14.1.1** Shall promptly, thoroughly and completely investigate such complaint, confer with the Customer of the results and send a written notice to the Customer of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint.
- 14.1.2** The written notification shall advise the Customer that he or she may, within seven (7) days following the date in which such notification is mailed, request a review of such proposed disposition by the Commission.
- 14.2** If the Customer is dissatisfied with the Utility's proposed disposition of the complaint, and submits in writing, within seven (7) days following the date on which notification from the Utility is mailed, a request that the Commission informally review the disputed issue and the Utility's proposed disposition thereof. Such request shall certify that the Customer has also sent a copy of his or her request for review to the Utility. Upon receiving a copy of such request, the Commission will provide an informal review within twenty-one (21) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the Customer and the Utility within thirty (30) days after its receipt of the Customer's request. Upon request by either party or the Commission, the parties shall be required to meet and confer to the extent and at such place as the Commission may consider appropriate.
- 14.3** If the Customer is receiving Utility Services at the time the complaint and/or request for conference is received by the Utility, his or her Utility Services shall not be disconnected, except for nonpayment of his or her Utility Services bill, until ten (10) days have elapsed from the date of mailing of the notification of the Utility's proposed disposition of his or her complaint. Provided, however, that if a review by the Commission of the Utility's proposed disposition of the complaint is requested by the Customer within seven (7) days after the mailing of such proposed disposition of the complaint, the Utility shall not disconnect the Customer's Utility Services until at least three (3) days have elapsed from the date of mailing of the Commission's decision upon and pursuant to such review if the Customer who has requested such review has paid and continues to pay all future undisputed Utility Services bills prior to their becoming delinquent.

14.4 In those instances when the Customer and the Utility cannot agree as to what portion of a Utility Services bill is undisputed, it shall be sufficient that the Customer pay on the disputed bill an amount equal to his average bill for twelve (12) Months immediately preceding the disputed bill except in those cases where the Customer has received fewer than twelve (12) bills, in which event the Customer shall pay an amount equal to 1/12 of the estimated annual cost of service to be rendered to the Customer.

14.5 The Utility will keep a written record of complaints and requests for conference. Such written records will be made available at the office of the Utility upon request by the concerned Customer, his or her agent possessing written authorization or the Commission.

15. PROHIBITION AGAINST CLEAR WATER DISCHARGES

15.1 Except as specifically provided in this Section, no person shall cause or allow the connection of a Building Sewer to the Sewage Disposal System or other Building Sewer when such Building Sewer has any of the following sources of clear water connected to it:

15.1.1 Foundation/footing drains;

15.1.2 Sump pumps with Foundation Drains connected;

15.1.3 Roof drains;

15.1.4 Heat Pump Discharge;

15.1.5 Cooling Water; or

15.1.6 Any other sources of clear water.

15.2 In addition to any other provision provided herein, any person found violating any provision listed in Section 15.1 above may be required to correct such connections at his expense.

15.3 In the event an industrial or commercial entity finds it necessary to discharge clear water consisting of Cooling Water and/or steam condensate into the Sewage Disposal System and the Sewage Disposal System has capacity to receive such clear water without affecting existing or future Customers, the Utility may enter into an agreement for such discharge that will define a merging system and any other requirement deemed necessary to measure the flow. The rate for such discharge shall be calculated as set forth in the Utility's applicable Rate Schedules.

16. DEWATERING DISCHARGE

- 16.1** No person shall discharge the water resulting from dewatering activity to the Sewage Disposal System, whether such activity is temporary or permanent, without a valid connection permit issued by the Utility. As a condition to the issuance of a permit, the Applicant shall install, maintain and operate at the Customer's expense a metering device to measure the flow associated with such discharge.
- 16.2** Based upon the volumes determined by the measurements, the Customer will be charged appropriate fees as set forth in the Utility's applicable Rate Schedules.
- 16.3** The Customer shall be required to submit Monthly reports, subject to verification by the Utility, to serve as the basis for billing, with any necessary adjustments in the amount made after verification.

17. SEWAGE RESTRICTIONS

- 17.1** No person shall discharge or cause to be discharged into any sanitary Sewer any wastewater or Pollutants, which cause, threaten to cause or are capable of causing, either alone or by interaction with other substances:
 - 17.1.1** Fire or explosion hazard;
 - 17.1.2** Corrosive structural damage to the Sewage Disposal System, but in no case water with a pH lower than 5.0 or higher than 12.0;
 - 17.1.3** Obstruction to the flow in the Sewers or other disruption to the proper operation of the Sewage Disposal System;
 - 17.1.4** An Interference; or
 - 17.1.5** A Pass-through.
- 17.2** No person shall discharge or cause to be discharged any of the following described waters or wastes into any sanitary Sewer:
 - 17.2.1** A Slug or a flow rate and/or Pollutant discharge rate which is excessive over a relatively short time period so that there is a treatment process Upset and subsequent loss of treatment efficiency;

- 17.2.2** Heat in amounts which will inhibit biological activity at the wastewater treatment plant but in no case greater than sixty (60) degrees centigrade (one hundred forty (140) degrees Fahrenheit) or heat in such quantities that the temperature at the wastewater treatment plant exceeds forty (40) degrees centigrade (one hundred four (104) degrees Fahrenheit);
- 17.2.3** Any wastewater containing toxic Pollutants or any discharge which could result in toxic gases, fumes or vapors in sufficient quantity, either singly or by interaction with other Pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the Sewage Disposal System, or to exceed applicable categorical pretreatment standards;
- 17.2.4** A wastewater with a closed cup flash point of less than one hundred forty (140) degrees Fahrenheit or any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious or hazardous in any other way to the Sewage Disposal System or to the operation of the wastewater treatment plant. At no time shall a discharge cause a reading on a meter capable of reading L.E.L. (lower explosive limit) to be greater than ten (10) percent at the point of discharge to the Sewage Disposal System or at any point in the Sewage Disposal System;
- 17.2.5** Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the Sewers for maintenance and repair;
- 17.2.6** Solid or viscous substances and/or other Pollutants which may cause obstruction to the flow in a Sewer or other Interference with the operation of the Sewage Disposal System such as, but not limited to, grease, Garbage other than Properly Shredded Garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones;
- 17.2.7** Any substance which may cause the Sewage Disposal System's effluent or any other product of the wastewater works such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the Sewage Disposal System cause the Sewage Disposal System to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Federal Water Pollution Control Act;

- 17.2.8** Any substance which will cause the Sewage Disposal System to violate its NPDES permit or the receiving stream's water quality standards;
 - 17.2.9** Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes, inks and vegetable tanning solutions;
 - 17.2.10** Any wastewater containing Radioactive Material above limits contained in regulations, licenses or orders issued by the appropriate authority having control over their use. The disposal of any licensed Radioactive Material must meet applicable local, state or federal requirements;
 - 17.2.11** Any wastewater containing a total petroleum hydrocarbons concentration as determined by a procedure deemed appropriate by the Utility in excess of two hundred (200) mg/l. This limitation shall apply at the point of discharge to the Sewage Disposal System and is the maximum concentration allowed in any single grab sample collected from the waste stream;
 - 17.2.12** Any gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, carbides, hydrides, stoddard solvents, sulfides, epoxides, esters, amines, polynuclear aromatic hydrocarbons, pyridines, new and used motor oil, or antifreeze, except at concentrations which do not exceed levels of such substances which are routinely present in the normal wastewater discharge and do not otherwise violate the conditions of an industrial discharge permit or a special agreement; or
 - 17.2.13** Polychlorinated biphenyls (PCBs) in any detectable concentrations.
- 17.3** No person shall discharge or cause to be discharged a wastewater which has a twenty-four-hour composite value in excess of the values shown below:

Pollutant	Maximum Allowable Concentration 24-Hour Composite Sample Value (mg/l)
Arsenic	4.0
Cadmium	1.2
Chromium (total)	24.0
Chromium (hex)	3.4
Copper	2.2
Cyanide (amenable)	0.4
Lead	4.7
Nickel	7.3
Phenol	46.0
Pentachlorophenol	0.012
Zinc	38.0
Mercury	0.025
Silver	4.2

17.4 The limitations set forth in Section 17.3 apply at the point of discharge to the Sewage Disposal System. The limitations for amenable cyanide, total cyanide and phenols apply to twenty-four-hour composite samples only in those cases where the composite sample is preserved according to EPA approved methods prior to collection. Otherwise, the values set forth for amenable cyanide, total cyanide and phenols or, with the approval of the Utility, any other listed Pollutants shall apply to an instantaneous grab sample taken during prevailing discharge conditions and representative of the facility's discharge in general. The limitations and requirements imposed in Sections 17.1 and 17.2 apply at the point of discharge to the Sewage Disposal System unless specified otherwise.

17.5 No Customer shall change substantially the character or volume of the Pollutants discharged to the Sewage Disposal System without prior notification to the Utility.

18. REQUIRED INSTALLATION OF FOOD WASTE DISPOSER

18.1 An electrically driven grinder capable of reducing Garbage so that it can be accommodated by the Utility's Sewage Disposal System shall be installed in the following Premises, if such Premises are connected to the Utility's Sewage Disposal System:

- 18.1.1** Every newly constructed Premises containing a kitchen; and
- 18.1.2** Every Premises in which a kitchen is added; and
- 18.1.3** Every Premises where construction of a value in excess of two thousand dollars (\$2,000.00), for which a building permit is required, is accomplished on a kitchen; and
- 18.1.4** Every Premises where construction of a value in excess of five hundred dollars (\$500.00), for which a building permit is required, is accomplished on the plumbing system of a kitchen.

19. GREASE INTERCEPTOR

- 19.1** A grease interceptor shall be installed in the waste line leading from sinks, drains and other fixtures or equipment in restaurants, cafes, lunch counters, cafeterias, bars and clubs, hotels, hospitals, factories or school kitchens; or other establishments where grease may be introduced into the drainage or sewage system in quantities that can affect line stoppage or hinder sewage treatment. The characteristics, size and method of installation of the grease interceptor shall meet the requirements imposed by the Indiana Fire Prevention and Building Safety Commission and shall be reviewed and approved by the Utility prior to the commencement of installation. Approval of proposed facilities or equipment does not relieve the person of the responsibility of enlarging or otherwise modifying such facilities to accomplish the intended purpose. A grease interceptor is not required for individual dwelling units or for any private living quarters.
- 19.2** Where installed, all grease interceptors shall be maintained by the Customer, at his or her sole expense, in continuously efficient operation at all times.
- 19.3** The Customer shall provide evidence, such as invoices, that grease interceptors are cleaned and maintained regularly. This evidence shall be sent to the Utility at least annually. The Utility may discontinue water and/or Sewage Disposal Service to customers for their refusal to provide evidence that the grease interceptor has been cleaned and regularly maintained.

20. INDUSTRIAL CUSTOMER WASTE DISCHARGE

- 20.1** Neither the Applicant, Customer nor any occupant of the property or Premises shall discharge, or cause to be discharged, into the service pipe or into the collection Sewer any "industrial wastes" consisting of solids, liquids or gaseous wastes resulting from any industrial or manufacturing operation or process, or from the development of any natural resource, without first obtaining written permission for such discharge from the Utility, and from any regulatory authority or governmental unit having jurisdiction over such a discharge of wastes.

- 20.2** Where necessary in the Utility's opinion, the Applicant or Customer shall provide, at the Applicant or Customer's expense, such pretreatment as may be necessary to reduce objectionable characteristics or constituents to within the maximum limits provided for in these Terms and Conditions for Sewage Disposal Service.
- 20.3** Industrial Customers shall comply with all categorical pretreatment standards, found in 40 CFR Chapter I, Subchapter N, Parts 405-471, the pretreatment standards found in 327 IAC 5-12-6, as well as any rules and regulations adopted by Resolution of the Utility's Board in furtherance of those pretreatment standards.
- 20.4** Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the Customer at the Customer's expense.
- 20.5** Where necessary in the Utility's opinion, the Customer shall provide, at the Customer's expense, such measures as may be necessary to control the quantities and rates of discharge of waters or wastes.

21. ACCIDENTAL DISCHARGE

- 21.1** Each Industrial Customer shall provide protection from Accidental Discharge of substances identified in Section 17 of these Terms and Conditions for Sewage Disposal Service. Facilities to prevent Accidental Discharge shall be provided and maintained at the Customer's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be available to the Utility for review. No Industrial Customer who commences contribution to the Sewage Disposal System shall be permitted to introduce Pollutants into the system until Accidental Discharge procedures are available.
- 21.2** In the case of an Accidental Discharge, it is the responsibility of the Industrial Customer to immediately telephone and notify the Utility of the incident. The notification shall include:
- 21.2.1** Name of Customer;
- 21.2.2** Location of Accidental Discharge;
- 21.2.3** Type of waste discharged;
- 21.2.4** Concentration and volume of waste discharged;

- ## 22. MAINTENANCE OF SERVICE PIPE CONNECTIONS

- EFFECTIVE: October 1, 2012**

- 22.3** The Customer shall not allow their portion of the service pipe to become broken, obstructed, inferior, defective, leaky or imperfect so that sewage or drainage escapes into surrounding soil, adjacent Premises, ground or surface water or other matter enters the Sewage Disposal System. When such conditions are discovered, the Utility reserves the right to discontinue service unless immediate repairs or replacements are made. Such replacements or repairs shall be made by, and at the expense of the Customer or Applicant. Non-compliance with the foregoing requirement exists when any connections or facilities are found by the Utility that will permit storm water, surface water, groundwater, or other non-sanitary sewage drainage to enter into the Sewage Disposal System, regardless of whether actual flow is observed.
- 22.4** The service pipe shall be as specified in the Indiana Plumbing Code. It shall be constructed of materials approved by the Utility and be installed under the inspection of the Utility.
- 22.5** If a Customer requests for his or her convenience or by his or her actions requires that Utility facilities be redesigned, re-engineered, relocated, removed, modified or reinstalled, the Utility will require the Customer to make payment of the full cost of performing such service.

23. MAIN EXTENSIONS

23.1 DEFINITIONS

The following terms as used in Section 23 of these Terms and Conditions for Sewage Disposal Service have the following meanings:

- 23.1.1** "Applicant" means a Person requesting the Main Extension in order to receive sewer utility service from the Utility.
- 23.1.2** "Completion Date of the Main Extension" means the date the Utility declares the Main Extension to be in service and releases it for Taps.
- 23.1.3** "Cost of Connecting" means the average of the Utility's costs for the same size service connection incurred during the preceding calendar year including, if provided by the Utility, the Service Pipe, Tap, and installation thereof or portions thereof; however, the Cost of Connecting shall not be applicable under Section 23 of these Terms and Conditions for Sewage Disposal Service for those portions of such cost recovered from an Applicant by the Utility in the form of a Tap or similar charge.
- 23.1.4** "Cost of the Main Extension" means the cost of installing the Main as determined in Sections 23.5 through 23.7 of these Terms and Conditions for Sewage Disposal Service.
- 23.1.5** "Customer" means a Person being supplied with sewer utility service.

- 23.1.6** “Deposit” means the amount required to be deposited by or on behalf of each Applicant or Prospective Customer for a Main Extension prior to the Utility commencing construction of the Main Extension.
- 23.1.7** “Estimated Annual Revenue” for an Applicant connecting to the Main means the Utility's average annual revenue per applicant from comparable Customers in the calendar year preceding such connection, adjusted to reflect any changes in the applicable rates and charges of the Utility for such service.
- 23.1.8** “Frontage” means the footage, ten (10) feet minimum length, of a Lot or tract (but not an easement) boundary that is parallel to or curvilinear to, and immediately adjacent to a Main Extension in a Public Thoroughfare or easement.
- 23.1.9** “Immediate Revenue Allowance” means the amount of three (3) times the Estimated Annual Revenue less the Cost of Connecting for an Applicant.
- 23.1.10** “Lot” means a parcel of land as platted, or if the area to be served is not platted, the equivalent of a parcel of land as determined in accordance with Section 23.4 of these Terms and Conditions for Sewage Disposal Service.
- 23.1.11** “Main” means a pipe owned by the Utility which connects to Service Pipes for transmitting sewage effluent.
- 23.1.12** “Main Extension” means the Mains and appurtenances installed by the Utility to provide the sewer utility service requested by or on behalf of the Applicant or Prospective Customer, but does not include the Service Pipes.
- 23.1.13** “Original Depositor” means an Applicant who enters into a Main Extension agreement and makes a Deposit with the Utility.
- 23.1.14** “Person” means an individual, firm, corporation, governmental agency, or other entity.
- 23.1.15** “Prospective Customer” means a Person who is not an Original Depositor, but whose Lot or Frontage directly abuts the Main Extension between its original beginning and its original end point.
- 23.1.16** “Public Thoroughfare” means a road, street, or way which has been dedicated for use by the public and accepted by the appropriate governmental authority.

- 23.1.17** “Refund” means the Subsequent Connector's Fees, Subsequent Connector's Revenue Allowances, and Revenue Allowances from Depositor-Authorized Connections of Lots included in the Original Depositor's Main Extension agreement that must be paid by the Utility to the Original Depositor for ten (10) years after the Completion Date of the Main Extension.
- 23.1.18** “Revenue Allowance from Depositor-Authorized Connection” means the amount of three (3) times the Estimated Annual Revenue less the Cost of Connecting that the Utility may refund to Original Depositor for connections for Lots or unplatted areas owned, controlled, or designated by the Original Depositor and does not include an Immediate Revenue Allowance.
- 23.1.19** “Service Pipe” means a sanitary sewer line leading directly from the Premises to the Main adjacent to such Premises.
- 23.1.20** “Subsequent Connector” means a Person who was not an Original Depositor but subsequently applies for sewer service and who connects to the Main within ten (10) years after the Completion Date of the Main Extension.
- 23.1.21** “Subsequent Connector's Fee” means the cash fee equal to the cost per lot of the Main Extension determined in accordance with Sections 23.4 through 23.6 of these Terms and Conditions for Sewage Disposal Service, multiplied by the number of Lots for which service is requested.
- 23.1.22** “Subsequent Connector's Revenue Allowance” means three (3) times the Estimated Annual Revenue for the Subsequent Connector less the Cost of Connecting.
- 23.1.23** “Tap” means a fitting owned by the Utility and inserted by it into a Main to which a Service Pipe is attached.
- 23.1.24** “Total Required Deposit” means the amount by which the Cost of the Main Extension exceeds the Immediate Revenue Allowance for the Original Depositor.

23.2 WRITTEN AGREEMENT

Persons desiring Main Extensions shall apply therefore in writing to the Utility. All Main Extensions require a prior written agreement between the Utility and the prospective Customer or Customers, who shall contract to connect to the Main within nine months after the completion date of the Main Extension and receive service from the Main Extension for a period not less than three years. The Utility shall extend a Main and connect the Applicant free of charge to provide the service requested if:

- 23.2.1 The Cost of the Main Extension does not exceed the Immediate Revenue Allowance for the Applicant; and
- 23.2.2 The Applicant agrees to take service within nine (9) months following the Completion Date of the Main Extension.
- 23.2.3 If the Cost of the Main Extension is greater than the free extension cost, that extension shall be made, upon receipt by the Utility of a signed agreement and a Deposit from the Applicant.
- 23.2.4 The Utility shall not be required to make Main Extensions unless the Applicants to be initially served by those extensions contract to use the service for a period of three (3) years. A bond may be required of the Applicant in this situation.
- 23.2.5 The Utility may require a special contract when: (a) the requested Main Extension is of such length and the prospective business to be developed by it is so meager as to make it doubtful whether the business from the extension would ever pay a fair return on the Utility investment involved in such extension; (b) the prospects are that the patronage and demand will not be of such permanency as to warrant the capital expenditure involved; (c) there are industrial installations requiring extensive sewer utility investment and where the demand for sewer service is expected to be slight, irregular, or of unknown quantity; or (d) there are other abnormal or extraordinary circumstances.

23.3 MAIN EXTENSION ROUTE

- 23.3.1 The Utility shall use good engineering and sewer utility practices in determining the route for all Main Extensions. Any facilities installed in connection with Main Extensions shall become the property of the Utility.
- 23.3.2 The Utility shall determine the total length of the Extension from its existing Main to serve the extension to the end of the Lot or Frontage of the most remote Applicant to be served.
- 23.3.3 If the end Lot or Frontage is a corner Lot or Frontage abutting an intersecting street in which no Main is located, the end of the new extension may not extend beyond the intersecting street corner of that Lot.
- 23.3.4 If the street in which the Main is to be laid dead ends in a cul-de-sac or appears to be permanently dead ended against a railroad, creek, river, or other major physical or natural barrier, the end point of the Main Extension, if serving the most remote Lot or Frontage, shall be the point of the most remote Service Pipe connection, which connection point shall be at least ten (10) feet beyond the Lot line.

23.4 NUMBER OF LOTS SERVED BY MAIN EXTENSION

A determination shall be made of the number of Lots to be served by the Main Extension. The determination may include only Lots which directly abut the Main Extension between its original beginning and its original end point. If any part of the Main Extension is located within an area platted or to be platted, the number of Lots shown within the plat to be served shall be included in the determination. If any part of the Main Extension is located in an unplatted area, the number of Lots to be included shall be determined by dividing the total Frontage of the Main Extension within the unplatted area on either or both sides of the Public Thoroughfare or easement in which the Main is located by one hundred (100) feet and rounded to the nearest whole number of Lots, provided either or both sides are available for future development and not restricted against usage because of limited access or other reasons. The determination of the number of Lots for a particular extension may include a combination of platted and unplatted Lots as defined in this Section. Any further Main Extension subsequently connected to the original Main Extension shall, for all purposes under Section 23 of these Terms and Conditions for Sewage Disposal Service, constitute a separate Main Extension.

23.5 MAIN EXTENSION COST

23.5.1 The Cost of the Main Extension may, as determined by the Utility, be either:

23.5.1.1 The estimated cost of the extension; or

23.5.1.2 The actual cost of a developer-installed extension.

23.5.2 For any special construction, or for any other facility involved in a Main Extension, the cost shall be the Utility's best estimate of the cost of the Main, special construction, or related facilities based upon current available information.

23.5.3 If the Utility's future extension plans require a larger Main than is reasonably necessary to serve the Applicants and Prospective Customers, the difference in the cost for the larger Main size and increased material and installation cost, if any, shall be borne by the Utility.

23.5.4 The estimated cost shall be adjusted to the actual cost by the Utility, in which event the actual cost as finally determined shall constitute the Cost of the Main Extension. If the Main Extension agreement provides for the adjustment of the estimated Cost of the Main Extension to the actual cost, the adjustment shall be made upon completion of the Main Extension. If the actual cost of the extension is less than the estimated cost, the Utility shall refund the difference to the Original Depositor as soon as the actual cost has been determined. If the actual cost of the extension exceeds the estimated cost, then the Utility shall bill the Original Depositor for, and such depositor shall pay, the difference between the estimated cost and the actual cost.

- 23.5.5** For the Main Extension, the Applicant shall be required to pay the Cost of the Main Extension, and the full gross-up any applicable state and federal taxes associated with the cost of the extension and the Applicant shall receive Refunds as provided in Section 23.9 of these Terms and Conditions for Sewage Disposal Service.

23.6 COST PER LOT

The cost per lot shall be determined by:

- 23.6.1** The total number of Lots to be served by the Main Extension divided into the Cost of the Main Extension; or
- 23.6.2** The Cost of the Main Extension shall be divided proportionately on the basis of respective Lot Frontage for all Lots to be served by the Main Extension.

23.7 TOTAL REQUIRED DEPOSIT

- 23.7.1** The Total Required Deposit for a Main Extension may either be made in a cash payment or it may be secured by an irrevocable letter of credit acceptable to the Utility and issued by a national banking association or a bank chartered under the laws of the state. The Deposit may also be secured in any other manner which is mutually acceptable to the parties and which guarantees payment of the Deposit immediately upon completion of the Main Extension.
- 23.7.2** If permitted by the Utility, the Main Extension may be installed by the developer or the developer's contractor according to the extension and installation policies of the Utility, and the actual cost of the developer-installed extension shall be considered the Total Required Deposit.
- 23.7.3** The Utility may allocate, or permit Original Depositors to allocate, the Total Required Deposit on the basis of the number of Lots, the respective Lot Frontage, or any other basis mutually acceptable to the Original Depositors.

23.8 SUBSEQUENT CONNECTOR FEE

- 23.8.1** Within ten (10) years after the Completion Date of the Main Extension, the Utility shall not permit a Subsequent Connector to connect to a Main Extension until after the Subsequent Connector has paid the required Subsequent Connector's Fee to the Utility.

- 23.8.2** Applicants for service connections for Lots in subdivision and tract developments which are included in the Original Depositor's Main Extension agreement, are not required to pay a Subsequent Connector's Fee, unless otherwise specifically provided for in the Main Extension agreement.
- 23.8.3** If a Prospective Customer with Frontage land that was unplatted on one (1) or both sides of the street at the time the Main Extension was installed later subdivides this Frontage prior to the expiration of the ten (10) years after the Completion Date of the Main Extension in such a manner that some or all Lots will not require service directly from that Main Extension, the Customer is considered to have requested another extension from that Main Extension to serve the Customer's land. The Utility in that case shall collect from the Prospective Customer prior to installing the requested second extension, a Subsequent Connector's Fee for each equivalent Lot of the Frontage land used in determining the Main Extension cost per lot and which will not be served directly by the original Main Extension.

23.9 REFUNDS

- 23.9.1** Refunds shall be paid for a period of ten (10) years after the Completion Date of the Main Extension to the Original Depositor in proportion to the respective Deposits. A Deposit shall be held by the Utility as a Customer's advance for construction. Any Deposit which is not subject to refund because of the running of the ten (10) year period shall be transferred by the Utility to contributions in aid of construction.
- 23.9.2** However, no Refunds shall be required to be made by the Utility until the number of Customers actually connected to the Main Extension equals the number of Applicants for which an Immediate Revenue Allowance was included in computing the Total Required Deposit for the Main Extension. The Refunds shall be paid annually or more frequently at regular intervals at the discretion of the Utility.
- 23.9.3** Total Refunds to any Original Depositor shall not exceed the amount of the original Deposit except in the case of a phased residential real estate development. In this situation the preliminary plat must be submitted to the Utility at the time of the first request for a Main Extension. During the ten (10) year period beginning with the completion date of the first Main Extension, the amount of any Refunds generated in excess of the Deposit made on any phase of the development must be applied against the Deposit made for any other phase of the development, so long as the total amount of Refunds to the Original Depositor shall not at any time exceed the total amount of his Deposits during the period. The Utility shall not require any Subsequent Connector's Fee which is in excess of the unrefunded balance of the aggregate of Deposits received from all Original Depositors.

- 23.9.4** The Refund shall be made by mailing the payment to the Original Depositor's last known address as shown on the books and records of the Utility. Any Refund distribution which cannot be returned to an Original Depositor after the Refund becomes due and payable must be reported as required by Indiana Code 32-17.5, et seq.

24. WASTEWATER HAULERS

- 24.1** Any disposal of wastewater into the Sewage Disposal System must be performed by a registered Wastewater Hauler as provided for by resolution of the Utility's Board. Disposal of domestic wastewater or restaurant grease trap waste generated inside or outside Marion County requires no further approval. A Wastewater Hauler disposing of industrial or commercial wastewater generated inside or outside Marion County must obtain special approval.
- 24.2** All discharging of wastewater from the Wastewater Hauler's vehicle tanks must be done at designated sites approved by the Utility. The Utility shall have the right to limit the hours of the day and the days of the week during which discharging shall be allowed. Any unpermitted discharging of wastewater into the Sewage Disposal System is prohibited unless approved by the Utility prior to discharging.
- 24.3** All Wastewater Haulers shall maintain accurate business records pertaining to wastewater hauling, and make them available to the Utility, upon request, including names, addresses, and telephone numbers of the generators of all wastewater being transported and/or disposed of, county of origin, type of waste, volume of waste, and disposal site, customer receipts required under Rule 24.4, and approvals, permits and certifications issued by federal, state and local authorities. All such records shall be retained for a minimum of three (3) years.
- 24.4** The driver of each vehicle delivered to the wastewater treatment plant site for discharging shall have dated customer receipts for each source of wastewater showing the names and addresses of the customers, the nature of the wastewater, amount of wastewater in gallons, Wastewater Hauler's name and legal business address and telephone number, and vehicle driver's name.
- 24.5** All Wastewater Haulers shall compensate the Utility for the full cost of all sampling, laboratory analysis and treatment costs. Fees shall reflect the costs associated with sampling and testing, treatment and administering the program and shall be based on a fee schedule set forth in Rate No. 4.
- 24.6** The Utility shall have a right of entry to, upon or through any Premises for purposes of inspection, measuring and sampling. This right of entry shall include, but not be limited to, any equipment necessary to conduct such inspections, measuring and sampling. It shall be the duty of the Wastewater Hauler to provide all necessary clearance before entry and not to unnecessarily delay or hinder the Utility in carrying out the inspection, measuring and sampling. The right of entry shall exist at any time.

- 24.7 All Wastewater Haulers are subject to Resolutions that may be adopted by the Board with respect to registration, discharge procedures, testing, enforcement procedures and testing.

25. UTILITY LIABILITY

- 25.1 The Utility shall not be liable for damages of any kind or character for any deficiency or failure of Sewage Disposal Service, for the blockage or breaking or Sewer overload of any collection Sewer, wherever located, for any deficiency in any Utility or Customer lateral, attachment or fixtures to any collection Sewer, or any other facility used by the Utility, or for any other interruption of Sewage Disposal Service caused by breaking of machinery, stopping for repairs or for any reason or occurrence beyond the reasonable control of the Utility. The Utility shall not be liable for any damage to any property caused by any of the foregoing reasons or for any other cause beyond the reasonable control of the Utility.
- 25.2 The Utility shall not be held liable for any failure or delay in performing any of the things undertaken by it under any service contract when such failure or delay is caused by strike, acts of God, unavoidable accident, or other contingencies beyond its control, and in no manner due to its fault, neglect, or omission. Nor shall Utility be liable for damage caused by interruption in, or failure of service, or by sewage disposal escaping from piping on Customer's property.
- 25.3 The Utility shall not be liable for the failure, interruption or malfunction, including backup, of its system and service caused by flood, earthquake, high water, war, riot, or civil commotion, vandalism, acts of others, or acts or failure of action of any local governmental authority to enforce or provide proper surface drainage or ditches for surface runoff, or other circumstance over which Utility has no control, where the Utility has used reasonable care in installing and maintaining its system in accordance with acceptable standards in the sewer utility business.

26. INCORPORATION BY REFERENCE

- 26.1 All laws of the United States of America, including the Environmental Protection Agency, the State of Indiana, Rules and Regulations of the Indiana Utility Regulatory Commission and Ordinances of the City of Indianapolis applicable to the rendering of Sewage Disposal Service in the City of Indianapolis, Marion County, Indiana and contiguous areas are hereby incorporated herein by reference.

SEWER RATE NO. 1

NONINDUSTRIAL SEWAGE DISPOSAL SERVICE

AVAILABILITY:

The Nonindustrial rates and charges shall be applied to all Nonindustrial Customers of the Utility as defined in Section 1 of the Utility's Terms and Conditions for Sewage Disposal Service. The Monthly Base Charge, together with the variable Treatment Charges, are subject to the Monthly Minimum Charge as noted in the table below.

RATE:

All Nonindustrial Customers of the Utility shall pay a fixed Monthly Base Charge per connection and a variable Treatment Charge per 1,000 gallons as shown in the table below.

Metered Monthly Rates	Phase I Eff. 1/1/11	Phase II Eff. 1/1/12	Phase III Eff. 1/1/13
Monthly Minimum Charge	\$18.67	\$20.68	\$22.90
Monthly Base Charge	\$6.97	\$7.72	\$8.55
Treatment Charges/1,000 gallons			
First 7,500 gallons	\$3.2274	\$3.5743	\$3.9585
Over 7,500 gallons	\$3.3928	\$3.7575	\$4.1614

In addition, the Environmental Compliance Plan Recovery Mechanism rate from Rider A shall apply.

MINIMUM BILL PER MONTH:

Each Nonindustrial Customer will pay a Monthly Minimum Charge if the combined Base Charge, Treatment Charges, and Rider A charges are less than the Monthly Minimum Charge. Seasonal customers will receive bills during all Months of the year even when only the Monthly Minimum Charge is due.

BILLING DURING SUMMER MONTHS:

In the case of one-, two- or multi-family residences, the billing for Sewage Disposal Service for the Months of May, June, July, August and September shall be based upon the monthly average of the water used or delivered for the previous twelve (12) Months of May through April. In the event the monthly average of the water used or delivered for such previous twelve (12) Months is greater than the water used or delivered for the Months of May, June, July, August and September, then the billing for sewage service shall be computed on the actual water used in the Month for which the Sewage Disposal Service bill is being rendered.

SEWER RATE NO. 1 - NONINDUSTRIAL SEWAGE DISPOSAL SERVICE (Cont'd)

WATER USED FOR FIRE PROTECTION:

Where a metered water supply is used for fire protection as well as for other uses, the Utility may, at its sole discretion, make adjustments in the sewer user charge as may be equitable. In such cases the burden of proof as to the type of water usage shall be upon the Customer.

Where a metered water supply is used for fire protection only, the sewer user charge shall not apply.

PAYMENT:

If the bill is not paid within seventeen days after its date of issue, a Late Payment Charge will be added as provided in Appendix A.

SEWER RATE NO. 2

INDUSTRIAL SEWAGE DISPOSAL SERVICE

AVAILABILITY:

The Industrial rates and charges shall be applied to all Industrial Customers of the Utility as defined in Section 1 of the Utility's Terms and Conditions for Sewage Disposal Service. The Monthly Base Charge, together with the variable Treatment Charges, are subject to the Monthly Minimum Charge as noted in the table below.

RATE:

All Industrial Customers of the Utility shall pay a fixed Monthly Base Charge per connection, in addition to variable Treatment Charges and Excessive Strength Surcharges as shown in the table below.

Metered Monthly Rates:	Phase I Eff. 1/1/11	Phase II Eff. 1/1/12	Phase III Eff. 1/1/13
Monthly Minimum charge	\$19.22	\$21.29	\$23.58
Monthly Base charge	\$6.97	\$7.72	\$8.55
Treatment charges/1,000 gallons	\$3.3928	\$3.7575	\$4.1614
Industrial Surveillance Rate--Per 1,000 gallon	\$0.1616	\$0.1790	\$0.1982
Total Treatment and Surveillance Rate--Per 1,000 gallons	\$3.5544	\$3.9365	\$4.3596
Excessive Strength Surcharges--Per pound:			
BOD in excess of 250 mg/l	\$0.2202	\$0.2439	\$0.2701
SS in excess of 300 mg/l	\$0.2487	\$0.2754	\$0.3050
NH ₃ in excess of 20 mg/l	\$1.1466	\$1.2699	\$1.4064

In addition, the Environmental Compliance Plan Recovery Mechanism rate from Rider A shall apply.

MINIMUM BILL PER MONTH:

Each Industrial Customer will pay a Monthly Minimum Charge if the combined Monthly Base Charge, together with the variable Treatment Charges are less than the Monthly Minimum Charge.

SEWER RATE NO. 2 - INDUSTRIAL SEWAGE DISPOSAL SERVICE (Cont'd)

PAYMENT:

If the bill is not paid within seventeen days after its date of issue, a Late Payment Charge will be added as provided in Appendix A.

SPECIAL PROVISIONS:

Where pretreatment is necessary in order to comply with the Utility's Terms and Conditions for Sewage Disposal or categorical pretreatment standards found in 40 CFR Chapter I, Subchapter N, Parts 405—471 and 327 IAC 5-12-6, Industrial Customers shall be subject to charges and fees established by the Utility's Board (with the approval of the Commission) to provide for the recovery of costs of the pretreatment program. The applicable charges or fees may include: (1) fees for reimbursement of costs of setting up and operating the pretreatment program; (2) fees for monitoring, inspections and surveillance procedures; (3) fees for reviewing accidental discharge procedures and construction; (4) fees for filing appeals; (5) fees for consistent removal (by the Utility) of pollutants otherwise subject to federal pretreatment standards; (6) other fees as the Board of the Utility (with the approval of the Commission) may deem necessary to carry out the requirements of the pretreatment program.

SEWER RATE NO. 3

FATS, OIL AND GREASE CHARGE

APPLICABILITY:

Customers that are by Ordinance required to be licensed as a food/cooking establishment, or which the Utility, in its sole discretion determines are a commercial food/cooking establishment, shall be subject to a monthly charge for "Fats, Oil & Grease" ("FOG"). The FOG charge will support the additional costs of administering, monitoring, and treating the excessive strength waste associated with these establishments.

RATE:

The monthly FOG charge is shown in the table below.

	Phase I Eff. 1/1/11	Phase II Eff. 1/1/12	Phase III Eff. 1/1/13
Monthly Rate	\$20.00	\$25.00	\$30.00

SEWER RATE NO. 4

SEPTIC AND GREASE HAULER RATES

APPLICABILITY:

Septic and grease haulers shall pay the metered rates and charges set forth below for septic waste and grease based upon the applicable in-county and out-of-county customer rate classifications.

RATE:

The monthly metered rates applicable to septic and grease haulers are set forth in the table below.

Metered Monthly Rates:	Phase I Eff. 1/1/11	Phase II Eff. 1/1/12	Phase III Eff. 1/1/13
In County Septic: Per 1,000 Gallons	\$68.09	\$75.41	\$83.52
In County Grease Waste: Per 1,000 Gallons	\$344.12	\$381.11	\$422.08
Out of County Septic: Per 1,000 Gallons	\$102.01	\$112.98	\$125.13
Out of County Grease Waste: Per 1,000 Gallons	\$378.20	\$418.86	\$463.89

In addition, the Environmental Compliance Plan Recovery Mechanism rate from Rider A shall apply.

RIDER A

ENVIRONMENTAL COMPLIANCE PLAN RECOVERY MECHANISM

The charges specified in Sewer Rate Nos. 1, 2, and 4 shall be adjusted from time to time to reflect an Environmental Compliance Plan ("ECP") Recovery Mechanism. Pursuant to Indiana Code 8-1-28, the ECP Recovery Mechanism shall recover the costs of complying in whole or in part with the requirements of the Safe Drinking Water Act or the Clean Water Act.

RATE:

To be determined.

APPENDIX A

MISCELLANEOUS NONRECURRING CHARGES

1. INDUSTRIAL CUSTOMER LATE REPORTING CHARGE

In the event that an Industrial Customer fails to submit the report required under Section 8 of the Utility's Terms and Conditions for Sewage Disposal Service by the twenty-fifth (25th) day of the following Month, the Industrial Customer shall pay late reporting charges according to the following schedule:

Late Reports Filed in any Year	Charge
First late report	No charge
Second late report	No charge
Each subsequent late report	\$100.00

2. LATE PAYMENT CHARGE

A Utility Services bill that has remained unpaid for a period of more than seventeen (17) days following the mailing of the bill shall be considered delinquent in accordance with Section 8 of the Utility's Terms and Conditions for Sewage Disposal Service. In such event, a Late Payment Charge will be added to the Utility Services bill in the amount of ten percent (10%) of the first three dollars (\$3.00) of Sewage Disposal Service and three percent (3%) on the amount in excess of three dollars (\$3.00).

3. DELINQUENT ACCOUNT COLLECTION CHARGE

A charge may be made for each visit to the Customer's Premises to collect a delinquent Utility Services account. Such charge to the Customer shall be fourteen dollars (\$14.00).

4. RECONNECTION CHARGE

When Sewage Disposal Service is turned off for non-payment of a bill, or for any reason beyond the control of the Utility, and a reconnection of Sewage Disposal Service is required by any one Customer, a charge will be made by the Utility to cover the cost of discontinuance and reconnection of service; such charge shall be forty-four dollars (\$44.00) per Meter or Customer. The Customer shall pay the Reconnection Charge, along with any Sewage Disposal Service arrears due, and comply with all other requirements set forth in Section 12 of the Utility's Terms and Conditions for Sewage Disposal Service before Sewage Disposal Service will be reconnected.

5. RETURNED CHECK CHARGE

Each Customer that causes a check for Utility Services to be returned by their financial institution due to their account not having sufficient funds to allow such check to be processed, shall be charged eleven dollars (\$11.00) per check to cover the cost the Utility incurs to re-process the original transaction.

6. RATE FOR TEMPORARY USERS

Sewage Disposal Service furnished to temporary users, such as contractors, shall be charged on the basis of schedules set forth in Rate 1 or Rate 2 depending on the characteristics of the temporary user. The amount of usage shall be estimated and established by the Utility before service is rendered.

MISCELLANEOUS NONRECURRING CHARGES (Cont'd.)

7. USAGE INFORMATION CHARGE

A summary of Customer usage by meter for the most recent twenty-four (24) month period may be accessed at www.citizensenergygroup.com. A Usage Information Charge shall be assessed to the Customer for requests for usage summary by meter beyond the twenty-four (24) month period. Such charge to the Customer shall be eighteen dollars (\$18.00) per customer usage summary per meter.

APPENDIX B

CONNECTION FEE

1. CONNECTION FEE

A baseline Connection Fee of two thousand five hundred dollars (\$2,530.00) per equivalent dwelling unit (“EDU”), will be assessed for all new connections to the Sewage Disposal System. A new connection includes new sewer service or modification of an existing sewer service agreement; however, replacement or repair of an existing individual building sewer that does not increase EDU’s will not constitute a new connection. EDU’s shall be determined in accordance with industry standards and reflect the greater of the actual daily flow requirements (per 327 IAC 3), the area ratio of the water meter size serving a particular user, or such other means of determination deemed appropriate by the Utility. One (1) EDU shall be estimated as equal to three hundred ten (310) gallons per day.

2. EXTENSION, AMENDMENT, OR TRANSFER OF AUTHORITY TO CONNECT TO THE SEWAGE DISPOSAL SYSTEM

The fee for extending the authority granted by the Utility to connect to the Sewage Disposal System beyond 180 days shall be \$30. The fee for amending an application for connection shall be \$30. The fee for transferring the authority granted by the Utility to connect to the Sewage Disposal System, which transfer must be done with the consent of the Utility shall be \$30.

**Appendix H: Certificate of Closing Submitted to the City-County Council of
Indianapolis and Marion County**

EXECUTION VERSION

THE SANITARY DISTRICT OF THE CITY OF INDIANAPOLIS, ACTING BY AND THROUGH THE BOARD OF PUBLIC WORKS

Closing Certificate

I, David R. Sherman, Director of the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "DPW"), hereby certify that:

1. I am the duly elected, authorized and acting Director of the DPW and, as Director, I have access to the DPW's records and am familiar with the matters certified in this Certificate.

2. I am authorized to execute and deliver this Certificate in the name and on behalf of the DPW.

3. This Certificate is being delivered pursuant to Section 13.02, Section 13.16 and Section 13.25 of the Asset Purchase Agreement By and Among the City of Indianapolis and The Sanitary District of the City of Indianapolis, Acting By and Through the Board of Public Works, as Sellers; and The Department of Public Utilities for the City of Indianapolis, Acting By and Through the Board of Directors For Utilities, as Trustee, in Furtherance of the Public Charitable Trust for the Water System and CWA Authority, Inc., as Purchaser, dated as of August 11, 2010 (the "Purchase Agreement"). The terms used in this Certificate and not defined in this Certificate have the respective meanings specified in the Purchase Agreement.

4. The representations and warranties made by the DPW in the Purchase Agreement are true and correct in all material respects on and as of the Closing Date as if made by the DPW on and as of that date.

5. The DPW has performed in all material respects with all obligations in the Purchase Agreement required to be performed by the DPW on or before the Closing Date.

6. The DPW expended at least Five Million Twenty-Three Thousand Three Hundred Seventy Dollars (\$5,023,270) through the end of 2010 from the Sanitary District's Sanitation General Fund (also known as the Sanitation Liquid Waste Fund), in a fashion commonly called paygo, for capital improvements to the System (as defined in the Purchase Agreement) as contemplated by the CIP Plan (as defined in the Purchase Agreement).

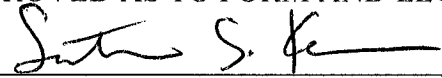
7. The DPW has expended at least One Million Six Hundred Five Thousand Fifteen Dollars (\$1,605,015) during 2011 from the Sanitary District's Sanitation General Fund (also known as the Sanitation Liquid Waste Fund), in a fashion commonly called paygo, for capital improvements to the System (as defined in the Purchase Agreement) as contemplated by the CIP Plan (as defined in the Purchase Agreement).

IN WITNESS WHEREOF, I have executed this Certificate as of the Closing Date.

A handwritten signature in black ink, appearing to read "David R. Sherman", written over a horizontal line.

David R. Sherman
Director

APPROVED AS TO FORM AND LEGALITY:

By: A handwritten signature in black ink, appearing to read "Samantha S. Karn", written over a horizontal line.

Name: Samantha S. Karn

Title: Corporation Counsel, City of Indianapolis

CWA AUTHORITY, INC.

CLOSING CERTIFICATE

The undersigned, Carey B. Lykins, the duly elected, authorized, qualified and acting President and Chief Executive Officer of CWA Authority, Inc., an Indiana non-profit corporation ("Purchaser"), pursuant to Section 12.02 and Section 12.10 of that certain Asset Purchase Agreement, dated as of August 11, 2010, by and among the Department of Public Utilities for the City of Indianapolis, acting by and through the Board of Directors for Utilities, as trustee, in furtherance of the public charitable trust for the wastewater system, Purchaser, the City of Indianapolis and The Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "Purchase Agreement"), does hereby certify on behalf of Purchaser as follows:

1. All representations and warranties made by the Purchaser in the Purchase Agreement are true and correct in all material respects on and as of the date hereof as if made by Purchaser on and as of the date hereof.

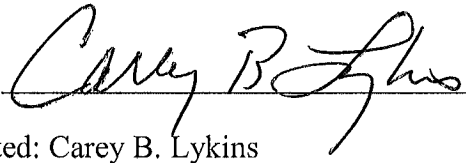
2. Purchaser has performed in all material respects all of its obligations required under the Purchase Agreement to be performed by Purchaser on or before the date hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto signed my name as of the Closing Date.

"PURCHASER"

CWA AUTHORITY, INC.

By: _____

Printed: Carey B. Lykins

Its: President and Chief Executive Officer

EXECUTION VERSION

CITY OF INDIANAPOLIS

Closing Certificate

I, Gregory A. Ballard, Mayor of the City of Indianapolis (the "City"), hereby certify that:

1. I am the duly elected, authorized and acting Mayor of the City and, as Mayor, I have access to the City's records and am familiar with the matters certified in this Certificate.

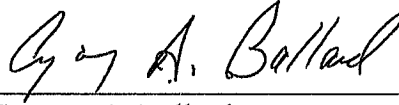
2. I am authorized to execute and deliver this Certificate in the name and on behalf of the City.

3. This Certificate is being delivered pursuant to Section 13.02 and Section 13.25 of the Asset Purchase Agreement By and Among the City of Indianapolis and The Sanitary District of the City of Indianapolis, Acting By and Through the Board of Public Works, as Sellers; and The Department of Public Utilities for the City of Indianapolis, Acting By and Through the Board of Directors For Utilities, as Trustee, in Furtherance of the Public Charitable Trust for the Water System and CWA Authority, Inc., as Purchaser, dated as of August 11, 2010 (the "Purchase Agreement"). The terms used in this Certificate and not defined in this Certificate have the respective meanings specified in the Purchase Agreement.

4. The representations and warranties made by the City in the Purchase Agreement are true and correct in all material respects on and as of the Closing Date as if made by the City on and as of that date.

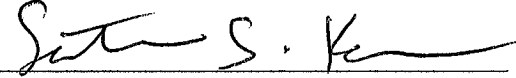
5. The City has performed in all material respects with all obligations in the Purchase Agreement required to be performed by the City on or before the Closing Date.

IN WITNESS WHEREOF, I have executed this Certificate as of the Closing Date.



Gregory A. Ballard
Mayor

APPROVED AS TO FORM AND LEGALITY:

By: _____

Name: Samantha S. Karn

Title: Corporation Counsel, City of Indianapolis

**THE DEPARTMENT OF PUBLIC UTILITIES FOR THE CITY OF INDIANAPOLIS,
ACTING BY AND THROUGH THE BOARD OF DIRECTORS FOR UTILITIES, AS
TRUSTEE, IN FURTHERANCE OF THE PUBLIC CHARITABLE TRUST FOR THE
WASTEWATER SYSTEM**

CLOSING CERTIFICATE

The undersigned, Carey B. Lykins, the duly elected, authorized, qualified and acting President and Chief Executive Officer of The Department of Public Utilities for the City of Indianapolis, acting by and through the Board of Directors for Utilities, as trustee, in furtherance of the public charitable trust for the wastewater system ("Citizens"), pursuant to Section 12.02 and Section 12.10 of that certain Asset Purchase Agreement, dated as of August 11, 2010, by and among the Department of Public Utilities for the City of Indianapolis, acting by and through the Board of Directors for Utilities, as trustee, in furtherance of the public charitable trust for the wastewater system, Purchaser, the City of Indianapolis and The Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "Purchase Agreement"), does hereby certify on behalf of Citizens as follows:

1. All representations and warranties made by the Citizens in the Purchase Agreement are true and correct in all material respects on and as of the date hereof as if made by Purchaser on and as of the date hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, I have hereunto signed my name as of the Closing Date.

"CITIZENS"

THE BOARD OF DIRECTORS FOR
UTILITIES OF THE DEPARTMENT OF
PUBLIC UTILITIES FOR THE CITY OF
INDIANAPOLIS, AS TRUSTEE, IN
FURTHERANCE OF THE PUBLIC
CHARITABLE TRUST FOR THE
WASTEWATER SYSTEM

By: Carey B. Lykins

Printed: Carey B. Lykins

Its: President and Chief Executive Officer

Appendix I: Legal and Regulatory Mechanisms Established through the Asset Transfer for the Industrial Pretreatment Program

Appendix I-1: City-County General Ordinance No.36, 2011

Appendix I-2: Pretreatment Program Enforcement and Cooperation Agreement

Appendix I-3: Agreed Order Executed with the Indiana Department of Environmental Management

Appendix I-4: Order on Consent Executed with the U. S. EPA

Appendix I-1: City-County General Ordinance No.36, 2011

CITY-COUNTY GENERAL ORDINANCE NO. 36, 2011
Proposal No. 211, 2011

PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to revise various sections to reflect the transfer of the water and wastewater systems to the Department of Public Utilities of the City of Indianapolis, acting by and through the Board of Directors for Utilities ("Citizens") and to CWA Authority, Inc. of Citizens, respectively, and to make corresponding technical corrections.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Chapter 102 of the "Revised Code of the Consolidated City and County," regarding definitions, hereby is amended by the addition of a NEW Section 102-2.5, to read as follows:

Sec. 102-2.5. Citizens Energy Group.

Citizens Energy Group means the department of public utilities for the city of Indianapolis, acting by and through the board of directors for utilities or any other authority exercised by Citizens Energy Group.

SECTION 2. Chapter 102 of the "Revised Code of the Consolidated City and County," regarding definitions, hereby is amended by the addition of a NEW Section 102-8.5, to read as follows:

Sec. 102-8.5. CWA authority.

CWA Authority means CWA Authority, Inc., the Indiana nonprofit corporation established pursuant to an interlocal cooperation agreement dated August 9, 2010, by and among the city of Indianapolis, the sanitary district of the city of Indianapolis, acting by and through the board of public works, and the department of public utilities of the city of Indianapolis, acting by and through the board of directors for utilities (and on behalf of the utility special taxing district by the board of directors for utilities), or Citizens Energy Group, as a successor thereto.

SECTION 3. Section 103-501 of the "Revised Code of the Consolidated City and County," regarding definitions, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 103-501. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them in this section.

Bureau of environmental services means the bureau of environmental services of the department of code enforcement, or its designee.

DPW means the department of public works.

Environmental violation means ~~and includes a violation of one (1) or more of the following:~~

- ~~(1) A regulation, adopted by the Indianapolis Air Pollution Control Board under the authority of section 511-401 of the Code, a violation of which constitutes a violation of chapter 511 pursuant to section 511-403;~~
- ~~(2) Section 511-403 of the Code, "enforcement of permits; permit fees and the requirement to obtain a permit;"~~
- ~~(3) Section 511-701 of the Code, "air pollution;"~~
- ~~(4) Section 511-702 of the Code, "open burning restricted; general prohibitions;"~~
- ~~(5) Chapter 575 of the Code, "environmental public nuisances;"~~
- ~~(6) Chapter 671, Article I, of the Code "general;"~~
- ~~(7) Chapter 671, Article II, of the Code "building sewers;"~~

- (8) Chapter 671, Article III, of the Code "~~industrial discharge permits;~~"
- (9) Chapter 671, Article VI, of the Code "~~wastewater hauling;~~" and
- (10) Section 760-105 of the Code, "~~mandatory water conservation; exemptions;~~"

a violation of a provision of the Code for which the bureau of environmental services has enforcement authority pursuant to Section 226-403 of the Code.

Party and parties means and includes the city and respondents.

SECTION 4. Section 103-504 of the "Revised Code of the Consolidated City and County," regarding notice of administrative hearing, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 103-504. Notice of administrative hearing.

(a) Whenever DPW or the bureau of environmental services issues a notice of violation for an environmental violation or determines that an environmental public nuisance as defined in chapter 575 exists, DPW or the bureau of environmental services may either refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in this article. ~~Whenever the department of waterworks determines that a violation of section 706-105 of the Code has occurred, the department may either refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in this article.~~

(b) Service of notice of administrative hearing shall be by United States mail to the respondent's last known address, or by personal service. For a violation of chapter 575, a notice of administrative hearing sent by United States mail, postage prepaid, to the owner of said real estate at the address to which property tax statements for the real estate are sent, as these addresses are shown by the most current records in the assessor's office, shall be sufficient notice to the property owner under this section. Service on an artificial person or a person incompetent to receive service shall be made on a person allowed to receive service under the rules governing civil actions in the courts. ~~DPW or the department of waterworks shall keep a~~ A record of the time, date and manner of service shall be kept.

(c) ~~DPW or the department of waterworks shall cause a~~ A copy of each notice issued pursuant to this section ~~to~~ shall be delivered to the hearing officer who will preside over the hearing.

(d) Each notice of administrative hearing shall include the following information:

- (1) A caption for the hearing, which shall include the name of each party expected to participate in the hearing, and an official file or other reference number;
- (2) A statement of the date, time and place of the hearing;
- (3) A statement of the nature of the hearing, including the legal authority under which the hearing is to be held, and a summary of the parties' procedural rights at the hearing;
- (4) A statement of the date, time, place, and nature of each alleged violation, and the maximum penalty that can be imposed thereupon;
- (5) The official title, and mailing address of the hearing officer and a telephone number through which information concerning the hearing may be obtained;
- (6) The official title, mailing address and telephone number of the person who has been designated to appear on behalf of the city; and
- (7) A statement that a party who fails to respond to the notice of the hearing, or to participate in the hearing, may be held in default.

(e) Notice of administrative hearing shall be issued at least twenty (20) days prior to the date of the hearing.

SECTION 5. Section 103-511 of the "Revised Code of the Consolidated City and County," regarding the written transcript of an administrative hearing, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 103-511. Written transcript of hearing; preparation and cost.

At the written request of respondent, DPW or ~~the department of waterworks~~ the bureau of environmental services shall provide a written transcript of the audio tape recording of the hearing. Respondent shall pay DPW or ~~the department of waterworks~~ the bureau of environmental services the reasonable cost of preparing the written transcript, unless respondent files with the hearing officer under oath and in writing, a statement of indigency as described in IC 33-37-3-2. Respondent may cause to be prepared, at his or her own expense, a written transcript which that DPW or ~~the department of waterworks~~ the bureau of environmental services shall review and certify as to accuracy.

SECTION 6. Chapter 135, Article III, Division 9 of the "Revised Code of the Consolidated City and County," regarding the water conservation fund, hereby is REPEALED.

SECTION 7. Chapter 135, Art. VII, of the "Revised Code of the Consolidated City and County," regarding special funds, shall be and hereby is amended by the addition of a NEW Division 5, to read as follows:

DIVISION 5. REBUILDINDY FUND

Sec. 135-751. RebuildIndy fund created.

(a) There is hereby created a special fund, to be designated as the "RebuildIndy fund" in the Department of Public Works. The fund shall be a subfund of the Consolidated County Fund.

(b) The controller shall deposit in the RebuildIndy fund any moneys resulting from the transfer of the water and wastewater systems as provided by the agreements referred to and approved by Special Ordinance No. 7, 2010.

(c) This fund shall be a continuing, nonreverting fund, with all balances remaining therein at the end of the year, and such balances shall not revert to the city or county general funds. No moneys derived from property taxes shall be deposited into this fund.

(d) The purpose of this fund is to provide revenue for expenses relating to capital improvement projects and the demolition or deconstruction of vacant or abandoned properties, together with costs and expenses incidental thereto, including certain costs and expenses related to the transactions contemplated by the agreements referred to and approved by Special Ordinance No. 7, 2010, and to fund liabilities excluded from the Escrow fund provided for by the agreement transferring the wastewater system referred to and approved by Special Ordinance No. 7, 2010.

(e) No moneys appropriated to the Department of Public Works may be expended from the RebuildIndy fund without the approval of the Director of the Department of Public Works and the approval of the Board of Public Works. Moneys from this fund shall be otherwise appropriated and expended in accordance with the procedures for expenditures of public funds.

(f) After the closing of the transactions contemplated by the agreements referred to and approved by Special Ordinance No. 7, 2010, and following the reconciliation of accounts payable and accounts receivable on the water and the wastewater systems, such funds shall be transferred to the RebuildIndy fund.

(g) At such time as the two-year period of the escrow fund ends and all funds have been distributed from it in accordance with the agreement transferring the wastewater system referred to and approved by Special Ordinance No. 7, 2010, any remaining funds received by the City shall be deposited to the RebuildIndy fund.

(h) The controller shall report to the council on amounts deposited into the RebuildIndy fund in accordance with this section.

SECTION 8. The Revised Code of the Consolidated City and County be, and is hereby amended by adding a new Division 6 in the Article VII of Chapter 135, to read as follows:

DIVISION 6 - FISCAL STABILITY FUND

Sec. 135-761. Fiscal Stability fund created:

(a) There is hereby created a special fund, to be designated as the "Fiscal Stability fund" in the Office of Finance and Management. The fund shall be a subfund of the Consolidated County Fund.

(b) This fund shall be a continuing, nonreverting fund, with all balances remaining therein at the end of the year, and such balances shall not revert to the city or county general funds. No moneys derived from property taxes shall be deposited into this fund.

(c) The purpose of this fund is to demonstrate the city's commitment to maintaining a AAA bond rating from rating agencies. The fund shall exist until such time as this section is repealed by ordinance of the council, with the moneys in the fund then transferred to the RebuildIndy fund, following a notification by the controller that rating agencies do not need to rely on this fund to maintain its credit rating due to transfer of more than \$1.5 billion in debt in the agreements referred to and approved by Special Ordinance No. 7, 2010, and the city's continued prudent fiscal management.

SECTION 9. Section 182-2 of the "Revised Code of the Consolidated City and County," regarding the definition of "capital improvement program," hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 182-2. Capital improvement program defined.

(a) "~~Capital improvement program~~" Capital improvement program means a plan for the construction, reconstruction, renovation, rehabilitation, refurbishment, improvement and maintenance of the following:

- (1) Roads, streets, highways, thoroughfares, sidewalks, bridges and other public ways.
- (2) ~~Wastewater treatment facilities, sanitary sewers, storm sewers, combined sewers and sewage works of any kind.~~
- (32) Stormwater systems, drains, levees and flood control projects.
- (43) Park and recreational facilities, including greenways.
- (54) Fire and police stations.
- (65) Facilities or systems for the collection, transportation, transfer and disposal of solid waste.

(b) The capital improvement program shall include recommendations for:

- (1) Annual capital/construction expenditures; and
- (2) Annual maintenance expenditures;

for the entire term of the capital improvement program.

SECTION 10. Section 226-303 of the "Revised Code of the Consolidated City and County," regarding the bureau of license and permit services, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 226-303. Bureau of License and permit services.

(a) The bureau of license and permit services hereby is established within the division of administration, logistics, licenses and permits. The bureau shall be managed by an administrator, known as the license administrator, who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureau of license and permit services shall have the powers and duties that it is authorized or required to exercise under this Code, including but not limited to those powers and duties with respect to the issuance of licenses, registrations, and permits, as provided in the following provisions of the Code:

- (1) Chapter 391, regarding nuisances;
- (2) Chapter 536, regarding buildings and construction;
- (3) Chapter 561, regarding drainage and sediment control;
- (4) Chapter 591, regarding fire prevention and protection;
- (5) Chapter 611, regarding motor vehicles;
- (6) Chapter 645, regarding public rights-of-way;
- (7) ~~Chapter 671, regarding sewers and sewage disposal;~~
- (8) Chapter 701, regarding trees and flora;
- (9) Chapter 730, Article III, regarding improvement location permits; and,
- (10) Title IV, regarding business and commercial regulations and licenses.

SECTION 11. Section 226-403 of the "Revised Code of the Consolidated City and County," regarding the bureau of environmental services, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 226-403. Bureau of environmental services.

(a) The bureau of environmental services hereby is established within the division of inspections. The bureau shall be managed by an administrator who is appointed by and serves at the pleasure of the deputy director of the division, subject to the approval of the director.

(b) The bureau of environmental services shall have the powers and duties to make inspections and otherwise enforce provisions of statutes or ordinances relating to the protection of the environment and ecology as required by statute or ordinance, or as assigned by the mayor, including but not limited to the following provisions of the Code:

- (1) Chapter 361, regarding litter;
- (2) Chapter 391, regarding nuisances;
- (3) Chapter 431, regarding streets, sidewalks and public ways;
- (4) Chapter 511, regarding air pollution;
- (5) Chapter 575, regarding environmental public nuisances;
- (6) Chapter 601, regarding garbage, trash and refuse; and
- (7) Chapter 671, Articles I, III and VI, regarding sewers and sewage disposal;

- (8) Chapter 672, regarding general discharge prohibitions and private wastewater disposal systems;
- (9) Chapter 706, regarding water conservation; and
- (710) Chapter 955, regarding waste, rubbish and trash hauling.

(c) Within the bureau of environmental services, the director of code enforcement shall designate the bureau administrator or another bureau employee to be the city inspector of weights and measures as provided in IC 24-6-3-4, and subject to the council's powers as provided in IC 36-3-4-23, for the purpose of requiring and securing of dealers and other persons accurate and honest weights and measures and so to serve the public welfare. The inspector of weights and measures and other employees of the bureau who make inspections with respect to weights and measures shall:

- (1) Have special police powers as provided in Chapter 251, art. VI of the Code;
- (2) At all times carry and present to any person, upon demand, a card inscribed with his or her name and official capacity, and upon such showing of his or her official authority he or she shall be permitted, at all reasonable times and hours, to enter any premises for the performance of his or her duties; and
- (3) Have the powers and duties to inspect and test, to the same extent and in all matters as now prescribed by statute, all articles whatsoever sold by weight or measure in the city.

SECTION 12. Section 261-102 of the "Revised Code of the Consolidated City and County," regarding the powers and duties of the department of public works, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 261-102. Powers; duties.

The department of public works shall exercise those powers and duties granted by state statute, this chapter or other chapters of this Code, or as delegated by the mayor, to discharge its responsibilities, as follows:

- (1) To plan, finance, budget, design, construct, operate, fix, repair, clean, and maintain all public streets and ways systems, stormwater systems (including ground water to the extent it affects stormwater systems), ~~wastewater systems, groundwater systems,~~ solid waste services, and parking services within the city;
- (2) To protect the city's investment in its infrastructure systems and facilities by developing and maintaining adequate engineering standards and procedures in support of the permitting process and all capital assets and infrastructure facilities; and,
- (3) To ensure the environmental safety of the city by providing adequate planning, coordination, and operation of environmental management programs including all environmental considerations both inside and outside its geographic jurisdiction.

SECTION 13. Section 261-302 of the "Revised Code of the Consolidated City and County," regarding the engineering division of the department of public works, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 261-302. Engineering division.

(a) The engineering division shall provide for systems inventory management, capital and maintenance planning/programming, capital and repair project development, design, and construction for all physical infrastructure assets which ~~that~~ are required for all streets and ways, ~~and~~ stormwater, wastewater, and groundwater systems.

(b) The engineering division shall be responsible for establishing and maintaining all engineering standards, standard specifications, and guidelines for the design, construction, operation, and permitting of all city transportation ~~and water management facilities~~ and stormwater infrastructure systems.

SECTION 14. Section 261-303 of the "Revised Code of the Consolidated City and County," regarding the operations division of the department of public works, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 261-303. Operations division.

The operations division shall provide for the operation, maintenance, cleaning, and repair of all streets and ways; and stormwater; ~~wastewater, and groundwater~~ systems. The operations division shall provide for the pickup and disposal of solid waste and other citizen services as directed.

SECTION 15. Section 261-405 of the "Revised Code of the Consolidated City and County," regarding the powers of the board of public works, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 261-405. Powers.

The board of public works shall:

- (1) Review all budgets prepared by the department of public works and recommend to the city-county council any revisions the board feels desirable;
- (2) Review all budgets of the metropolitan thoroughfare district and recommend to the city-county council any revisions or adjustments as the board deems desirable;
- (3) Hold any hearings to be held following public notice and make such findings and determinations required by applicable law to be made after such hearing, including but not limited to the issuance of special taxing district bonds;
- (4) Approve the award and amendment of contracts by the department for the purchase or lease of capital equipment, supplies, materials, services, or other property where the contract is required to be bid under IC 5-22;
- (5) Approve the award and amendment of public construction contracts required to be bid under IC 36-1-12;
- (6) Approve the acquisition of and leases for real estate;
- (7) Approve the disposal of property by the department of public works as specified in IC 36-1-11, excluding leases of real property, pursuant to IC 36-1-11, for the siting of cellular, digital personal communications systems, or other wireless communications systems towers and related equipment;
- (8) Approve the employment of persons engaged by contract to render professional or consulting services;
- (9) Accept streets and roads into the public road system after dedication pursuant to the procedure set forth in Chapter 691 of this Code;
- (10) Exercise waste collection and disposal powers as described in IC 36-9-31;
- (11) Exercise the powers given to the board of public works in Chapters 361, 391 and 674 672 of this Code;
- (12) Contract with any individual or corporation for supplying the city with gas, water, steam, power, heat, wastewater treatment or electricity, but any such contract shall be submitted to the city-county council for approval; no such contract shall be for a term of longer than twenty-five (25)

years; and this power shall not interfere with the exclusive power of the board of public works to enter into contracts for the lighting of public streets pursuant to this chapter;

- (13) Hold hearings on appeal from denial of permits or waivers under the jurisdiction of the department of public works;
- (14) Exercise the powers granted to the board of public works by IC 36-9-22, IC 36-9-37, IC 36-9-38 and IC 36-9-39;
- (15) Exercise all powers granted to the transportation board or capital asset management board by IC 36-9-6.5 and IC 36-9-11.1;
- (16) Contract with any individual or corporation for providing streetlights, maintenance for streetlights and lighting for streets, alleys or public places, but any such contract shall be submitted to the city-county council for approval; no such contract shall be for a term of longer than twenty-five (25) years;
- (17) Exercise flood control power as described in IC 36-9-29.1, and drainage power as described in IC 36-9-27;
- (18) Exercise all powers not specifically stated herein formerly granted to the board of transportation, the board of public works, the board of capital asset management, or the board of asset management and public works;
- (19) Promulgate, pursuant to the procedures established in Chapter 141 of the Code, rules and regulations with respect to the department's powers, including but not limited to rules and regulations regarding contract administration and compliance of public construction pursuant to contracts awarded by the board or department of public works with regard to cost reduction incentives; and
- (20) Any other powers granted by statute or ordinance or delegated by the mayor.

SECTION 16. Section 261-502 of the "Revised Code of the Consolidated City and County," regarding the Marion County Stormwater Management Advisory Committees, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 261-502. Marion County Stormwater Management Advisory ~~Committees~~ Committee.

(a) The Marion County Stormwater Management Technical Advisory Committee ("technical advisory committee") is created to advise the board.

- (1) The technical advisory committee shall provide direction in the periodic update of the stormwater master plan by providing recommendations on watershed analysis, capital project need, priorities and engineering design and advising on other technical matters relating to stormwater quantity and quality issues in Marion County. The technical advisory committee's recommendations on the stormwater master plan, to the extent that is reasonable and feasible, shall coordinate the stormwater master plan with the following:

a. ~~Combined Sewer Overflows (CSO) Operational Plan;~~

b. ~~Sanitary Sewer Overflow (SSO) program;~~

a. Combined and sanitary overflow programs of CWA Authority;

cb. Efforts to phase out urban septic systems not designed for permanent public health protection;

dc. Marion County Health Department's mosquito control efforts and a rational wetland habitat protection policy;

ed. Levee maintenance to address major river rises; and

fe. Efforts to improve stormwater quality in Marion County surface and ground waters.

(2) The technical advisory committee shall consist of eight (8) members, who shall serve at the pleasure of the person or group that makes the appointment. Members shall be appointed as follows:

a. Two (2) members shall be appointed by the councils of excluded cities as provided in section 131-425 of the Code, one (1) by Lawrence, and one (1) by Southport;

b. Three (3) members shall be appointed by the mayor and shall be property owners in Marion County; ~~No~~ more than two (2) mayoral appointees shall be of the same political party; and

c. Three (3) members shall be appointed by the city-county council and shall be property owners in Marion County. Two (2) council appointees shall be appointed upon nomination of the majority leader and one (1) shall be appointed upon nomination by the minority leader. No more than two (2) council appointees shall be of the same political party.

All persons appointed shall have suitable technical experience and training, preferably in water management, to participate in the tasks set forth for the committee. All committee members may be appointed for successive terms. Vacancies occurring by reason of death, resignation or removal, shall be filled by the official or group that made the appointment for the balance of the unexpired term.

(3) All members shall be appointed for three-year terms ending on December 31.

(b) Technical advisory committee meetings shall be scheduled by the department and shall be open to the public.

SECTION 17. Chapter 273 of the "Revised Code of the Consolidated City and County," regarding the department of waterworks, hereby are REPEALED.

SECTION 18. Section 391-116 of the "Revised Code of the Consolidated City and County," regarding the disposal of matter from privies, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 391-116. Disposal of matter from privies.

It shall be unlawful and a public nuisance for any person to convey, discharge or deposit the matter from any privy upon the streets or public places of the city or upon the property of another person, or to cause the same to be done by another, ~~except where so authorized by this Code; but such matter may be discharged by any private sewer into any public sewer discharging into the city disposal plant or into a proper septic tank; or may be disposed of by a person licensed therefor by the city.~~

SECTION 19. Section 451-6 of the "Revised Code of the Consolidated City and County," regarding the possession and discharge of weapons along or on reservoirs, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

Sec. 451-6. ~~Possession and discharge~~ Discharge of weapons on property of the department of waterworks along or on reservoirs.

(a) It shall be unlawful for any person, unless authorized by resolution of the board of directors of the department of waterworks Citizens Energy Group, to discharge any firearms ~~or have possession of any~~ firearms or other explosive devices, or to endanger others by the use of any weapon, article or device, along or upon any reservoir owned, controlled or leased by ~~the department of waterworks~~ Citizens Energy Group located in Marion County.

~~(b) The possession of a handgun by a person licensed to carry a handgun under IC 35-47-2 or by a person exempted from those licensing requirements by IC 35-47-2 shall not be unlawful under this section.~~

(b)(e) The discharge of a firearm in the protection of life or property as permitted by IC 35-41-3-2 shall not be unlawful under this section.

(c)(d) Traditional fireworks celebrations and similar activities approved by the board of directors of Citizens Energy Group are not prohibited by this section.

SECTION 20. Section 536-802 of the "Revised Code of the Consolidated City and County," regarding the installation of food waste disposers, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 536-802. Required installation of food waste disposer.

An electrically driven grinder capable of reducing garbage so that it can be accommodated by the sewerage facilities of the ~~Indianapolis Sanitary District~~ CWA Authority shall be installed in the following dwelling units, if such dwelling units have in place or available to them a connection to the sewerage facilities of the ~~Indianapolis Sanitary District~~ CWA Authority:

(a1) Every newly constructed dwelling unit containing a kitchen; and

(b2) Every dwelling unit in which a kitchen is added; and

(c3) Every dwelling unit where construction of a value in excess of two thousand dollars (\$2,000.00), for which a building permit is required, is accomplished on a kitchen; and

(d4) Every dwelling unit where construction of a value in excess of five hundred dollars (\$500.00), for which a building permit is required, is accomplished on the plumbing system of a kitchen.

SECTION 21. Articles II, IV, V, VII and VIII, inclusive, of Chapter 671 of the "Revised Code of the Consolidated City and County," regarding sewers and sewage disposal hereby are REPEALED.

SECTION 22. Articles I, III and VI, inclusive of Chapter 671 of the "Revised Code of the Consolidated City and County," regarding the wastewater industrial pretreatment program hereby are REPEALED.

SECTION 23. Title III of the "Revised Code of the Consolidated City and County," regarding public health and welfare, hereby is amended by the addition of a NEW Chapter 672 regarding general discharge prohibitions and private wastewater disposal systems, to read as follows:

CHAPTER 672

**GENERAL DISCHARGE PROHIBITIONS AND
PRIVATE WASTEWATER DISPOSAL SYSTEMS**

Sec. 672-101. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Building sewer means the extension from the building drain to the public sewer or other place of disposal and shall include that portion of the drain within the public right-of-way.

Combined sewer means a sewer that has been designed or intended to receive both surface runoff and sewage.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Sanitary sewer means a sewer that carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Wastewater means a combination of the liquid and water-carried pollutants from residences, commercial businesses, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Sec. 672-102. General discharge prohibitions.

It shall be unlawful to discharge or cause or allow discharge to any natural outlet or watercourse within the city any wastewater or other polluted waters or hazardous materials, except where suitable treatment has been provided in accordance with regulations adopted by CWA Authority and other applicable federal, state and local law.

Sec. 672-103. Prohibited discharges to public sewers.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage into any sanitary sewer.

(b) Stormwater and all other unpolluted drainage may be discharged through existing structures to such sewers as are specifically designated as combined sewers or storm sewers. No additional flow shall be introduced. Industrial cooling waters or unpolluted process waters may only be discharged upon approval by CWA Authority.

(c) No person shall discharge or cause to be discharged to any public sewer wastewater or pollutants other than in compliance with the regulations adopted by CWA Authority, and all other applicable federal, state and local law.

Sec. 672-104. Private wastewater disposal systems.

(a) Except as provided in this section, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.

(b) Where a public sanitary or combined sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

(c) Before the commencement of construction of a private wastewater disposal system, the owner shall first obtain all necessary permits, including a permit issued by the Marion County health department.

(d) The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations of the Indiana State Board of Health and of the Marion County health department. No septic tank or cesspool shall be permitted to discharge into any natural outlet in any circumstance.

(e) Nothing contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Marion County health department.

(f) The owner of private wastewater disposal facilities shall operate and maintain such facilities in a sanitary manner at all times, at no expense to the city.

(g) When a private wastewater disposal system is abandoned, any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with clean gravel or dirt.

SECTION 24. Chapter 706 of the "Revised Code of the Consolidated City and County," regarding water conservation, hereby is amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

CHAPTER 706
WATER CONSERVATION

Sec. 706-101. Application.

This chapter applies to the use of water from the ~~Indianapolis Water Public Water System~~ that occurs in the county water system.

Sec. 706-102. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section.

Advisory conditions means conditions under which voluntary conservation measures are appropriate due to decreased supplies in the ~~Indianapolis Water Reservoirs~~ reservoirs, or other circumstances have reduced the amount of treated water available to customers, as determined by ~~Indianapolis Water Citizens Energy Group~~.

Customer means an individual, firm, corporation, government agency or other entity being supplied with water utility service by ~~Indianapolis Water~~ Citizens Energy Group at a location within the county.

~~Indianapolis Water~~ means the City of Indianapolis Department of Waterworks.

~~Indianapolis Water Reservoirs~~ means Geist Reservoir and Morse Reservoir.

Mandatory conservation means compliance with ~~Indianapolis Water's~~ Citizens Energy Group's imposition of requirements that are designed to reduce certain kinds and types of water use.

Normal conditions means conditions under which water supply and treatment capacity are adequate to meet all demands.

Treated water means water treated in a manner that it is suitable for human consumption or for another designated use.

Vegetable garden means a garden where substantially all of the plants are suitable and grown primarily for human consumption.

Voluntary conservation means compliance with Citizens Energy Group's request to reduce water use.

Water emergency means an occurrence wherein ~~M~~mandatory ~~C~~conservation measures are appropriate due to the levels in either of the ~~Indianapolis Water~~ reservoirs having been reduced to less than their designed drawdown curves or less than an estimated twenty-five (25) percent of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by ~~Indianapolis Water~~ Citizens Energy Group.

Water system means the water system in the county owned and operated by Citizens Energy Group.

Water user means a customer or other individual, firm, corporation, government agency, or other entity using water within the county from the ~~Indianapolis Water~~ public water system ~~within the county~~.

Water warning means an occurrence wherein mandatory conservation measures are appropriate due to the levels in either of the ~~Indianapolis Water~~ reservoirs having been reduced to less than their designed drawdown curves or less than an estimated fifty (50) percent of their annual drawdown design capacities, groundwater wells not functioning properly due to reduced groundwater levels, or the existence of other circumstances that have reduced the amount of treated water available to customers, as determined by ~~Indianapolis Water~~ Citizens Energy Group.

Sec. 706-103. Voluntary conservation.

During normal conditions and advisory conditions, water users should follow the voluntary conservation measures as found in the ~~Wise Water User Policy~~ water conservation policy adopted by the Board of Directors of Indianapolis Water Citizens Energy Group.

~~It shall be the public policy of the City of Indianapolis to direct the Indianapolis Water and the Board of Waterworks to establish a rate structure that provides a financial incentive to customers to conserve water. Such a rate structure shall provide that customers are charged a water usage rate which encourages the conservation of our public water supply through lower fees and rates per cubic foot of water consumption as the customer and/or water user uses a lower volume of water and for higher fees and rates per cubic foot of water consumption as the customer and/or water user uses a greater volume of water.~~

Sec. 706-104. Declaration of need; notice.

(a) ~~Upon determining being notified by Citizens Energy Group that the Indianapolis Water Public Water System~~ water system is in a condition of water shortage, the mayor of the city may declare the existence of a water warning or water emergency, whereupon the respective water conservation measures described in section 706-105 of this chapter shall apply until the water warning or emergency is terminated. Whenever the mayor finds that some or all of the conditions that gave rise to the declaration of a water warning or water emergency no longer exist, he the mayor may declare the water warning or water emergency terminated.

(b) Notice of the declaration or termination of a water warning or water emergency shall be made by publication in a newspaper of general circulation. Notice shall be deemed effective upon publication.

Sec. 706-105. Mandatory water conservation; exemptions.

(a) During a water warning or a water emergency, it shall be unlawful for a water user to cause, permit, allow, do, or engage in any of the following actions:

- (1) Sprinkling, watering, or irrigating of grass;
- (2) Washing cars, trucks, trailers, mobile homes, railroad cars or any other type of mobile equipment, except as required by applicable local, state, or federal law for health or safety reasons;
- (3) Using water to clean sidewalks, driveways, paved areas, structures, buildings, or other outdoor surfaces;
- (4) Filling empty swimming pools;
- (5) Installing new landscaping or new lawn by using sod until return to normal conditions are declared by Indianapolis Water the mayor;
- (6) Using hydrants except for fire suppression or as otherwise directed by Indianapolis Water; and
- (7) Operating water fountains that are non-recycling.

(b) In addition to the prohibitions listed in subsection (a), it shall be unlawful during a water emergency for a water user to cause, permit, allow, do, or engage in any outdoor watering; provided, however, that vegetable gardens may be watered every other day by container or hand-held hose equipped with shut-off nozzle.

(c) The following water users and water uses shall be exempt from the prohibitions contained in subsections (a) and (b) of this section:

- (1) Nurseries, provided water use is limited to the amount essential to preserve inventories;

(d) The following water users and water uses may be exempted by the mayor from the prohibitions contained in subsections (a) and (b) of this section:

- (1) Automatic commercial car washes, provided a majority of the water used is recycled;
- (2) Manual commercial car washes, provided only a handheld hose equipped with a shut-off nozzle is utilized; and
- (3) Golf courses, provided tee boxes and greens are watered only on an every other day schedule that begins on Monday of each week and fairways are watered only once per week on Thursday; and
- (4) Any watering of property owned or controlled by the Department of Parks and Recreation as directed by the mayor or mayor's designee where such watering is necessary or appropriate for asset preservation.

Sec. 706-106. Enforcement Violations.

(a) Each customer shall be responsible for compliance with section 706-105 of this chapter with respect to the premises where the customer receives water service. If the identity of the water user cannot be ascertained, the customer shall be prima facie liable for violations that occur on such premises.

(b) A person's first and second violations of section 703-105 in any twelve-month period shall be subject to an admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with chapter 103, article III, of the Code.

(c) With respect to violations not resolved under chapter 103, article III, of the Code, including a person's third and subsequent violations of section 703-105 in a twelve-month period, ~~Indianapolis Water~~ the department of code enforcement may refer the matter to the city prosecutor to file an enforcement action in court, or issue a notice of administrative hearing as provided in chapter 103, article V of the Code. Violations under this subsection are subject to the general penalties provided in section 103-3 of the Code; however, the penalty for each such violation shall not be less than five hundred dollars (\$500.00).

(d) All monies collected from violation of this chapter shall be deposited in the ~~water conservation enforcement fund created by section 135-304~~ county general fund.

Sec. 706-107. Enforcement.

This chapter shall be enforced by the ~~divisions of compliance of the department of metropolitan development and any other designee of the director of the department of metropolitan development~~ department of code enforcement.

Sec. 706-108. Nonexclusive.

This chapter is not intended to be, and shall not be, exclusive with respect to any further water conservation measures or the enforcement thereof, as may be adopted by Citizens Energy Group.

SECTION 25. Chapter 711 of the "Revised Code of the Consolidated City and County," regarding extension of public utility water services by ordinance to areas with contaminated private wells, hereby is REPEALED.

SECTION 26. Reflecting the approvals and authorizations in Special Ordinance No. 7, 2010, the council confirms that, in administering the Publicly Owned Treatment Works industrial pretreatment program required by 40 CFR Section 403.8 and approved by USEPA, CWA Authority, Inc., as the owner of the wastewater collection and treatment system serving the inhabitants of the city is authorized and empowered: (i) to provide for the general regulation of discharges to the public sewers; (ii) to adopt and set forth uniform requirements for discharges into, the construction of, and additions to the wastewater collection and treatment system; (iii) to prohibit noncompliance with and to enforce the requirements of sections 307(b) and (c) and 402(b)(8) of the Clean Water Act and any regulations implementing those

sections; and (iv) to seek or assess fines or penalties consistent with Section 103-3(a) of the Revised Code and Ind. Code § 36-1-3-8(a)(10)(B).

SECTION 27. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance, or any regulation, does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 28. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 29. SECTION 22 of this ordinance shall be in full force and effect following its passage by the council and upon the occurrence of the following:

- (1) Receipt, by the clerk of the council, of certification by the Mayor and the President and Chief Executive Officer of Citizens Energy Group that closing on the transactions contemplated in the asset purchase agreements has occurred; and;
- (2) The effective date of approval by the US Environmental Protection Agency of the transfer of the wastewater industrial pretreatment program to CWA Authority, Inc.; and
- (3) Publication of a notice in compliance with Ind. Code § 36-3-4-14 (c) specifying satisfaction of the requirements set forth in items 1 and 2 above and stating that SECTION 22 of this ordinance is effective as of the date of publication of such notice.

SECTION 30. SECTIONS 1 through 21, inclusive, and SECTIONS 23 through 26, inclusive, of this ordinance shall be in full force and effect following its passage by the council and upon the occurrence of the following:

- (1) Receipt, by the clerk of the council, of certification by the Mayor and the President and Chief Executive Officer of Citizens Energy Group that closing on the transactions contemplated in the asset purchase agreements has occurred; and
- (2) Publication of a notice in compliance with Ind. Code § 36-3-4-14 (c) and specifying satisfaction of the requirement set forth in item 1 above and stating that SECTIONS 1 and 21, inclusive, and SECTIONS 23 through 26, inclusive, of this ordinance are effective as of the date of publication of such notice.

SECTION 31. SECTIONS 27 through 31, inclusive, of this ordinance shall be in full force and effect from and after passage by this Council and upon compliance with Ind. Code § 36-3-4-14.

The foregoing was passed by the City-County Council this 15th day of August, 2011, at 9:45 p.m.

ATTEST:


Melissa Thompson
Clerk, City-County Council


Ryan Vaughn
President, City-County Council

Presented by me to the Mayor this 18th day of August, 2011.

Melissa Thompson

Melissa Thompson
Clerk, City-County Council

Approved and signed by me this 11 day of August, 2011.

Gay A. Sullivan

Gregory A. Ballard, Mayor

STATE OF INDIANA, MARION COUNTY)

CITY OF INDIANAPOLIS

) SS:

I, Melissa Thompson, Clerk of the City-County Council, Indianapolis, Marion County, Indiana, do hereby certify the above and foregoing is a full, true, and complete copy of Proposal No. 211, 2011, a Proposal for **GENERAL ORDINANCE**, passed by the City-County Council on the 15th day of August, 2011, by a vote of 25 YEAS and 1 NAY, and was retitled General Ordinance No. 36, 2011, which was signed by the Mayor on the 17 day of August, 2011, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Indianapolis, Indiana, this 17 day of August, 2011.

Miss Mary

Melissa Thompson
Clerk, City-County Council

(SEAL)

Indianapolis City - County Council
Public Assembly Room
Regular Session

RCS# 2123

8/15/2011 9:45 PM

Proposal: Prop211
Sponsor: Councillor Vaughn
Action: ADOPT
Committee: Rules and Public Policy

Ordinance: G.O. 36

Yea: 25 Nay: 1 Abstain: 0 Not Voting: 2 Excused: 1

Yea: 25

Cain	Gray	Mansfield	Pfisterer
Cardwell	Hunter	McHenry	Rivera
Cockrum	Lewis	McQuillen	Sandlin
Coleman	Lutz	Minton-McNeill	Vaughn
Day	Mahern, B	Moriarty	
Evans	Mahern, D	Nytes	
Freeman	Malone	Oliver	

Nay: 1

Sanders

Not Voting: 2

Bateman Brown

Excused: 1

Scales

Appendix I-2: Pretreatment Program Enforcement and Cooperation Agreement

**PRETREATMENT PROGRAM ENFORCEMENT
AND COOPERATION AGREEMENT**

This PRETREATMENT PROGRAM ENFORCEMENT AND COOPERATION AGREEMENT, (the "Agreement") dated as of August 26, 2011, is being entered into by and among the City, the District and the Authority.

WITNESSETH

WHEREAS, the City, the District and Citizens, as political subdivisions, exercised powers jointly pursuant to the Interlocal Agreement authorized by ordinance or resolution of each of them and authorized the creation of the Authority, as a separate legal entity organized as an Indiana nonprofit corporation for the purpose of exercising all of the respective rights, powers, functions and duties of the City, the District and Citizens that are necessary, useful or appropriate to the acquisition, ownership and operation of the System, including but not limited to, the powers required for an Approved POTW Pretreatment Program and jurisdiction over disposal of sewage, industrial wastes or other wastes and City, the District and Citizens have the ability to transfer and/or delegate to, and vest in, the Authority all powers of the City, the District and Citizens that are necessary, useful or appropriate to the acquisition, ownership and operation of the System (excluding in the case of the City and the District, taxing power and taxing authority);

WHEREAS, the Authority qualifies as a publicly owned treatment works within the meaning of the Clean Water Act;

WHEREAS, the City-County Council for and on behalf of the City adopted an ordinance authorizing the execution, delivery and performance of the Interlocal Agreement and authorized the transfer of the powers, duties, functions and obligations set forth therein from the District to the Authority;

WHEREAS, Citizens and the District have adopted resolutions authorizing the execution, delivery and performance of the Interlocal Agreement;

WHEREAS, the City, the District and Citizens have adopted substantially identical resolutions authorizing the transfer and exchange of the System pursuant to Indiana Code 5-22-22-10 and Indiana Code 36-1-11-8;

WHEREAS, the EPA has directed the Authority to apply for delegation as the Control Authority pursuant to an Approved POTW Pretreatment Program after the consummation of the transactions contemplated by the Asset Purchase Agreement and the transfer of the System;

WHEREAS, prior to the delegation from EPA to the Authority of an Approved POTW Pretreatment Program, EPA and IDEM have directed that the Authority shall operate the City's Approved POTW Pretreatment Program;

WHEREAS, IDEM and the Authority intend to enter in to a negotiated agreement setting forth the terms of the Authority's operation of the City's Approved POTW Pretreatment Program,

which negotiated agreement shall include compliance with the NPDES permit and enforcement of the Approved POTW Pretreatment Program;

WHEREAS, the NPDES permit contains the requirements to operate an Approved POTW Pretreatment Program;

WHEREAS, the parties to this Agreement require that the NPDES permit shall transfer to the Authority as of the Closing;

WHEREAS, the Authority requires all legal authority necessary to operate the City's POTW Pretreatment Program;

WHEREAS, in connection with the execution of the Asset Purchase Agreement, the performance of the Authority's obligations thereunder and the provision of wastewater collection and treatment services from and after the Closing, the City, the District and Citizens, having determined that this Agreement is in the best interests of the City, the District, Citizens, the inhabitants of the City and the customers of the System;

NOW, THEREFORE, in consideration of the premises and the representations, warranties, covenants and agreements contained herein, the City, the District and the Authority agree as follows:

ARTICLE I.

PURPOSE

This Agreement provides for the exercise by the Authority of the powers delegated and/or transferred to it on behalf of the City, the District and the Authority for the benefit of the inhabitants of the City and the customers of the System to allow it to operate the City's Approved POTW Pretreatment Program in accordance with the NPDES permit and as directed by IDEM and EPA prior to the delegation from EPA to the Authority of an Approved POTW Pretreatment Program. The recitals set forth in the Preamble to this Agreement are incorporated by reference herein.

ARTICLE II.

DEFINITIONS

Section 2.1. As used in this Agreement, the following terms shall have the meanings specified below:

(a) "Interlocal Agreement" means that certain Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater), dated as of August 9, 2010, by and among the City, the District and The Authority, as amended from time to time in accordance with its terms.

(b) "Approved POTW Pretreatment Program" means a program administered by a publicly owned treatment works that meets the criteria established in 40 C.F.R. 403.8 and 403.9, which has been approved in accordance with 40 C.F.R. 403.11.

(c) "Asset Purchase Agreement" means that certain Asset Purchase Agreement by and among the City, the District, Citizens and the Authority dated August 11, 2010 regarding the System.

(d) "Authority" means CWA Authority, Inc., an Indiana nonprofit corporation.

(e) "Citizens" means the Department of Public Utilities for the City of Indianapolis, acting by and through the Board of Directors for Utilities.

(f) "City" means the City of Indianapolis, Indiana.

(g) "City-County Council" means the City-County Council of the City serving as the legislative and fiscal body of the City and the fiscal body of the District.

(h) "Clean Water Act" means the Federal Water Pollution Control Amendments of 1972, as amended from time to time, and codified at 15 U.S. Code 1251 *et seq.*

(i) "Closing" means the time at which all of the following shall have occurred: (i) all necessary approvals of this Agreement by state officers or state agencies having the power to control the provision of services by the System shall have taken effect and (ii) the consummation of the sale and purchase of the System in accordance with the terms and conditions of the Asset Purchase Agreement as provided for in Section 14.01 of the Asset Purchase Agreement shall have occurred.

(j) "District" means the Sanitary District of the City, acting by and through the Board of Public Works.

(k) "EPA" means the U. S. Environmental Protection Agency.

(l) "Nonprofit Act" means the Indiana Nonprofit Corporation Act of 1991, Indiana Code 23-17, as amended from time to time.

(m) "NPDES Permit" means NPDES Permit No. IN0023183 for the Belmont Advanced Wastewater Treatment Plant Marion County.

(n) "Party" means a party to this Agreement, and "Parties" means all of them.

(o) "System" means the wastewater collection and treatment system owned and operated by the District, including without limitation, the Belmont and Southport wastewater treatment plants.

ARTICLE III.

AGREEMENTS

Section 3.1. Appointment. The City hereby appoints the Authority as its agent to operate the City's Approved POTW Pretreatment Program prior to the delegation from EPA to the Authority of an Approved POTW Pretreatment Program.

Section 3.2. Enforcement. The City and the District hereby acknowledge and agree that authority to initiate, conduct, and resolve enforcement proceedings against industrial dischargers or other persons pursuant to the Authority's operation of the City's Approved POTW Pretreatment Program, and thereafter the Authority's Approved POTW Pretreatment Program, if any, shall vest in the Authority. The City and the District: (i) shall not take independent enforcement action or other administrative action under the City's Approved POTW Pretreatment Program; and (ii) shall not permit its departments, employees or staff to take any such action or proceeding. None of the City, the District, nor any department, employee or staff of the City or the District shall take any action inconsistent with the Authority's enforcement proceedings or other administrative proceedings, or the Authority's determinations not to proceed with such actions.

Section 3.3. Cooperation. The City and the District shall take, or cause to be taken, all actions and do, or cause to be done, all things commercially reasonable to effectuate the Authority's operation of the City's Approved POTW Pretreatment Program. The Parties acknowledge that smooth operation of the City's Approved POTW Pretreatment Program will be facilitated to a substantial degree by the fact that knowledgeable persons utilized by the City and the District, including contractors, that have knowledge of the operation of the City's Approved POTW Pretreatment Program will be employed by or otherwise performing services for the Authority. The City and the District each agree to execute and deliver such documents, certificates, agreements and other writings and to take such other commercially reasonable actions as may be necessary or desirable in order to effectuate the Authority's operation of the City's Approved POTW Pretreatment Program. At the request of Citizens or the Authority and without further consideration, from time to time, the City and the District shall execute, acknowledge and deliver in proper form any further instruments, and take such other commercially reasonable actions as Citizens and/or the Authority may reasonably require in order to effectively carry out the intent of this Agreement and the operation of the City's Approved POTW Pretreatment Program and the Authority's Approved POTW Pretreatment Program, if any. The Authority agrees to provide to the City copies of reports and advance copies of notices related to the POTW Pretreatment Program that the Authority submits to EPA or IDEM, and other reports or information as may be reasonably requested by the City. The Authority further agrees to hold periodic status meetings with the City. To the extent available, the City agrees to have employees or consultants knowledgeable of matters related to the Approved POTW Pretreatment Program attend any such status meetings, and to provide advice and consultation to the Authority.

ARTICLE IV.

TERM AND AMENDMENT

Section 4.1. Term. This Agreement shall remain in full force and effect until such time as the Authority receives a delegated Approved Pretreatment Program from the EPA or no longer operates the City's Approved Pretreatment Program pursuant to agreement by the Authority with IDEM. In the event the EPA informs the City and the Authority that EPA has made a final determination that it does not intend to approve the Authority's application for delegation as the Control Authority pursuant to an Approved POTW Pretreatment Program, the City and the Authority agree to negotiate in good faith to determine actions that will be taken to effect the original intent of the parties as closely as possible under the Interlocal Agreement and the Asset Purchase Agreement to the fullest extent permitted by applicable law.

Section 4.2. Amendment. Unless explicitly set forth otherwise in this Agreement, this Agreement may only be changed, amended, modified, appended to or supplemented prior to Closing and then only by a writing consented to as a change, amendment, modification, appendix or supplement to this Agreement by all of the City, the District and the Authority.

ARTICLE V.

REMEDIES, INDEMNIFICATION, WAIVER AND IMMUNITY

Section 5.1. Indemnification by the Authority.

(a) To the extent permitted by applicable law, subject to subsection (b) hereof, the Authority shall indemnify and hold harmless the City and its successors and affiliates and its employees, officers, directors and agents from and against any and all damages, losses, obligations, liabilities, claims, penalties, costs and expenses, but excluding any incidental, consequential, punitive or exemplary damages, special damages, indirect damages, unrealized expectation, lost profits or other similar items and under no circumstances shall any damages be calculated using a "multiplier" or any similar method having a similar effect, (each, an "Indemnity Loss") directly or indirectly resulting from the failure by the Authority, prior to delegation of a Pretreatment Program to the Authority, to exercise commercially reasonable efforts to operate the City's Approved POTW Pretreatment Program in accordance with applicable law.

(b) Notwithstanding the foregoing, the Authority shall have no liability with respect to any indemnification arising from a matter which would constitute an Excluded Liability or result from an Excluded Liability under the Asset Purchase Agreement.

Section 5.2. Indemnification by the City and the District. To the extent permitted by applicable law, the City and the District shall, jointly and severally, indemnify and hold harmless the Authority its successors and affiliates and its employees, officers, directors and agents from and against any Indemnity Loss directly or indirectly resulting from any breach or

alleged breach or nonfulfillment of any of the representations, warranties and covenants of the City and the District in this Agreement.

Section 5.3. Procedure. The party seeking indemnification shall following the procedures set forth in Section 9.05(a), (b) and (d) of the Asset Purchase Agreement.

Section 5.4. Remedies.

(a) In the event of any breach, threatened breach, non-performance or other violation of any obligation of this Agreement by any Party, the sole and exclusive remedy of any other Party under this Agreement shall be the remedy of injunctive relief for specific performance, or the payment of fines, costs and expenses as provided in Section 5.1(a). Under no circumstances shall any Party have a right to any other remedy, including but not limited to rescission, cancellation, or reformation of this Agreement for any reason, or consequential damages of any kind.

(b) Any action, suit or other proceeding related in any way to this Agreement, including but not limited to an action, suit or proceeding that alleges a breach, threatened breach, non-performance or any other violation by a Party of any obligation under this Agreement shall be instituted, prosecuted and maintained exclusively in a court of competent jurisdiction located in Marion County, Indiana. Any right that may exist to a change of venue from Marion County, Indiana to another court outside Marion County, Indiana is hereby WAIVED and shall not be asserted in any litigation.

(c) No action, suit or other proceeding for any breach, threatened breach, non-performance or any other violation by a Party under this Agreement shall be instituted, prosecuted or maintained by another Party, unless, prior to instituting such action, suit or other proceeding: (i) the Party seeking to institute such action, suit or other proceeding has given such other Party notice of such breach, threatened breach, non-performance or any other violation and demand for performance; and (ii) the Party upon which notice was served has failed to cure such breach or violation within thirty (30) days after such notice.

(d) Notwithstanding anything to the contrary herein, this Agreement shall not preclude or otherwise affect the exercise by a Party of any right, remedy, duty or obligation it may have under the Asset Purchase Agreement, which rights, remedies, duties and obligations shall be governed by the Asset Purchase Agreement.

Section 5.5. Waiver. A failure by a Party to institute any suit, action or other proceeding for any breach or violation by another Party of any obligation under this Agreement shall not constitute a waiver by such Party of such breach or violation.

Section 5.6. Immunity of Officers, Directors, Members, Employees and Agents. No recourse shall be had for any claim based upon any obligation in this Agreement against any past, present or future official, officer, director, member, employee or agent of the Parties, as such, under any rule of law or equity, statute or constitution.

*Appendix I-3: Agreed Order Executed with the Indiana Department of Environmental
Management*



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels, Jr.
Governor

Thomas W. Easterly
Commissioner

August 26, 2011

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

VIA CERTIFIED MAIL

Ann W. McIver, Director
Environmental Stewardship
Citizens Energy Group
2020 N. Meridian St.
Indianapolis, IN 46202

Dear Ms. McIver:

Re: Adoption of Agreed Order
Commissioner, Indiana Department of
Environmental Management

v.

CWA Authority, Inc.
NPDES IN0023183
Case No. 2011-20255-W
Indianapolis, Marion County

This is to inform you that the Agreed Order in the above-referenced case has been approved and adopted by the Indiana Department of Environmental Management. A copy of the Agreed Order is enclosed.

Please note the terms of compliance contained in the Agreed Order. The time frames for compliance are effective upon your receipt of this correspondence. If you have any questions, please contact Terry Ressler, case manager, at (317)232-8433. Thank you for your cooperation in this matter.

Sincerely,

Mark W. Stanifer, Chief
Water Enforcement Section
Surface Water, Operations &
Enforcement Branch
Office of Water Quality

Enclosure

cc: Marion County Health Department



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels, Jr.

Governor

Thomas W. Easterly

Commissioner

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

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

COMMISSIONER OF THE DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT,)
)
Complainant,)
)
v.) Case No. 2011-20255-W
)
CWA AUTHORITY, INC.,)
)
Respondent.)

AGREED ORDER

The Indiana Department of Environmental Management ("IDEM"), by its Commissioner, and CWA Authority, Inc. ("CWA Authority") desire to set forth the terms under which the CWA Authority will implement the City of Indianapolis ("City") approved industrial pretreatment program ("IPP") prior to agency approval of modifications to delegate that program directly to the CWA Authority, through entry of this Administrative Agreed Order ("Agreed Order").

I. JURISDICTION

1. As set forth below, this Agreed Order is entered into by IDEM and CWA Authority provides for (a) operation by the CWA Authority of the City's pretreatment program on or prior to CWA Authority's receipt of delegation of its own pretreatment program; (b) certain actions to be taken by CWA Authority with respect to revisions to the pretreatment program (as set forth herein) and (c) the transfer of the NPDES Permit (as defined herein) prior to approval by the U.S. Environmental Protection Agency ("EPA") of a modification to delegate the pretreatment program directly to CWA Authority.
2. IDEM is the agency with the duty and the responsibility to administer and enforce the provisions of Indiana Code ("IC") IC 13-15, 327 IAC 2 and 327 IAC 5 and to issue National Pollutant Discharge Elimination System ("NPDES") permits.

3. The EPA is the party with the responsibility to administer and enforce the pretreatment program in accordance with 40 CFR Part 403.
4. IDEM represents that it has the authority to enter into this Agreed Order. IDEM has jurisdiction over the parties and the subject matter of this action. IDEM has conferred with EPA and the agencies are in agreement that IDEM has jurisdiction to enter into the specific terms of this Agreed Order.
5. IDEM represents that it has the authorization from, and an understanding with, EPA to transfer NPDES permit IN0023183 ("NPDES Permit") issued for operation of the City's wastewater treatment system prior to receipt by the CWA Authority of delegation of a pretreatment program pursuant to 40 CFR 403 and that EPA has requested that IDEM enter into this Agreed Order to enable CWA Authority to operate the pretreatment program in accordance with the City's previous delegation from EPA as incorporated into the NPDES permit.

II. FINDINGS OF FACT

1. The City's pretreatment program was approved on January 11, 1985, and modified and approved on March 3, 1994.
2. The pretreatment program has been incorporated in the City's NPDES Permit.
3. The NPDES Permit was issued to the City and United Water Services Indiana LLC ("United Water"), the operator, as co-permittees.
4. As of July 22, 2011 The City and United Water each consented to the removal of United Water as a permittee as of the Closing Date.
5. Prior to the Closing Date, as defined in the Asset Purchase Agreement, the City operated two wastewater treatment plants, the Belmont Advanced Wastewater Treatment Plant and the Southport Advanced Wastewater Treatment Plant (collectively the "Treatment Plants"). IDEM issued the NPDES Permit to the two facilities which discharge to the West Fork of the White River.
6. The NPDES Permit contains the regulatory provisions for the pretreatment program in Part III – Requirements to Operate a Pretreatment Program.
7. The City is the Control Authority as defined in 40 CFR 403.3(f)(1).
8. Pursuant to 327 IAC 5-2-6 the NPDES Permit was transferred to CWA Authority as of the Closing Date. However, the City remains the control authority as this term is defined at 40 CFR 403.3(f) under the pretreatment program until such time as a pretreatment program is delegated by EPA to CWA Authority.

9. The City, CWA Authority and the Sanitary District of Indianapolis (the "District") have entered into an Asset Purchase Agreement dated as of August 11, 2010 (the "Asset Purchase Agreement") whereby CWA Authority is acquiring certain Acquired Assets and assuming certain Assumed Liabilities (as such terms are defined in the Asset Purchase Agreement). The Acquired Assets and the Assumed Liabilities do not include, among other Excluded Liabilities (as such term is defined the Asset Purchase Agreement) those obligations or liabilities related to any penalties or fines, or interest thereon, assessed by the EPA or IDEM by reason of any acts or omissions of either the City or the District prior to Closing alleged to be in violation of applicable Law or the Consent Decree (as such capitalized terms are defined in the Asset Purchase Agreement.).
10. Pursuant to IC 13-30-3-3, entry into this Agreed Order is not an admission that the alleged violations occurred.

STATEMENT OF PURPOSE

By entering into this Agreed Order, the mutual objectives of IDEM and CWA Authority is to facilitate the operation of the City's pretreatment program by CWA Authority prior to EPA's delegation to CWA Authority of its own pretreatment program.

EFFECTIVE DATE/TIME

The effective date of this Agreed Order shall be the date upon which (a) this Agreed Order is fully executed by all Parties and (b) the Closing Date of the Asset Purchase Agreement. This Agreed Order shall remain in effect until the CWA Authority receives delegation from EPA of an approved pretreatment program.

JOINT COMMITMENT REGARDING NPDES PERMIT

Notwithstanding any other terms of this Agreed Order, CWA Authority is authorized to proceed under the NPDES Permit with regards to the operation of the Treatment Plants as of the date of this Agreed Order.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

TECHNICAL RECOMMENDATION:
Department of Environmental
Management

By: Mark W. Stanifer
Mark W. Stanifer, Chief
Water Enforcement Section
Office of Water Quality

Date: 8-3-2011

RESPONDENT:
CWA Authority, Inc.

By: Carey Lykins
Printed: CAREY LYKINS

Title: President & CEO
Date: 8-25-11

COUNSEL FOR COMPLAINANT:
For the Department of Environmental
Management

By: Tim Junk
Tim Junk
Deputy Attorney General

Date: 8/4/2011

COUNSEL FOR RESPONDENT:

By: W. E. C.

Date: 8-23-11

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT 26 DAY OF August, 20 11
THIS

For the Commissioner
Bruno Pigott
Bruno Pigott
Assistant Commissioner
Office of Water Quality

Appendix I-4: Order on Consent Executed with the U. S. EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 04 2012

REPLY TO THE ATTENTION OF:
WC-15J

CERTIFIED MAIL 7009 1680 0000 7669 4537
RETURN RECEIPT REQUESTED

Mr. John R. Whitaker
CWA Authority, Inc.
2020 North Meridian Street
Indianapolis, Indiana 46202

Subject: Order on Consent and Request for Information
Pursuant to Sections 308 and 309(a)(3) of the Clean Water Act,
33 U.S.C. §1318 and 1319(a)(3)
Docket No. V-W-12-AO-22

Dear Mr. Whitaker:

The U.S. Environmental Protection Agency is issuing the enclosed Order on Consent to the City of Indianapolis and CWA Authority based on a November 30, 2009 through December 2, 2009 audit, and a subsequent April 19, 2010 follow-up audit of the City of Indianapolis' pretreatment program.

The Order requires that CWA Authority, as operator, make immediate changes to the City of Indianapolis' pretreatment program. In addition, the Order gives CWA Authority 90 days from the effective date of the Order to submit a complete application for a pretreatment program. The City remains the approved pretreatment authority until EPA approves CWA Authority's pretreatment program application.

If you have any questions regarding this matter, please contact Mr. Jeremy Deyoe, at (312) 353-8512 or via email, at deyoe.jeremy@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tinka G. Hyde".

Tinka G. Hyde
Director, Water Division

cc: Natalie Maupin, IDEM

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	DOCKET NO. V-W-12-AO-22
)	
CITY OF INDIANAPOLIS, INDIANA)	
AND)	
CWA AUTHORITY, INC.,)	FINDINGS OF VIOLATION
RESPONDENTS)	AND
)	ORDER ON CONSENT
PROCEEDING UNDER SECTIONS)	AND
)	REQUEST FOR INFORMATION
308 AND 309(a)(3) OF THE)	
CLEAN WATER ACT,)	
AS AMENDED)	

The following FINDINGS are made and ORDER ON CONSENT is issued, and information requested, pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency under Sections 308 and 309(a)(3) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318 and 1319(a)(3), duly delegated to the Regional Administrator, Region 5, and duly redelegated to the undersigned Director, Water Division. Respondents' entry into this Order does not constitute an admission of any violation alleged herein. Respondents' entry into this Order shall not constitute a waiver of any defense, legal or equitable, which Respondents may have in any future administrative or judicial proceeding, except a proceeding to enforce this Order.

STATUTORY BACKGROUND

1. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutants by any person except, *inter alia*, in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued by EPA or an authorized state, pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 502(12) of the CWA defines “discharge of a pollutant” to mean, among other things, “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).
3. Section 502(7) of the CWA defines navigable waters to be “the waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).
4. The term “point source” is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14), as “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel . . . from which pollutants are or may be discharged.”
5. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides:

Whenever on the basis of any information available to him the Administrator finds that any person is in violation of [among other things, Section 301 of the CWA], he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.
6. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), includes “municipality...or political subdivision of a State” in the definition of a “person.”
7. “Discharge” is defined as “the introduction of pollutants into a Publicly Owned

Treatment Works (POTW) from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.” In 40 C.F.R. 403.3(i), Non-domestic sources regulated under those sections include any sources that introduce pollutants into the POTWs.

8. Section 307(d) of the CWA, 33 U.S.C. § 1317(d), states that: “After the effective date of any . . . pretreatment standard promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such . . . pretreatment standard.”
9. Section 307(b) of the CWA, 33 U.S.C. § 1317(b), states: “The Administrator shall publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. . . .”
10. Pursuant to 307(b) of the CWA, 33 U.S.C. § 1317(b), the Administrator published “General Pretreatment Regulations for Existing and New Sources” on January 28, 1981, codified at 40 C.F.R. Part 403. By the terms of the regulation, the requirements of Part 403 became effective three years from the date of promulgation.
11. 40 C.F.R. § 403.8(f)(1) requires that the POTW operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the Act and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the POTW is authorized to enact, enter into or implement, and which are authorized by State law.

FINDINGS

12. Until August 26, 2011, the City of Indianapolis, Indiana owned and operated a Publicly-Owned Treatment Works (POTW) in the City of Indianapolis and the surrounding areas, which collects and treats residential, commercial and industrial waste.
13. CWA Authority, Inc. (CWA Authority) purchased the POTW from the City of Indianapolis on August 26, 2011.
14. CWA Authority must comply with NPDES permit IN0023183 ("NPDES Permit"), issued for operation of the City's wastewater treatment systems and all applicable federal, state, and local laws and regulations.
15. IDEM modified NPDES permit IN0023183 to reflect the transfer of ownership of the facility from the City of Indianapolis to the CWA Authority, and the modified permit was effective on August 26, 2011.
16. The Agreed Order between CWA Authority and IDEM states that "the City of Indianapolis remains the control authority as this term is defined at 40 C.F.R. 403.3(f) under the pretreatment program until such time as a pretreatment program is delegated by EPA to CWA Authority."
17. The CWA Authority is currently implementing, and will continue to implement, the City of Indianapolis' pretreatment program under the terms of the Agreed Order between CWA Authority and IDEM, until such time as a pretreatment program is delegated by EPA to CWA Authority.
18. CWA Authority is authorized to proceed with operating the two wastewater treatment plants, the Belmont Advanced Wastewater Treatment Plan and the Southport Advanced Wastewater Treatment Plant, covered by NPDES Permit IN0023183.

19. The Belmont and Southport Advanced Wastewater Treatment Plants discharge pollutants to the West Fork of the White River.
20. Respondents City of Indianapolis and CWA Authority, are “persons” that “discharge[s] pollutants” by adding those “pollutants” to the “navigable waters” of the United States from a “point source,” as those terms are defined at Sections 502 of the Act, 33 U.S.C. § 1362, and at 40 C.F.R. § 122.2.
21. The City of Indianapolis’ pretreatment program was approved on January 11, 1985, and modified and approved on March 3, 1994. The pretreatment program has been incorporated in the CWA Authority’s NPDES Permit IN 0028183 under Part III.
22. The NPDES Permit IN0023183 contains the regulatory provisions for the pretreatment program in Part III – Requirements to Operate a Pretreatment Program.
23. The City of Indianapolis’ Sewer Use Ordinance (SUO) is part of its approved Pretreatment Program.
24. From 2004 to 2009, EPA conducted two pretreatment program audits and one follow-up inspection of the City of Indianapolis’ Pretreatment Program. The purpose of the pretreatment program audits and inspection was to evaluate compliance by the City with its NPDES permit and related laws and regulations. The audits and inspection consisted of interviews with the City of Indianapolis, industrial user file reviews, four industrial user inspections and a review of laboratory and hauled waste procedures. EPA did not issue a final report following its 2004 audit. The last EPA pretreatment program audit occurred on November 30 through December 2, 2009. The EPA audit team presented the City with written exit interview notes summarizing certain findings of the audit which were presented to the City during the exit interview, which occurred on December 2,

2009. A follow-up pretreatment inspection to the 2009 audit occurred on April 19, 2010.
25. On May 2, 2011, an Audit Report was sent to the City of Indianapolis. The Audit Report identifies alleged deficiencies in the City of Indianapolis' Pretreatment Program.
26. On June 6, 2011, the City of Indianapolis submitted responses to the Audit Report, including a Required Action Compliance Plan and Additional (Non-Required) Actions Proposed. Aside from the Required Action Compliance Plan, the City of Indianapolis disputed the alleged deficiencies identified in the Audit Report.
27. On July 15, 2011 and on the 15th of every subsequent month through February 2012, the City of Indianapolis or the CWA Authority submitted a Status Report detailing actions taken in furtherance of the Required Action Compliance Plan and Additional (Non-Required) Actions Proposed. Monthly status reports were discontinued upon authorization by EPA.
28. Based on the information provided by the City of Indianapolis during the audit and follow-up inspection, and in response to the Audit Report, including but not limited to entrance and exit interviews, file reviews and information obtained at the industrial user (IU) site visits, EPA finds that the City violated the pretreatment program requirements found in its NPDES permit and 40 C.F.R. Part 403, and that the CWA Authority continues to operate the Pretreatment Program in violation of the Clean Water Act. Respondents dispute the allegations of past and continuing violations, and by signing this Order make no admission that such violations occurred or are occurring.
29. The City of Indianapolis failed to complete and document an evaluation of each IU, to determine the applicable local limits, including a written determination of which pollutants are excluded from the control mechanism, in violation of 40 C.F.R. 403.8

(f)(1)(iii)(B)(3).

30. The City of Indianapolis failed to evaluate and document whether the prohibitive standards found in Section 671-4 of the Sewer Use Ordinance are present at IUs, in violation of 40 C.F.R. 403.8 (f)(1)(iii)(B)(3).
31. The City of Indianapolis failed to include Best Management Practice (BMP) requirements in the IU control mechanisms, in violation of 40 C.F.R. 403.8 (f)(1)(iii)(B)(3).
32. The City of Indianapolis failed to issue control mechanisms with effluent limits based upon applicable general Pretreatment Standards in 40 C.F.R. 403, including categorical Pretreatment Standards, local limits, and State and local law.
33. The City of Indianapolis applied 2005 streamlining provisions, allowing a reduced sampling of a pollutant and the use of equivalent concentration limits in lieu of mass limitations for categorical users.
34. The City of Indianapolis failed to evaluate and document the processes, waste streams, and pollutants to determine if each IU facility was properly categorized and had characterized all sources and incoming loads, in violation of 40 C.F.R. 403.8 (f)(1)(ii).
35. The City of Indianapolis failed to evaluate and document each IU's pollutants, processes, waste streams, and dilution flows to determine which practices generated pollutants and were regulated, in violation of 40 C.F.R. 403.6 (d).
36. The City of Indianapolis failed to inspect and sample the effluent from each significant industrial user (SIU) at least once a year, in violation of 40 C.F.R. 403.8 (f)(2)(v).
37. The City of Indianapolis failed to identify and investigate violations reported in IU compliance monitoring data, 40 C.F.R. 403.8 (f)(2)(v) and 40 C.F.R. 403.8 (f)(2)(vii).

38. The City of Indianapolis failed to ensure that any plan that an SIU substitutes for a slug control plan met the requirements found in 40 C.F.R. 403.8(f)(2)(vi)(A-D).
39. The City of Indianapolis failed to resample when required, in violation of 40 C.F.R. 403.8 (f)(2)(vii).
40. The City of Indianapolis failed to ensure that samples were taken, analyzed, and collected with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions, 40 C.F.R. 403.8 (f)(2)(vii).
41. The City of Indianapolis failed to notify its IUs of the applicable Resource Conservation and Recovery Act (RCRA) standards requirements, in violation of 40 C.F.R. 403.(8)(f)(2)(iii).
42. The City of Indianapolis failed to require a certification signed by a responsible corporate official in the compliance reports issued by IUs, in violation of 40 C.F.R. 403.12(l).
43. The City of Indianapolis failed to determine the appropriate sampling location to evaluate compliance with IU effluent limits, establish that location in the permit and ensure that both the control authority and the IU sample at the same location, in violation of 40 C.F.R. 403.8 (f)(1)(iii).
44. The City of Indianapolis failed to include an applicable requirement in each IU's control mechanism that the IU provide notification within 24 hours of a violation, in violation of 40 C.F.R. 403.12 (g)(2).
45. The City of Indianapolis failed to include a requirement in each IU's control mechanism that the IU provide notification of a change in discharge, in violation of 40 C.F.R. 403.12 (j).
46. The City of Indianapolis failed to follow its Enforcement Response Plan (ERP) and

obtain appropriate remedies for IU effluent violations, in violation of 40 C.F.R.

403.8 (f)(5).

47. The City of Indianapolis failed to modify IU control mechanism limits to account for dilution flow and to determine if effluent limits fell below the detection values, 40 C.F.R. 403.6(e)(2) and 40 C.F.R. 403.6(e)(4).
48. The City of Indianapolis failed to evaluate IU storm water monitoring data to determine if dilution was occurring, in violation of 40 C.F.R. 403.6(d).
49. The City of Indianapolis failed to place an IU compliance schedule in an enforceable document such as a permit or to escalate enforcement action as required by 40 C.F.R. 403.12(b)(7) and 40 C.F.R. 403.12(c).
50. The City of Indianapolis failed to obtain the information necessary to determine if the IU self monitoring was performed and reported pursuant to Section 304(h) of the Act and 40 C.F.R. part 136 and amendments thereto, in violation of 40 C.F.R. 403.12(g)(5).
51. The City of Indianapolis failed to identify the staff responsible for actions required in the ERP, in violation of 40 C.F.R. 403.8(f)(5)(iii).
52. The City of Indianapolis applied net gross credits for pollutants in the IU's intake water without first adopting that requirement in the SUO, in violation of 40 C.F.R. 403.15.
53. The City of Indianapolis failed to document the information under 40 C.F.R. 414.11(g) for the alternative cyanide allowance.
54. The City of Indianapolis failed to publish all users who are in significant noncompliance, in violation of 40 C.F.R. 403.8(f)(2)(viii).
55. The City of Indianapolis failed to develop and implement procedures on the acceptance of hauled wastes, in violation of 40 C.F.R. 403.8(f)(2).

ORDER ON CONSENT AND REQUEST FOR INFORMATION

BASED ON THE FOREGOING FINDINGS, and the authority vested in the undersigned Director, Water Division, and with the consent of Respondents as indicated by the signature below, in order to fully address the violations alleged in the Audit Report, **IT IS HEREBY ORDERED** in accordance with Sections 308(a) and 309(a)(3) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318(a) & 1319(a)(3), that:

56. Respondents shall submit a completed application with all necessary requirements to become an authorized pretreatment program within 90 days of the effective date of this Order.
57. Within 60 days from the effective date of this order, Respondents shall issue a control mechanism to each IU. Each control mechanism shall include current effluent limits and all prohibited standards from the SUO, in accordance with 40 C.F.R. Sections-403.8(f)(1)(iii)(B).
 - a. For each control mechanism which does not include all applicable local and categorical limits, Respondents shall include a list and explanation of the excluded pollutants in each IU control mechanism, including any monitoring waiver and the justification for the waiver granted pursuant to 40 C.F.R. 403.12(e)(2). Respondents shall retain a written determination and any calculations of which pollutant parameters are excluded.
 - b. Respondents shall retain written documentation for each IU of whether PCBs, petroleum hydrocarbons, or volatile organic compounds are present. This determination can be made through sampling data or alternative documentation.

- c. Respondents shall place any applicable Best Management Practices in each control mechanism in accordance with 40 C.F.R. Section 403.8(f)(1)(iii)(B)(3).
 - d. Respondents shall include the sampling location in the IU control mechanism in accordance with 40 CFR 403.8(f)(1)(iii)(B)(4).
 - e. Respondents shall include a statement to maintain legal authority that transfers the current IU permit from the City of Indianapolis' currently approved pretreatment program to, upon approval by EPA, the CWA Authority's pretreatment program.
58. From the effective date of this order, Respondents shall evaluate whether each SIU must have a slug control plan, in accordance with 40 C.F.R. 403.8(f)(2)(vi). Respondents shall retain documentation of each evaluation in a file for each SIU.
59. From the effective date of this order, Respondents shall require each IU to comply with the signatory requirements for Industrial User reports in accordance with 40 C.F.R. 403.12(l).
60. From the effective date of this order, Respondents shall respond to IU violations and escalate enforcement in accordance with the approved ERP, in accordance with 40 C.F.R. 403.8(f)(5).
61. From the effective date of this order, Respondents shall publish all industrial users determined to be in significant noncompliance, per 40 C.F.R. Section 403.8(f)(2)(viii).
62. From the effective date of this order, Respondents shall document, in the IU's file, the information required to establish an alternative cyanide limit, if applicable, under 40 C.F.R. Section 414.11(g).

63. From the effective date of this order, if a control mechanism states that the City of Indianapolis is responsible for sampling in lieu of IU self-monitoring, then Respondents or their authorized representative shall sample for all local limits and categorical pretreatment standards included in the IU permit, unless documented otherwise.
64. From the effective date of this order, Respondents or its authorized representative(s) shall sample and conduct surveillance activities at IUs, per 40 C.F.R. 403.8(f)(2)(v).
65. Respondents shall submit a report, monthly, by the 30th day of the following month, to EPA that includes a list of all IU violations and enforcement actions. This shall include at a minimum the IU name, type of violation, violation date, parameter, report value, limit: daily/weekly/monthly, and CWA Authority enforcement action, penalty assessed by Respondents, and a brief narrative for additional comments and to explain how enforcement for the violation is consistent with the ERP. Respondent shall certify that IU compliance monitoring data received through the end of the prior month has been reviewed and that all violations are included in the report.
66. Respondents shall submit a report, monthly, by the 30th day of the following month, to EPA that includes a copy of all new or modified permits and a list of all IU permits including permit number, name of permitted facility, permit expiration date, effective date of the permit, and permit modification date(s).
67. Respondents shall submit a written report on the status of the completion of each item identified in this order. Reports shall be submitted monthly by the 30th day of the following month, for up to one year after the receipt of this order, and quarterly thereafter until termination of this Order.
68. Respondent CWA Authority shall submit the annual Significant Noncompliance Report

to EPA within 7 days of publication.

69. For purposes of this Order only, Respondents waive any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondents may have with respect to any issue of fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review of the Section 309(a)(3) Compliance Order on Consent under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.79. This Order will become effective when it is signed by the Water Division Director.
70. Upon completion of all requirements contained in this Order, Respondents may submit a certification of completion and request for termination to EPA. EPA will review the certification and request, and will approve such request if it agrees that all requirements contained in this order have been completed. Upon EPA approval, this Order will terminate. Respondents reserve the right to seek judicial or administrative review if EPA refuses to approve a request for termination of this Order after all requirements contained in this Order have been completed.
71. All notices submitted in accordance with this Order shall be addressed to:

Director, Water Division, EPA Region 5
Water Enforcement and Compliance Assurance Branch
Attention: Jeremy Deyoe
77 W. Jackson Boulevard, WC-15J,
Chicago, Illinois 60604-3590

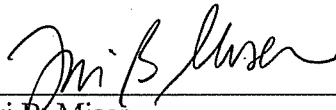
With a copy to:

Regional Counsel
Attn: Nicole Cantello
EPA Region 5
77 W. Jackson Boulevard, C-14J
Chicago, Illinois 60604-3590

**IN THE MATTER OF CITY OF INDIANAPOLIS, INDIANA AND CWA AUTHORITY,
INC., RESPONDENTS DOCKET NO. V-W-12-AO-**

Signed:

City of Indianapolis

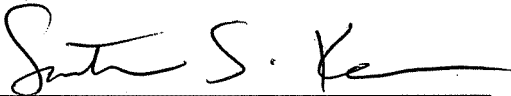


Lori B. Miser
Director, Department of Public Works

8.7.12

Date

Approved as to form and legality:



Samantha S. Karn
Corporation Counsel
City of Indianapolis

8/8/12

Date

CWA Authority, Inc.

John R. Whitaker,
Senior Vice President and General Counsel

Date

The United States Environmental Protection Agency

Tinka G. Hyde
Director, Water Division
U. S. Environmental Protection Agency
Region 5

Date

**IN THE MATTER OF CITY OF INDIANAPOLIS, INDIANA AND CWA AUTHORITY,
INC., RESPONDENTS DOCKET NO. V-W-12-AO-**

Signed:

City of Indianapolis

Lori B. Miser
Director, Department of Public Works

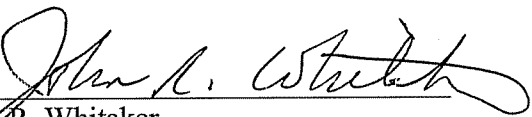
Date

Approved as to form and legality:

Samantha S. Karn
Corporation Counsel
City of Indianapolis

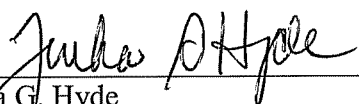
Date

CWA Authority, Inc.


John R. Whitaker,
Senior Vice President and General Counsel

8/8/12
Date

The United States Environmental Protection Agency


Tinka G. Hyde
Director, Water Division
U. S. Environmental Protection Agency
Region 5

9/4/12
Date

Appendix J: CWA Authority's IPP Enforcement Response Plan

CWA AUTHORITY, INC.
INDUSTRIAL PRETREATMENT PROGRAM
ENFORCEMENT RESPONSE PLAN
OCTOBER 29, 2012

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INTRODUCTION

On August 26, 2011, the wastewater collection system and assets were purchased by CWA Authority, Inc. from the City of Indianapolis, including the obligations of the Industrial Pretreatment Program.

This document provides guidance to CWA Authority, Inc. (“Authority”) personnel and/or its representatives in identifying, addressing, and correcting violations of the Authority’s Industrial Pretreatment Program (“IPP”). The Enforcement Response Plan (“ERP”), detailed herein, outlines in a step-by-step manner the procedures used by the Authority in responding to violations. The plan provides equitable treatment to all industrial users affected by the Authority’s enforcement process. The plan further specifies staff responsibilities and approximate response times for specific enforcement activities. The application of enforcement procedures will apply to: (i) all industrial users regulated under the IPP; (ii) dischargers of wastewater regulated by the Authority’s Wastewater Haulers Program; (iii) dischargers operating under the Special Discharge Program; and (iv) other dischargers regulated by Resolution No. CWA 2-2011: A Resolution Establishing Uniform Requirements for Discharges Into, the Construction of, and Additions to Wastewater Collection and Treatment System Owned and Operated by CWA Authority, Inc. (“Resolution CWA 02-2011”).

On July 24, 1990, the U.S. Environmental Protection Agency (EPA) promulgated final revisions to 40 CFR 403 - General Pretreatment Regulations. One revision to the standards requires the development and implementation of an enforcement response plan by a publicly owned pretreatment works (“POTW”). Specifically, 40 CFR 403.8(f)(5) states:

The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

- (i) Describe how the POTW will investigate instances of noncompliance;
- (ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
- (iii) Identify (by title) the official(s) responsible for each type of response;
- (iv) Adequately reflect the POTW’s primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8(f)(1) and (f)(2).

In order to aid POTWs in the development of an effective enforcement response plan, the EPA issued a guidance document in September, 1989, titled “Guidance for Developing Control Authority Enforcement Response Plans” (“Guidance Document”). The Guidance Document was used extensively by the City of Indianapolis (“City”) when drafting its enforcement response plan, the plan upon which the Authority’s ERP is based. The Guidance Document suggests a review and evaluation of existing program conditions, such as:

- Industrial user inventory;
- Compliance monitoring procedures;
- Procedures used to screen compliance monitoring data;
- Sewer use ordinance provisions.

In addition to the requirements specified in 40 CFR 403.8(f)(5), the Guidance Document states the plan should also contain:

- Criteria for scheduling periodic inspections and/or sampling visits to industrial users;
- Forms and guidelines for documenting compliance data for use as evidence in enforcement proceedings;
- A system to track due dates of required reports, schedule milestones, and pending enforcement actions;
- Criteria and procedures to select and initiate an enforcement response from approved options.

On October 15, 2005, the EPA finalized final changes to its General Pretreatment Regulations (“Streamlining Rule”) to improve the effectiveness of industrial pretreatment programs. On April 3, 2009 the Indiana Department of Environmental Management (“IDEM”) finalized the incorporation of the Streamlining Rule into 327 IAC 5 §§16 through 21 (“IDEM Streamlining Rule”). The Authority has incorporated the requirements of both the federal and state Streamlining Rules into Resolution CWA 2-2011 and this ERP.

The ERP attempts to address each of the requirements set forth above. Although specific responses to pretreatment violations are explained, the Authority retains the ability to exercise enforcement discretion in any given enforcement action. This flexibility is necessary to allow an appropriate response to noncompliance situations involving extraordinary or mitigating circumstances.

DEVELOPING THE ERP

A discussion of the activities undertaken on a regular basis by the Authority to maintain current information for implementation of the compliance and enforcement program is presented in the following sections. The Industrial User Inventory, Compliance Monitoring Procedures, Data Screening, and Evaluation of the Resolution CWA 02-2011 are included. An evaluation of this information was necessary to establish the background for development of the ERP.

INDUSTRIAL USER INVENTORY

The General Pretreatment Regulations, 40 CFR 403.8(f)(2), require all POTWs to identify potential industrial users subject to the requirements of the IPP and to identify the volume and character of pollutants discharged by the industrial users. According to Resolution CWA 2-2011, Sec.1.2, POTW means “all publicly owned facilities for collecting, pumping, treating and disposing of wastewater, including sewers, lift stations, manhole stations and the wastewater treatment plants. An Industrial Waste Survey (IWS) of all industrial users was initially conducted in 1983 by the City to satisfy this requirement and to establish the initial base of industries for regulation. A formal review of current industrial users was not conducted by the City again until 1989.

In order to implement an effective ERP, all industries subject to pretreatment regulations must be identified and controlled. Therefore, Authority has adopted the same systematic approach to identifying new users the City developed and began implementing in 1989. The process requires the completion of ongoing activities to remain current with the industrial community, rather than being conducted on an annual basis.

Initially, all previous questionnaires and survey results collected during the development of the Indianapolis industrial pretreatment program were reviewed. After screening this information, potential users were either contacted by telephone or sent an informational letter to advise them of pretreatment requirements. The facilities remaining after this process were contacted to arrange a site visit to determine if a permit was needed. If a permit was needed, an Industrial Discharge Permit application was provided, along with a date for submission to the City. Industries identified through ongoing activities are evaluated using the same procedures.

Due to the size of the City’s industrial base and the added responsibility for oversight of pretreatment responsibilities in satellite communities (Lawrence, Ben Davis, Beech Grove, and Greenwood), there is no single reliable source for identification of new industrial facilities. Therefore, discovery of new industries occurs as a result of varied activities and from diverse sources. The following list includes a number of resources used by the Authority for identifying new facilities:

- Telephone listings (Yellow Pages);
- Previous survey results;
- Industrial directories;
- Sewer connection permits;
- Referrals from other agencies (Marion County Health Department, IDEM, etc.);
- Site visits;
- Reports from other regulated industries;
- Citizen reports;
- Information supplied by satellite communities;
- Notification from potential industries;
- Observations by sampling/surveillance/inspection/field personnel;

- Newspaper articles/trade journals/business magazines;
- Greater Indianapolis Chamber of Commerce;
- Internet listings;
- Industrial park tenant lists; and
- Citizens Energy Group water customer accounts.

All new industries subject to pretreatment requirements are issued an Industrial Discharge Permit and added to the master list of regulated facilities. This list is provided to the Approval Authority (IDEM) on a quarterly basis as an attachment to the Quarterly Noncompliance Report (QNCR). The master list contains the significant and non-significant regulated industries divided into categorical and non-categorical groups. All permitted facilities currently under the Indianapolis pretreatment program are potentially subject to all program requirements.

An additional requirement associated with the Industrial User Inventory is the maintenance of an accurate characterization of the type, volume, and quality of the discharges from the regulated users. This is accomplished by the completion of ongoing activities including:

- Scheduled annual inspections at each significant industry;
- Unscheduled inspections conducted at selected industries;
- Industry's requirement to report changed discharges;
- Observations from field personnel;
- Information submitted on Industrial Discharge Permit Applications; and
- Review of self-monitoring and/or surveillance sampling data.

Updated information collected as part of the Authority's Industrial User Inventory activities is entered into the database (Linko Data Management System) as it is received.

The majority of inventory responsibilities are assumed by the Industrial Pretreatment Program Specialists. Other support responsibilities are provided by the IPP Coordinator, IPP Sampler (or IPP Sampler contractor), and the IPP Headworks Attendant.

COMPLIANCE MONITORING PROCEDURES

Compliance monitoring activities conducted by the Authority are necessary to identify and document violations that can be presented as admissible and irrefutable evidence in legal proceedings. Industrial compliance with applicable regulations is determined and evaluated through:

- Self-monitoring data from industrial users;
- Inspections conducted by the Authority and/or its representatives;
- Surveillance sampling and analysis conducted by the Authority and/or its representatives; and

- Evaluation of application information by the Authority and/or its representatives.

Self-monitoring activities are required by a select number of industrial users on a monthly basis. The forms used are prescribed by the Authority to ensure all necessary information is submitted. Each report must also be signed by an authorized representative of the industry. These data are prima facie evidence if violations are identified.

Inspections by the IPP Coordinator, IPP Specialists, and the IPP Sampler are conducted to verify compliance and to identify any potential problems or violations. A standard inspection form is used to ensure all areas are evaluated. The form is signed and dated by the inspector. Any noncompliance situations are noted, either on the inspection form or by separate report, and follow-up is then conducted with the industry. Surveillance sampling conducted by the Authority and/or its representatives and analysis by the laboratory is the cornerstone of compliance monitoring. Therefore, it requires strict adherence to standard procedures. Trained sampling personnel collect industrial samples and complete a field chain-of-custody (C-O-C) form which accompanies each sample. This field C-O-C form follows the sample through the analytical process to maintain its identity and to assign to it the proper results. Specific procedures are outlined in the Sampling Plan and Procedures Manual. Each person receiving custody of the sample is required to sign the chain-of-custody form.

Information submitted by industrial users on the Industrial Discharge Permit application must also be evaluated for compliance with regulations. The IPP staff must also determine whether the industrial user has sufficiently documented information necessary to complete the application. Failure to disclose vital information is a violation of the permit program. The application contains a statement attesting to the accuracy and completeness of the information submitted which must be signed by an authorized representative of the industrial user.

DATA SCREENING

The majority of data to be screened and evaluated is generated through industrial self-monitoring and surveillance sampling. Data are entered into the Linko Data Management Program on an as-received basis by IPP personnel. The computer program identifies all daily maximum and monthly average (if applicable) violations.

On a monthly basis, or more often if necessary, a noncompliance report is generated for internal use by the IPP Coordinator. Each violation is noted and appropriate enforcement action is initiated. The specific responses and time frames are detailed in the Enforcement Response Section.

In addition, a report of all facilities which failed to submit a Self-Monitoring Report (SMR) or submitted the report late is generated by the IPP Specialist and made available to the IPP Coordinator. The submittal dates are part of the permanent record as well as being recorded on the report form. Enforcement of this violation is explained in the Enforcement Response Section.

Screening and tracking of reports submitted as part of compliance schedule activities are accomplished by the Authority's staff and/or representatives of the Authority. Each facility operating under a compliance schedule is tracked by a separate file which is reviewed at least monthly. Action is taken if required reports are not received or if milestones are missed. Compliance schedule files for each industrial user remain open for review pending completion of all activities and demonstration of final compliance.

EVALUATION OF THE SEWER USE ORDINANCE

The authority for the Authority to take effective enforcement action is provided by Resolution CWA 2-2011.

Additionally, the Board of Directors for the Authority has adopted Resolution No. CWA 3-2011: A Resolution Authorizing Enforcement of Violations and Establishing an Administrative Adjudication Process for Violations ("Resolution CWA 3-2011"). In accordance with Section 2 of Resolution CWA 3-2011, the daily maximum penalty amount is \$2,500.00 for the first violation and \$7,500 for a second or subsequent violation. Each day's violation constitutes a separate violation of Resolution CWA 2-2011.

CWA 2-2011 also incorporates various federal requirements. The objective of any revision to the Resolution is to strengthen the Authority's legal authority to (1) impose pretreatment standards and requirements on discharges of non-domestic waste; (2) use a sufficient range of enforcement responses; and (3) eliminate obstacles to effective enforcement of pretreatment standards and regulations.

All resolution revisions or implementation of new procedures allowed under Resolution No. CWA 2-2011 are reviewed and approved by Board of Directors of the Authority in accordance with the provisions in Resolution No. CWA 1-2011: A Resolution Establishing Procedures of the Promulgation of Regulations. Proposed revisions will be promulgated pursuant to the procedures in Resolution No. CWA 1-2011. These procedures satisfy public participation requirements and provide a forum for input from the public, regulated industrial users, and other interested parties. The final draft of revisions is also submitted to IDEM and EPA for approval, when applicable, as a modification to the Authority's pretreatment program.

The major provisions associated with enforcement authority set forth in Resolution CWA 2-2011 are paraphrased below:

- Section 1.4** Regulation of Discharges to Public Sewer
- Regulates prohibited discharges
 - Contains numerical effluent limitations

Section 1.9 Accidental Discharge

- Outlines requirements for accidental discharge plan
- Outlines procedures for responding and reporting

Section 1.10 Plan to control Slug discharges

- Outlines requirements and elements to control slug discharges for a significant user.

Section 1.11 Liability for Damage

- Allows recovery of costs for work required to clean or repair the POTW or fines imposed against the Authority as a result of a user's discharge.

Section 1.16 Penalties

- \$2,500.00 maximum for each first violation;
- \$7,500 maximum for each second or subsequent violation;
- Each day's violation constitutes a separate violation.

Sections 2.4 Permitting

- Outlines requirements for obtaining an industrial discharge permit

Sections 3.4

Reporting and sampling requirement

- Outlines procedures for sampling protocols and periodic reporting.

Section 3.6 Emergency Suspension of Service and Industrial Discharge Permit

- Authorizes the Director, without notice or hearing, to suspend service or a discharge permit in order to stop an actual or threatened discharge presenting or which in any way presents an imminent or substantial endangerment to the health or welfare of persons or the environment, causes interference to the POTW, or causes a violation of the Authority's NPDES Permit.
- Allows immediate elimination of the contribution and severance of the sewer connection. The user pays all costs and a written report to the Director is required within five (5) days.

Section 3.7 Revocation

- A permit may be revoked for violations, failure to timely file reports, factually report wastewater characteristics, refusal of reasonable access for review of records, inspection or monitoring, or violation of permit conditions.

Section 3.8 Notice of Revocation

- The Director, except in cases of willful violations or where public health or safety requires otherwise, must give written notice to the industrial user of facts or conduct warranting the action and an opportunity for the user to demonstrate or achieve compliance with all lawful requirements.

Section 3.9 Notification of Violation

- The Director may serve written notice for a violation of a provision or condition of a permit. User must submit, within fifteen (15) days of the notice, a plan for the satisfactory correction of the violation.

Section 3.10 Show Cause Hearing

- The Director may issue a written notice to a user to show cause at an administrative hearing why an enforcement action should not be taken.

The notice must:

- specify the time and place of the hearing;
- discuss the reason why the action is taken;
- describe the proposed action;
- direct the user to show cause why the action should not be taken; and
- be delivered personally or by registered/certified mail at least ten (10) days before the hearing.

Section 3.11 Appeals

- Allows the user to file with the Director a written request for reconsideration within fifteen (15) days of any action, decision, or determination taken as part of the Authority's Administrative Enforcement Program. A decision by the Director is required within ten (10) days.

Section 3.12 Publication of Violations

- At least annually, by April of each year, the Authority shall publish, in the newspaper with the largest published in the Central Indiana, a list of industrial users which at any time during a calendar year were in significant noncompliance with applicable pretreatment requirements as set forth in 40 CFR 403.8(f)(2)(vii). An industrial user is considered in significant noncompliance if its violation meets at least one of the following criteria:

1. Chronic violations of discharge limitations in which sixty-six (66%) per cent or more of all measurements

taken during a six (6) month period exceed by any magnitude a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);

2. Technical Review Criteria (TRC) violations in which thirty-three (33%) per cent or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC;
3. Any other violation of an effluent limit or a pretreatment standard or requirement as defined in 40 CFR 403.3(1) that the Director determines has caused, alone or in combination with other discharges, interference or pass-through at the POTW or endangerment to the health of POTW personnel or the public;
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment;
5. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a schedule or order;
6. Failure to provide a required report within thirty (30) days after the due date;
7. Failure to accurately report noncompliance; or
8. Any other violation or group of violations, that may include best management practices, that the Director determines will adversely affect the operation or implementation of the Authority's pretreatment program.

ENFORCEMENT RESPONSE

IDENTIFICATION OF VIOLATIONS

The identification of a violation of pretreatment requirements, regardless of the severity, will initiate the enforcement process. Discovery of a violation may occur as a result of any number of activities. The list below represents the most common sources of identifying violations:

- Review of surveillance sampling results;
- Review of industrial user self-monitoring results;
- Spill/accidental discharge reports from industrial users;
- Site visits/inspections by Authority personnel and/or representatives of CWA Authority;
- Information provided by industrial user employees;
- Observations by field personnel;
- Information provided by the public or private citizens;
- Review of compliance schedule requirements;
- Review of compliance agreement or agreed judgment requirements; and
- Information provided by other agencies (EPA, IDEM, Marion County Public Health Department, etc.).

Once a violation is identified, it is the responsibility of the Authority to implement the appropriate enforcement response required in the plan. When determining an appropriate response, particularly one which includes the imposition of penalties, the specific procedures outlined in the Enforcement Procedures Section must be followed. However, additional criteria may be used in determination of the response including:

- Magnitude of the violation;
- Duration of the violation;
- Effect of the violation on the POTW's receiving stream;
- Effect of the violation on POTW processes and equipment;
- Effect on the City CWA Authority's or its representatives' equipment;
- Compliance history of the industrial user;
- Good faith of the industrial user; or
- Pollutants of particular importance to the POTW.

ENFORCEMENT RESPONSES AVAILABLE

The Authority has available to it a number of enforcement responses allowed under local and state law. The responses described below include both administrative as well as civil responses. All actions taken by the Authority requiring a response by the industrial user are accomplished in writing and sent by certified mail to ensure receipt by the industrial user.

Administrative Responses

Telephone Contact - Minor violations which do not require a formal response may be addressed by a telephone call to the industrial user. These types of violations may include late submission of a self-monitoring report (SMR), errors on the SMR, or a violation of an effluent limitation within the TRC. A written record of the contact is accomplished for inclusion in the file and may be used as documentation in the event further enforcement action is necessary in the future.

Enforcement/Compliance Status Meeting - A meeting/inspection of the industrial user to address situations involving violations of procedural requirements, improper completion of reports, or follow-up to noncompliance events may be used to correct errors, identify possible problems, or propose potential solutions before noncompliance becomes significant. Any recommendations or required actions are documented in writing to the industrial user.

Warning Letter - Written notice of a noncompliance situation may be used for a violation which is minor in nature. Often used following an inspection of a facility in which specific actions need to be taken to prevent a potential noncompliance event. This mechanism establishes a base for more formal enforcement action if a violation occurs or continues.

Initial Notice of Violation (NOV) - Issued to an industrial user for a first-time violation, usually, this notice requires no further action on the part of the industrial user and addresses violations which have had no noticeable environmental harm, impact on the POTW or the receiving stream, or other detrimental effects. This notice puts the industrial user on probationary status and is initiation of preliminary enforcement procedures. This type of NOV will also be issued for repeat violations that do not result in initiation of formal action with referral to the Authority's Administrative Hearing Officer.

Compliance Schedule - Certain instances of noncompliance in which it has been determined the noncompliance may continue for a period of time can be addressed by issuance of an administrative compliance schedule. This option is used where the schedule period is of short duration preventing its incorporation into a court-approved document or if assessment of penalties is not being considered.

During the compliance schedule period, continuing effluent violations may occur. The industrial user must demonstrate to the satisfaction of the Authority that every possible effort to prevent or mitigate the magnitude of violations during the schedule period is accomplished.

Violations that occur during completion of the schedule period may not necessarily be assessed penalties (at the discretion of the Authority). However, their occurrence will be documented and recorded on the user's compliance record. If the industrial user fails to achieve compliance by the end of the schedule or to demonstrate a good faith effort, penalties may be assessed for all violations occurring during that interim period.

Show Cause Hearing - Under certain circumstances, the Authority may issue an order to an industrial user to appear and show cause at a hearing why a proposed administrative action should not be taken. This action is usually reserved for recalcitrant industries or to further investigate a noncompliance situation. This action is often followed by issuance of a compliance schedule or a referral for civil action.

Recovery of Costs - Any discharger of waste to a sewer system regulated by the Authority can be held liable for causing interference, obstruction, damage, or impairment to the POTW, the work required to clean or repair the POTW, or any fine imposed against the city Authority as a result of the discharge. The Authority may determine the costs incurred as a result of the non-complying discharge and assess the charges on the user's regular sewer bill.

Emergency Suspension of Service/Industrial Discharge Permit - The Authority may suspend the wastewater treatment service or the industrial discharge permit without notice or hearing to the user in order to stop an actual or threatened discharge which presents an imminent or substantial danger to the health or welfare of persons, the environment, the POTW, or causes the POTW to violate any condition of its NPDES permit. This suspension is issued by the Director and requires the user to immediately stop or eliminate the non-complying discharge. Failure to comply with the order can result in severance of the sewer connection to prevent further damage.

Revocation of Permit - The Authority may revoke the industrial discharge permit and the legal rights to discharge of any user for the following reasons:

- Violation of any provision of Resolution CWA 2-2011, state, or federal law;
- Repeated failure to timely submit any required reports;
- Failure to factually report wastewater characteristics;
- Refusal to allow reasonable access to the user's premises for inspection, monitoring, or review of records; or
- Violation of any condition of the user's discharge permit.

The permittee must be given written notice by the Authority of the conditions that warrant revocation of the permit and be allowed an opportunity to achieve compliance with applicable requirements.

Publication of Violators - The Authority will annually publish in the Indianapolis Star a list of all users found in significant noncompliance (SNC) of pretreatment requirements. This action serves to deter industrial users from noncompliance by avoiding public scrutiny. The publication of SNC is required by USEPA and 40 CFR 403.8(f)(2)(vii).

Accelerated Monitoring - In response to industrial noncompliance, the Authority may require an industrial user to perform additional sampling and analysis of the discharge to demonstrate consistent compliance. The Authority may also conduct increased surveillance activities to verify compliance independent of self-monitoring results. This action is normally

short-term in nature, but the increased expense to the industrial user provides the motivation to achieve compliance as quickly as possible.

Termination of Water Service - The water service to an industrial user may be terminated at the Authority's request. The cost of resuming service is borne by the industrial user and provides an incentive to comply with the necessary requirements. Adequate written notice is given to the industrial user of such action.

This procedure is used almost exclusively for industrial users that are severely delinquent on payment of sewer charges, including surcharges and industrial surveillance costs. This option is available only for those industrial users on a water system which is owned and operated by the Department of Public Utilities of the City of Indianapolis.

Civil Responses pursuant to Resolutions No. CWA 2-2011, CWA 3-2011, and CWA 1-2011

Notice of Violation (NOV) with Referral to Authority's Administrative Hearing Officer (AHO) - Any violation or set of violations requiring assessment of monetary penalties, adherence to a formal compliance schedule, or completion of ordered activities is addressed by an NOV issued by the Authority with a request to the Authority's counsel or AHO to file a complaint of violation.

/Compliance Agreement - This document is an agreement between the industrial user and the Authority preventing a full hearing on the violations. The compliance agreement is used when the industrial user is willing to admit to and correct the noncompliance situation. The requirements of the agreement are negotiated by the industrial user and the Authority representative. This information is referred to the Authority's AHO and used to draft a compliance agreement. The Authority's AHO then sends the agreement to the industrial user for signature.

If a hearing is held, the hearing officer may assess a penalty through rendering of a judgment. The judgment of a hearing officer may be appealed by the user to the Marion Superior Court.

The judgment may contain any combination of the following:

- Description of the noncompliance;
- Civil penalty;
- Recovery of costs incurred by the Authority;
- Formal and enforceable compliance schedule;
- Other corrective action.

Penalties proposed by the Authority can be assessed through the compliance agreement process. A penalty in the amount of up to \$2,500.00 can be assessed for each first violation, while a penalty of up to \$7,500 may be assessed for each second or subsequent violation. Each

day constitutes a new violation. The actual amount, based on specific factors explained in the Penalties Section, will be calculated by the Authority and recommended to the Authority's AHO.

Penalty Hearing - In some cases, the industrial user acknowledges a noncompliance event and agrees to corrective action, but an agreement on an appropriate penalty cannot be reached. These situations require evaluation of the case by the Administrative Hearing Officer and a decision as to the amount of the appropriate penalty.

Hearing or Trial - Enforcement cases involving a dispute as to whether a violation occurred or a failure to reach a negotiated settlement are set for hearing or trial. These cases require full disclosure of all facts related to the noncompliance and testimony may be provided by the industrial user, IPP staff, Authority staff, witnesses, or other parties with relevant information may be provided.

Injunctive Relief - This action results in a court-ordered cessation of violations that may include termination of discharges, installation of treatment equipment, etc. Because Resolution No. CWA 2-2011 provides the Authority with cease and desist power, it is unlikely this option would be used. However, if a discharger disregards agreed judgment, a compliance agreement, or the administrative order, court-ordered relief may be necessary.

Criminal Violations

Willful or negligent violations, including false statements or tampering with the Authority's equipment, may be punishable by criminal prosecution. Although the Authority's representatives are trained to recognize possible criminal violations, any criminal enforcement action will proceed only with the assistance of other enforcement agencies.

Depending on the nature of the violations, a criminal enforcement action may involve any of the following entities:

- Counsel representing the Authority
- IDEM Office of Criminal Investigations
- United States Department of Justice
- Federal Bureau of Investigations
- EPA Criminal Investigation Division
- Marion County Prosecutor's Office
- Marion County Sheriffs Department
- Indianapolis Metropolitan Police Department

The Authority will consult with the appropriate agency or agencies whenever evidence of a noncompliance situation shows possible criminal intent.

Other Enforcement Responses

Noncompliance by an industrial user will always bring some type of enforcement response by the Authority. Depending on the circumstances of the violations, the Authority can

choose to exercise a number of options as detailed previously. However, the initiation of enforcement action by the Authority does not prevent additional enforcement action through other sources. These actions are outside the realm of the Authority's responsibilities and are usually brought by other regulatory agencies or private parties. Although these actions are not part of the Authority's enforcement response procedures plan, they are discussed here to educate industrial users of their existence.

Third Party Intervention/Citizen Suits

Industrial users should be aware of the ability of citizens to bring lawsuits for noncompliance with pretreatment requirements. The Clean Water Act ("Act") (allows intervention by private parties to seek enforcement of any effluent standard or limitation. A citizen suit under Section 505 of the Act can be brought in any instance of a violation of pretreatment standards where it may be reasonably assumed that violations could recur in the future. A citizen is defined in the Act as any person having an interest that is or may be adversely affected.

1. A citizen suit must give sixty (60) days notice to the alleged violator, the Administrator of the EPA, and the Commissioner of IDEM of the commencement of a civil action (intent to sue).
2. The Act provides limited protection to industrial users from additional enforcement action on identical violations initiated by separate parties. If an enforcement action is taken for specific violations, it must be shown the action was comparable or capable of being comparable to actions afforded by state or federal enforcement. If proven otherwise, an additional action could be brought for the same violations with additional penalties and corrective measures, if deemed appropriate.

Therefore, any enforcement action taken by the Authority, either prior or subsequent to the initiation of a citizen suit, will not necessarily protect the industrial user from redundant enforcement action. Absolute protection from citizen suits is possible only when IDEM or EPA diligently pursue an enforcement action for the same specified violations.

State/EPA Action

Any violations of pretreatment standards and regulations are potentially subject to an enforcement action by IDEM or EPA. This will usually occur for one of two reasons;

If the Authority does not properly enforce the requirements of its approved pretreatment program, including assessment of inappropriate penalties or failure to bring enforcement action when necessary; or

If the Authority requests the help of the agencies to prosecute a specific enforcement case.

ENFORCEMENT PROCEDURES

Generally, all violations identified by Authority personnel are reviewed, evaluated, and addressed by the appropriate enforcement response. The responses fall within the guidelines of this Enforcement Response Plan.

The majority of enforcement actions begin with issuance of an initial notice of violation. The NOV, sent via certified mail, describes the nature of the violation and informs the industrial user that any additional violations may result in referral to the Authority's AHO for appropriate enforcement action. Barring mitigating circumstances surrounding the violations, such as an initial violation which has caused damage or harm to the POTW, human health or safety, caused the POTW to violate its NPDES permit requirements or any other condition deemed serious by the Authority, a first time violation of effluent standards will normally not carry a monetary penalty.

Once the industrial user has been notified of a violation or has knowledge of a condition which is a violation, the industrial user may be allowed up to fifteen (15) calendar days to correct the noncompliance before escalation of the enforcement process occurs. This 15 day period applies only to an initial violation. Any violations occurring after this period will be evaluated according to the plan procedures. (NOTE: a repeat occurrence does not necessarily indicate the same parameters, condition, or procedural requirement were found in violation.) Thereafter, each violation is evaluated for enforcement action. In addition, if a violation occurred during the 15 day correction period, the industry must demonstrate good faith was exercised to prevent or mitigate further violations during that period.

For each violation, point values will be assigned as described in the VIOLATIONS MATRIX. These values will accumulate until a specific tier level is reached (see TIER LEVEL PENALTIES TABLE). Each new level will trigger additional penalties or a separate enforcement action with assessment of the appropriate penalty for each violation. If an action is pending for prior violations, the new violations may be included, if possible, in the existing action with assessment of additional penalties, at the Authority's discretion.

The matrix assigns point values to those violations most easily identified and evaluated. These are violations of effluent standards, late reporting, and missing major compliance schedule milestones. Other violations of procedural requirements, deadlines, Enforcement Response Guide noncompliance, or other violations not specifically identified below will be reviewed and evaluated by the Authority on a case-by-case basis.

Multiple violations occurring on a single day and attributable to a single noncompliance event will normally be considered one occurrence. Each parameter in a violation may be evaluated separately and the single maximum point value will be assigned. However, under special circumstances, point values of each parameter in violation can be additive, resulting in a higher tier level and increased penalties. Violations of monthly averages (categorical industries) constitute a violation for each day the industrial user operated during the given month unless actual daily analyses are demonstrated to be less than the applicable monthly average limitation.

VIOLATIONS MATRIX

The following point values will be assigned to each day's violation when calculating the tier level status and calculation of the appropriate penalty:

Table 1: Metals, Toxics, and Other Regulated Nonconventional Pollutants

Value greater than the limitation and < TRC (1.2 x limitation)	= 0
Value > TRC and <2 x limitation or <1.0 mg/l	= 0.50
Value > 2 x and < 3 x limitation	= 0.75
Value > 3 x and <5 x limitation	= 1.00
Value greater than 5 x limitation	= 2.00
33% or more of all measurements taken during a six month period exceed the TRC, if not addressed above	= 1.00
66% or more of all of the measurements taken during a six month period exceed, by any magnitude, the daily maximum or monthly average limit for the same pollutant parameter, if not addressed above	= 1.00

Table 2: Total Petroleum Hydrocarbons

Value greater than the limitation and < TRC (1.4 x limitation)	= 0
Value > TRC and < 2.5 x limitation	= 0.25
Value > 2.5 x and < 5.0 x limitation	= 0.50
Value > 5.0 x and < 7.5 x limitation	= 0.75
Value greater than 7.5 x limitation	= 1.00
66% or more of all oil and grease results taken during a six-month period exceed, by any magnitude, the daily maximum or monthly average limit	= 1.00

Table 3: pH - Grab Method Results

Value less than 2.0 S.U.	= 0.50
Value > 2.0 and < 4.5 S.U.	= 0.25
Value > 4.5 and < 12.5 S.U.	= 0.00
Value > 12.5 and < 13.5 S.U.	= 0.25
Value > 13.5 S.U.	= 0.50
33% of all measurements outside the range 5.0 - 12.0 S.U. during any given six month period	= 0.50

Table 4: pH - Continuous Monitoring Results

During a given calendar month, the total time during which the pH values are outside the required range exceeds 7 hours and 26 minutes	= 1.00
An individual continuous excursion exceeds the upper pH range for more than 60 minutes	= 0.50

An individual continuous excursion remains below the lower pH limit for more than 60 minutes	= 1.00
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Table 5: Ammonia

33% or more of all of the measurements taken during a six month period exceed the TRC for the daily maximum or monthly average limit	= 1.00
66% or more of all of the measurements taken during a six month period exceed, by any magnitude, the daily maximum or monthly average limit	= 1.00

Table 6: Other

Submission of reports later than five days past deadline (per occurrence)	= 0.20
Invalid sample (per occurrence)	= 0.25
Improper sampling documentation (per occurrence)	= 0.25
Missing documentation (per occurrence)	= 0.25
Missed major compliance schedule milestone without reasonable justification	= 0.50
Unpermitted discharge	To be determined based upon circumstance

ASSESSMENT OF PENALTIES

The table of recommended penalties ranges from the minimum assessed at each level up to the maximum allowed under Indiana law of up to \$2,500.00 for the first violation, and up to \$7,500.00 for each subsequent violation. Although the minimum penalty is normally applied in routine enforcement actions, the CWA may assess any initial violation up to \$2,500.00 , and up to \$7,500.00 for each subsequent violation depending on circumstances of the noncompliance. The initiation of enforcement action and assessment of penalties is triggered at each tier level. This includes each violation or set of new violations remaining uncorrected or occurring fifteen days after receipt of an initial NOV or of knowledge of any violation and are assessed escalating penalties according to the schedule below, up to \$7,500.00 per day per violation.

Table 7: Tier Level Penalties Table

	Tier Level (Sum of Matrix Values)	Minimum Penalty Amount (Per Violation)
No Enforceable Violation on Record	0	N/A
Repeat Violations (Cumulative)	2	\$250.00
Repeat Violations (Cumulative)	3	\$500.00
Repeat Violations (Cumulative)	4	\$1,000.00
Repeat Violations (Cumulative)	5	\$1,500.00

Repeat Violations (Cumulative)	6	\$2,000.00
Repeat Violations (Cumulative)	7	\$2,500.00
Repeat Violations (Cumulative)	8	\$3,500.00
Repeat Violations (Cumulative)	9	\$4,500.00
Repeat Violations (Cumulative)	10	\$5,500.00
Repeat Violations (Cumulative)	11	\$6,500.00
Repeat Violations (Cumulative)	12	\$7,500.00

The above table is to be used as guidance; however, based upon the circumstances surrounding the violation(s), a penalty of up to \$2,500.00 for the first violation, and up to \$7,500.00 for each subsequent violation may be assessed.

An ongoing log or cumulative annual file is maintained for each industry with all violations described, action taken, penalties assessed, and current tier level status. Violations remain on the industrial user's compliance record for a rolling twenty-four (24) month period. Any violations more than two (2) years old are removed from the compliance history. When violations are removed from the industrial user's compliance history, the tier level status decreases. A twenty-four (24) month period without an enforceable violation will return to Level 0 status.

Certain incidents or noncompliance events automatically result in formal enforcement action including assessment of penalties. These include, but are not limited to:

- Violations involving environmental harm:
 - Passes through the POTW without proper treatment;
 - Causes a violation of the Authority's NPDES permit; or
 - Results in a fish kill in the receiving stream.
- Violations which cause interference of the POTW or its processes;
- Violations which result in physical damage to the sewer system or wastewater treatment plant;
- Fraudulent activities; or
- Tampering with the Authority's sampling/monitoring equipment or sampling procedures.

The amount of the civil penalty assessed for the above violations depends on several factors including:

- Actual impact on the treatment plant and its processes.
- The number and magnitude of violations incurred by the Authority of its NPDES permit.
- Evaluation of the knowing or negligent nature of the violation.

Violations that result in damage to the POTW and/or result in a violation of the Authority's NPDES permit shall be evaluated for the maximum allowable penalty, regardless of the intent of the discharger. Any incident involving NPDES violations must result in strict enforcement proceedings against the discharger as EPA or IDEM will consider the actions of the Authority when determining federal or state enforcement options against the municipality.

REFERRAL OF VIOLATIONS TO THE AUTHORITY'S ADMINISTRATIVE HEARING OFFICER

Repeat violations that trigger the enforcement/penalty procedures must be processed through the Authority's counsel or the AHO. Through issuance of a Notice of Violation with a referral to the Authority's AHO, the Authority will be requesting a penalty as a part of the resolution of the action. The procedures for referral of a Notice of Violation case are outlined below.

- Industrial user is sent a notice of violation by the Authority with a request to the Authority's counsel to file a complaint of ordinance violation or a request for resolution of the ordinance violation through the administrative hearing officer.
- In the notice of violation, the Authority requests that the industrial user discuss the violation and the resolution of the action with the Authority.
- If the industrial user chooses, the industrial user and the Authority's staff discuss terms of the enforcement action, corrective measures taken to prevent the problem from recurring, compliance measures that may be included in the resolution, the amount of the penalty, and any supplemental environmental projects (SEP) to be undertaken to mitigate a portion of the penalty.
- To resolve the enforcement action, the Authority's staff drafts a proposed agreed judgment or compliance agreement and sends it to the industrial user for approval and signature. Simultaneously, the Authority schedules the matter for a hearing.
- If an agreement is reached between both parties prior to the hearing, no hearing will be necessary. Upon return of the signed document from the industrial user to the Authority, the Authority's counsel signs the agreement. The approved document is forwarded to the Authority's counsel through an Agreed Judgment or the administrative hearing officer through a Compliance Agreement for approval and finalization.
- If an agreement cannot be reached between both parties (the industrial user does not agree to the terms of the proposed resolution), a hearing is held before a superior court judge or an administrative hearing officer who will render a judgment as the resolution of the action.

The normal time frame for completion (expressed in workdays) of the agreed judgment process is outlined below:

Table 8: Time Frame for Completion of Agreed Judgment Process

Action	Action Within
Authority issues notice of violation to industry user to address noncompliance	60 days of identification of violation
Industry user responds verbally or in writing to notice of violation	15 days of receipt of notice of violation
Authority representative and industrial user reach agreement on enforcement action through an Agreed Judgment or Compliance Agreement	45 days of issuance of complaint Authority
After Authority provides Agreed Judgment or Compliance Agreement, industrial user signs and returns to Authority for finalization	30 days of receiving notice of agreement from Authority representative signed by industrial user; after receipt, Authority forwards to Authority's attorney for signature; forwarded to Administrative Hearing Officer for finalization
Authority refers case to judge or hearing officer with hearing date	Simultaneously sent with proposed resolution; if resolved, no hearing will take place; if not resolved, hearing will occur and judgment will be rendered

EVALUATION OF MITIGATING CIRCUMSTANCES

Each enforcement action initiated by the Authority is unique as far as the condition leading to the violation or noncompliance. There are certain circumstances to be considered in each enforcement case. However, the general premise is that each violation is subject to enforcement action by the Authority. The following discusses areas pertaining to evaluation of minor noncompliance, upset and bypass defenses, and good faith efforts by the industrial user.

Minor Noncompliance

Any violation, regardless of magnitude, is eligible for enforcement action. However, implementation of normal enforcement response procedures takes into account the seriousness of specific violations with respect to the parameter involved and the degree of the violation. This procedure is addressed in the section that details the calculation of penalties and initiation of enforcement proceedings.

Upset

An upset defense can only apply in those cases where violations of technology-based categorical pretreatment standards have occurred. It does not apply to violations of the general prohibitive standards to prevent interference and/or pass-through or to limits in Resolution CWA 2-2011 developed for protection of water quality standards and/or POTW processes. An upset is narrowly defined in CWA 2-2011 as “an exceptional incident in the user’s industrial facility, in

which there is an unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation”.

The burden of proof in Resolution CWA 2-2011: Section 1.9(f) is with the industrial user and must be satisfied for an upset defense to be considered. If an alleged upset has occurred, the industrial user must take any extraordinary measures to limit production or control or prevent all discharges until the treatment process is restored.

A successful defense shall not relieve the industrial user of any liability for expense, loss, or damage incurred by the Authority as a result of the upset including fines or penalties levied against the Authority for noncompliance with NPDES requirements.

Bypass of Treatment Facilities

Relief from liability as the result of bypass of treatment facilities will be allowed under extremely limited circumstances.

A bypass is the intentional diversion of any or all waste streams from any portion of an industrial user’s treatment facility. The prohibition against bypass of treatment facilities requires that the treatment system or processes must be operated in a manner consistent with known engineering practices and principles.

A bypass may only occur if it does not result in noncompliance with pretreatment standards and if it is essential to periodic maintenance activities for assuring efficient and consistent operation of the treatment facilities.

Any bypass resulting in violation of pretreatment standards can be defended only in cases where:

- The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
- There were no feasible alternatives to the bypass; and
- The industrial user complied with all reporting requirements for advance notice to the Authority.

Advance notice shall consist of written notice at least ten (10) days prior to scheduled bypasses. In the case of unscheduled bypasses, oral notice must be given immediately,

Good Faith Efforts

The pretreatment standards, requirements, and regulations are the product of strict liability statutes. Assertion of good faith is neither an excuse nor a defense for violations of

applicable requirements. However, the demonstration of good faith efforts to return to compliance following a noncompliance event is taken into account when determining the amount of a monetary penalty.

Any knowing or negligent violations are considered outside the arena of good faith and will be addressed by accelerated penalties and the potential for criminal proceedings.

Compliance Schedules

Any industry which identifies a potential noncompliance situation where violations are likely to occur or recur may submit a plan for corrective action to the Authority for review. The plan must include detailed activities to be accomplished, as well as specific time frames for completion.

Upon approval by the Authority, a compliance schedule is issued with requirements to submit periodic progress reports. Enforcement of violations occurring during the schedule period may be stayed pending completion of the required activities at the Authority's discretion. However, if in the opinion of the Authority, an excessive amount of time passes without significant progress or if violations continue after completion of the compliance schedule, all violations which occurred during the schedule period may be subject to appropriate penalties.

In cases where compliance schedules extend to periods greater than two (2) years, violations on the industrial user's record will not necessarily be deleted within the rolling twenty-four (24) month review period.

Compliance schedules may be issued by the Authority as an administrative order approved by the court through the agreed judgment process or approved by the AHO through the compliance agreement process.

ENFORCEMENT OF CATEGORICAL STANDARDS

Industries regulated by Resolution CWA 2-2011 as well as categorical standards, face additional requirements promulgated in the federal regulations. Because the Authority operates an industrial pretreatment program approved by the EPA and IDEM, it is required to enforce categorical pretreatment standards as an agent of the EPA.

Although the majority of categorical standards have been promulgated and final compliance deadlines have passed, there are regulations with pending deadlines and some industrial categories being considered for regulation. Therefore, an explanation of additional reporting requirements and compliance for those affected industries is warranted.

Baseline Monitoring Report (BMR) - 40 CFR 403.12(b) requires submission of the process description, statement of current compliance or noncompliance with the standard, and development of a compliance schedule, if necessary.

Periodic Progress Reports - 40 CFR 403.12(c) requires those industries in current noncompliance with a promulgated standard to complete a compliance schedule and to submit progress reports within fourteen (14) days of each major milestone date.

Compliance Date Report - 40 CFR 403.12(d) requires all affected industries to submit a report within ninety (90) days following the final compliance deadline in the standard, certifying whether compliance has been achieved.

Periodic Reports on Continued Compliance - 40 CFR 403.12(e) requires at least semiannual reports from categorical industries indicating continued compliance with applicable standards. The Authority's program satisfies this requirement by requiring monthly reports from all industries and/or at least twice annual monitoring for all parameters by the industry or the Authority.

Failure to submit timely reports or submission of inadequate reports is subject to enforcement action under the Authority's procedures.

If the categorical industry fails to meet a federally mandated compliance date, the following procedures can be implemented:

1. If the industry has failed to demonstrate a good faith effort through prompt and conscientious efforts to meet the compliance date, a formal enforcement action with referral to the Authority's AHO will be initiated. The penalty may be calculated separately from the normal procedures to reflect the seriousness and magnitude of the violations, the relative lack of diligence by the industry, and be sufficient to negate any competitive advantage enjoyed by delaying compliance.
2. If the industry has made what is determined to be a good faith effort but cannot comply within ninety (90) days subsequent to the deadline, an enforcement action may be initiated to include additional corrective measures, as well as assessment of an appropriate penalty.
3. If the industry has made a good faith effort but exceeds the deadline by less than ninety (90) days, a determination can be made on a case-by-case basis as to whether enforcement action should be taken. It shall be at the discretion of the Authority if increased monitoring and scrutiny of progress is sufficient to guarantee compliance.

In Examples #2 and #3 above, it should be noted that "good faith" has been narrowly construed by Congress and should be judged based on the following:

“The Act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous, and, in many cases, expensive pollution control measures must be initiated and completed as promptly as possible. In assessing the good faith of a discharger, the discharger is to be judged against these criteria. Moreover, it is an established principle, which applies to this Act, that administrative and judicial review is sought on a discharger’s own time.”

Therefore, any good faith effort must prove the industry has gone “above and beyond” and that due to factors out of its control could not achieve compliance. Also, any delay experienced during the compliance period as a result of legal action brought by a facility with respect to applicability of a standard to the given facility is to be counted against the deadline. Awaiting a decision on a legal action, removal credits applications, or other similar procedure shall not be used as a reasonable excuse in failing to achieve compliance.

REPORTING NONCOMPLIANCE - INDUSTRY’S OBLIGATIONS

Industrial users are required to report noncompliance events to the Authority within certain time frames. This applies to violation of ordinance provisions, industrial discharge permit standards, categorical pretreatment requirements, spills, accidental discharges, and slug discharges.

Self-Monitoring

Violations identified by an industrial user as a result of its own sampling must be reported to the Authority within 24 hours of knowledge of the violation. The industrial user must also resample for the parameter in violation within thirty (30) days of knowledge of the violation unless the Authority samples within the same period. This notification is usually done verbally by telephone. However, notification within 24 hours by FAX transmission, personal delivery or notice, express mail, or e-mail satisfies the requirement. The initial notification must include:

- Name of the company;
- Location of the discharge;
- Limitation, standard, or requirement in violation; and
- Corrective action taken or anticipated.

In addition, a written report describing the circumstances of the violation must be submitted within five (5) working days of knowledge of the violation. The written notification must include:

- Description and cause of the violation;
- Parameters in violations; and

- Period of noncompliance and steps taken to prevent recurrence.

Spills, Accidental, and Slug Discharges

Industrial users must immediately report by telephone any spills, accidental or slug discharges, or any release that may cause problems at the POTW. Events occurring after business hours or on weekends must be reported to the Authority at the Belmont Console Room at 317-639-7120.

1. Name of the company;
2. Location of the discharge;
3. Type of waste discharged;
4. Concentration and volume of waste discharged; and
5. Corrective action taken to minimize the impact of the discharge to the POTW and to prevent a recurrence.

A written report must be submitted within five (5) working days of the incident.

STAFF RESPONSIBILITIES

Described below are the responsibilities of various Authority personnel involved in the collection and screening of data, organization of enforcement actions, review of actions taken, and general management of the enforcement response procedures. An attempt has been made to identify all positions involved in the enforcement scheme, albeit some on the list are involved peripherally.

Table 9: Staff Responsibilities

Position(s)	Primary Responsibilities
Industrial Pretreatment Program	Provide oversight on behalf of the Authority and coordinates the pretreatment program's enforcement activities.
IPP Sampler (or its contractor)	Collects industrial samples, completes chain-of custody information, deliver samples to lab, coordinate with IPP Coordinator special enforcement sampling events. Collect interceptor samples from established designated sites within the Indianapolis sewer system when necessary. Sampling for backtracking and determining source of toxic or problem discharges.
IPP Coordinator	Reviews noncompliance reports to determine industries eligible for enforcement action, issues notices of violation, refers cases to Authority enforcement staff, conducts annual inspections, generates QNCR and annual report, and manages overall operation of the IPP. Drafts and routes correspondence for enforcement proceedings.
IPP Specialist	Reviews permit applications, develops and issues discharge permits

	and control mechanisms, conducts onsite inspections. Track and input self-monitoring report data.
Environmental Coordinator	Responds to spills, accidental discharges complaints.
Manager of Environmental Compliance	Provides oversight of IPP for the CWA Authority, Inc.
Director of Environmental Stewardship	Signatory Authority for permitting and enforcement for CWA Authority, Inc.
Authority Counsel	Conferences, advises staff on content of judgments, general legal guidance. Represents the Authority at prehearings or hearings.
Authority Counsel (or its outside counsel)	Litigates enforcement cases in court or administrative hearings, issues complaints, drafts final agreed judgments, coordinates with Authority representatives on amount of penalty, content of judgment.
Administrative Hearing Officer	Finalizes administrative compliance agreements with Authority staff. Rules on industrial enforcement actions.
Superior or Circuit Judge	Approves agreed judgments, decides cases where terms cannot be agreed upon by the Authority and industry.
Indianapolis Metropolitan Police Department	If needed, can provide assistance with access to industrial premises, provide surveillance expertise.
IDEM - Investigations Group	Coordinate with Authority personnel on cases where FBI potential criminal activities are involved, County Prosecutor's Office provide expertise in gathering of data, collection of witness information, initiate criminal proceedings.
Belmont AWT Laboratory	Receives, handles and analyzes some surveillance samples
Contract Laboratory	Samples, process control samples, interceptor samples, perform inhibition testing of wastewater samples, issues initial noncompliance results to IPP Coordinator.
Collection Operations	Responds to collection system problems, takes photographs of sewer problems for evidence in enforcement proceedings.

TRACKING SYSTEM - DUE DATES

Industrial users are required to submit various reports and information as a result of a number of compliance activities. It is important the Authority has reliable procedures to ensure industrial users submit whatever information is requested by the required dates. Reports or information required by industry on a regular basis are logged in a computer tracking system. Other reports submitted periodically or at the request of the Authority are normally handled by manual tracking procedures.

The following are among the items that may be required from an industrial user by a specific date as required by permit issued by the Authority or notification from the Authority:

- Self-monitoring reports;
- Industrial discharge permit application;
- Compliance schedule progress reports;
- Follow-up information subsequent to industrial inspections;
- Written reports following spills, accidental or slug discharges;
- Written reports describing self-monitoring violations;
- Special discharge permit applications;
- Written response to notices of violation;
- Statement of Industrial Waste 2431 forms (surcharge reports);
- Wastewater hauler permit applications;
- Scheduled inspection dates;
- Baseline Monitoring Reports (as applicable);
- Certification Statements.

Computer Tracking System

Each month, self-monitoring reports are submitted to the Authority by a specific group of permitted industrial users. Each report is date stamped on the day it was received and routed to the IPP Specialist. Self-monitoring reports must be postmarked by the 28th of the month following the monitoring period. A logbook is maintained by the IPP Specialist to identify the industrial users that are delinquent. These industries are contacted by phone or certified mail. The log is then checked weekly until all self-monitoring reports are received.

Submission of surcharge reports are tracked and processed by the Authority or its billing contractor.

Reports are also generated indicating permit expiration dates and the most recent inspection dates. These reports are used to schedule the issuance of industrial discharge permit applications and inspection visits.

Manual Tracking

A number of reports, forms, and correspondence required by a specific due date are tracked on a manual basis. These documents are submitted periodically and are most easily tracked by noting submission dates on a special calendar, log book, or rolling file system. These sources are reviewed regularly to determine if the appropriate information has been received.

Industries operating under a formal compliance schedule requiring submission of periodic progress reports are organized by separate files containing the specific schedule information. These files are reviewed to determine if a progress report is due. The file remains open until the

schedule is complete and all reports are submitted. These documents are maintained by the Authority's staff.

The timely submission of other information, including applications for industrial discharge and wastewater hauler permits, is tracked by reviewing a list of facilities needing applications, sending advance notice to the permittee, and regularly checking the list to determine if the information has been submitted.

INDUSTRIAL INSPECTIONS

Each significant industrial user permitted under the Authority's IPP must be inspected at least annually in accordance with EPA requirements. However, some facilities may receive more frequent inspections/visits during a given year to track compliance schedule activities, verify changes in discharge or processes, maintain a regulatory presence, or scrutinize facilities with discharges most likely to impact the POTW.

Scheduling regular annual inspections is done on a random basis by reviewing the current industry list and noting a day and time in a monthly planning log for the facilities to be inspected. Depending on the industry, advance notice by letter or telephone may be given of the impending inspection. As an industry is inspected, the date is noted in the computer tracking system to ensure each facility is inspected at least once during each calendar year as dictated by program requirements. The above procedure has proven to account for all industries.

Other inspections or site visits are conducted according to need. Facilities operating under a compliance schedule are given priority for follow-up visits to verify progress and to document that required activities are being accomplished. Inspections of these facilities may take place at regular intervals by noting inspection dates in a planning log in advance.

Some inspections will not be scheduled in advance, but are conducted as a result of a spill, accidental discharge, complaint, or other warranted event. These are often referred to as demand inspections and are accomplished as the situation dictates.

At the beginning of the fourth quarter of each calendar year, the current industry list is reviewed to determine if all facilities have been inspected or are scheduled for an inspection in the current year. Any industries which have not been addressed are scheduled for an inspection at this time.

ENFORCEMENT OF NONINDUSTRIAL DISCHARGES

The Authority also enforces requirements for dischargers of nonindustrial wastewater. These facilities are mainly comprised of wastewater haulers, illegal discharges into the sewer, and commercial restaurant/food preparation establishments. Although the enforcement process used with industrial users can be utilized, there are additional procedures used for these dischargers.

Wastewater Haulers Program

Facilities permitted under the Wastewater Haulers Program are required to furnish specific information on waste hauled to the Belmont AWT plant on forms prescribed by the CWA Authority and to maintain records of all sources of wastewater.

Enforcement action may be initiated against a wastewater hauler for activities including, but not limited to, the following:

- Furnishing false information on applications, manifests, or other documents;
- Furnishing incomplete information on applications, manifests, or other documents;
- Discharging tank contents prior to approval by AWT headworks personnel;
- Failure to disclose the sources of all wastewater in a discharge;
- Tampering of sample prior to discharge at AWT headworks;
- Discharging at a point other than a designated approved site;
- Failure to maintain current insurance coverage;
- Failure to remain current on payment of disposal charges;
- Failure to maintain accurate business records/transactions;
- Activities resulting in revocation of Indiana State Department of Health (ISDH) or IDEM certification;
- Failure to allow prompt access to premises for inspection, monitoring, or sampling including buildings, equipment, office files, or other relevant areas; or,

Discharging tank contents in violation of any other applicable requirements or limitations contained in Resolution CWA 2-2011. The Authority can exercise any of the enforcement responses detailed previously in this plan including:

- Verbal warning;
- Written notice of violation;
- Referral to the Authority's AHO;
- Completion of corrective measures; and
- Revocation of permit and dumping privileges.

GREASE BLOCKAGE ENFORCEMENT RESPONSE

Resolution CWA 2-2011 provides the Authority with the authority to require a food preparation facility to install and maintain a grease trap or grease interceptor. Resolution CWA 2-2011 also provides the authority to hold a party responsible for the removal of a blockage in the sewer regulated by the Authority in addition to a penalty for creation of the blockage.

The following sections of Resolution CWA 2-2011 outline the CWA Authority's legal authority to regulate grease blockage problems and take appropriate enforcement actions.

Prohibition of Obstruction

Resolution CWA 2-2011 Section.1.4(c) states, in pertinent part, that

“No person shall discharge or cause to be discharged to any city sewer wastewater or pollutants which cause, threaten to cause or are capable of causing, either alone or by interaction with other substances: ...(3) Obstruction to the flow in city sewers or other interference with the proper operation of the POTW;”

(“POTW” refers to the Publicly Owned Treatment Works including sewer collection system where the Authority processes and treats wastewater.)

Prohibition of Solid or Viscous Substances

Resolution CWA 2-2011 Section 1.4(d) states, in pertinent part, that

“No person shall discharge or cause to be discharged to any city sewer:(6) Solid or viscous substances and/or other pollutants which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to, grease, improperly shredded garbage, ...:”

Requirement for Grease Interceptor

Resolution CWA 2-2011 Section 1.4(g) states, in pertinent part, that:

“A grease interceptor shall be installed in the waste line leading from sinks, drains and other fixtures or equipment in restaurants, cafes, lunch counters, cafeterias, bars, and clubs; hotel, hospital, sanitarium, factory or school kitchens; or other establishments where grease may be introduced into the drainage system in quantities that can affect line stoppage or hinder sewage treatment...”

Authority for Cost Recovery

Resolution CWA 2-2011 Section 1.11 states, in pertinent part, that:

“If any person discharges or causes to be discharged a waste which causes interference, pass through, obstruction, damage or any other impairment to the POTW, the Director may assess a charge against such person for:

- The work required to clean or repair the POTW;

- Any civil penalty, fine or cost of compliance with injunctions or other orders of a court or governmental authority imposed against the Authority as a result of such interference, obstruction, damage or impairment; and
- All other costs incurred by the Authority as a result of such interference, pass through, obstruction, damage or impairment including but not limited to expert, consultant and attorneys' fees; and add such charges to such person's regular charge."

Authority for Right to Inspect

Resolution CWA 2-2011 Section 1.14 states, in pertinent part, that

"Whenever required to carry out the objectives of this resolution, an authorized representative of the Authority, upon presentation of proper credentials, shall have a right of entry to, upon or through any premises for purposes of reviewing relevant records or inspecting, measuring and sampling of the discharges. This right of entry shall include, but not be limited to, any equipment necessary to conduct such inspections, measuring and sampling. It shall be the duty of the person to provide all necessary clearance before entry and not to unnecessarily delay or hinder the authorized representative in carrying out the review of relevant records, inspection, measuring and sampling. The right of entry shall exist at any time."

Authority for Assessment of Penalty

Resolution CWA 2-2011 Section 1.16(a) states, in pertinent part, that

"Notwithstanding any other section, any person who violates any provision or discharge limit of this resolution may be fined an amount not to exceed:

- (1) two thousand five hundred dollars (\$2,500.00) for the first occurrence; and
- (2) seven thousand five hundred dollars (\$7,500.00) for a second or subsequent violation.

A violation of any condition or requirement of any permit issued under this resolution and ordinance or special agreement entered into under the authority of this resolution and ordinance shall constitute a violation of this resolution and ordinance. Each day's violation shall constitute a separate offense."

Termination of Service

Because the Authority is subject to the jurisdiction of the Indiana Utility Regulatory Commission (“IURC”), certain provisions to be exercised by the Authority must be approved by the IURC. These provisions are set forth in The SEWAGE DISPOSAL SERVICE TERMS AND CONDITIONS, I.U.R.C. CAUSE NO.43936 (“Terms and Conditions”), Section 10 of the Terms and Conditions, provides in pertinent part that the Authority may order the termination of service to a service address and that the Authority may remove any of its property from the customer’s premises for any one of the following reasons:

- 10.1** Water and/or Sewage Disposal Service rendered under any application, contract, agreement or otherwise may be discontinued by the Utility without request by the Customer and without notice, and the Utility may remove any of its property from the Customer’s Premises without legal process for any one of the following reasons:
 - 10.1.1** Where a condition dangerous or hazardous to life, physical safety, or property exists.
 - 10.1.2** Upon order by any Court, the Commission, or other duly authorized public authority, or upon written instruction by a law enforcement agency acting within its jurisdiction pursuant to Indiana Code 35-45-5-4(c).
 - 10.1.3** A fraudulent or unauthorized use of Sewage Disposal Service is detected and the Authority has reasonable grounds to believe the affected Customer is responsible for such tampering.
 - 10.1.4** Where the Authority’s equipment has been tampered with and the Utility has reasonable grounds to believe that the affected Customer is responsible for such tampering.
 - 10.1.5** Detection of a device or scheme which has been utilized to avoid or attempted to avoid full payment for Sewage Disposal Service as defined by Indiana Code 35-43-5 6.
- 10.2** Water and/or Sewage Disposal Service rendered under any application, contract, agreement or otherwise may be discontinued by the Authority five (5) days after delivery or eight (8) days after the mailing (whichever is earlier) of written notice for any of the following reasons:
 - 10.2.1** For failure to protect and maintain the Customer service pipe or other fixtures on the Customer’s property in a condition satisfactory to the Authority, and consistent with Section 20 of these Terms and Conditions

for Sewage Disposal Service and the provisions of the Indiana Plumbing Code.

- 10.2.2** For tampering by Customer, or others with the Customer's knowledge, with the Authority's service pipe, manholes or connections.
- 10.2.3** For violation of the Sewage Restrictions set forth in Sections 17, 18 and 19 of the Terms and Conditions for Sewage Disposal Service.
- 10.2.4** For failure to provide the Authority's employees free and reasonable access to the Premises or property served, or for obstructing the way of ingress to Customer or Authority sewer laterals, fixtures, or other appliances.
- 10.2.5** Nonpayment of a delinquent bill.
- 10.2.6** For failure of the Customer to make a cash deposit as provided for in Section 7 of these Terms and Conditions for Sewage Disposal Service, or failure to pay for the same class of service rendered at a different meter point, residence, or location, provided such bill has remained unpaid for at least forty-five (45) days. A Residential Customer shall not be disconnected for indebtedness incurred for Sewage Disposal Service at a different location if such bill has remained unpaid for less than forty five (45) days.
- 10.2.7** In case of vacancy of the Premises by the Customer, when no one has assumed responsibility for payment of the bill for service to the Premises.
- 10.2.8** When the Authority has reasonable evidence that a Customer who is indebted to the Authority for Sewage Disposal Service at his present or other location is receiving Sewage Disposal Service under the same or a different name.
- 10.2.9** For material misrepresentation in an application as to the Premises or property to be supplied service or type of service to be supplied or failure to report a change in the type of service.
- 10.2.10** When continuation of Sewage Disposal Service to the Customer creates conditions that jeopardize the integrity of the service provided to other Customers.

ENFORCEMENT RESPONSE PROCEDURES PLAN

As a part of the U.S. Environmental Protection Agency's approval of the Authority's IPP, the Authority has developed an Enforcement Response Procedures Plan to fairly and equitably

identify, address, and correct violations. Currently the Enforcement Response Plan outlines a procedure to address blockages from Restaurant/Food Preparation Facilities. The policy outlines that a facility can be held liable for the payment of cleanup costs in addition to a penalty for creating a grease blockage. This policy is incorporated into the Enforcement Response Procedures Plan for the Industrial Pretreatment Program.

Enforcement Progression

For the first occurrence, a field citation with date for compliance would be issued to the responsible official on site. The focus of the citation should be education. The cost of removal of the blockage may be assessed for the first occurrence along with a fine up to \$2,500.

For the second occurrence within a twelve (12) month period, a Notice of Violation would be issued with a penalty up to \$7,500 per violation in addition to the cost of the removal both the first and second blockages to be assessed.

For the third occurrence within a 12-month period, a Notice of Violation would be issued with a penalty up to \$7,500 per violation in addition to the cost of the removal of the blockage to be assessed. The discharger would be informed that a future occurrence will result in termination of the water service.

For the fourth occurrence within a 12-month period, a Notice of Violation would be issued with a penalty up to \$7,500 per violation, the cost of the removal of the blockage, and termination of the sewer service.

The enforcement progression may be accelerated at the discretion of the Authority if the violation is a habitual problem.

Appendix K: CWA Authority's Industrial Pretreatment Program Plan



2013 INDIANAPOLIS INDUSTRIAL PRETREATMENT PROGRAM PLAN

November 2012

Revisions

Revision #	Reason for Revisions ¹	Revised by:	Approved by:	Date
	Original Document	Tim Heider	Tim Blagsvedt	
R1	Updated various attachments	Tim Heider	Rick Farnham	2008
R2	Updated various attachments	Tim Heider	Tim Blagsvedt	2009
R3	Revisions include: <ul style="list-style-type: none"> • Calendar year • List of permittees • Attachment 3-revised listing of industries, permit limits, frequencies, etc. • Attachment 6-revised permit template • Attachment 7-revisions to hours of operation and disposal rates • Attachment 8-revisions to calendar year 	Tim Heider	Pam Wolsiefer-Leak	12/2010
R4	Revisions to Attachment 8 of the Plan	Tim Heider	Pam Wolsiefer-Leak	3/2011
R5	Revisions include: <ul style="list-style-type: none"> • References to city or City of Indianapolis replaced with CWA Authority, where appropriate; • Text additions to various sections: Identification of Potential Industries, Inspection and Sampling Program, Compliance Investigations, and Surcharge Program; • Attachment 3- revised list of industries; • Attachment 4- updated ERP approved by USEPA; • Attachment 6- revised permit template • Attachment 9- new attachment describing IWS procedures. 	Tim Heider		10/17/11
R6	Several references to City changed to CWA Authority	Cheryl Carlson	Tim Heider	12/01/11
R7	References to City ordinances changed to CWA Resolutions. Program delegation language added.	Cheryl Carlson	Tim Heider	11/28/12

¹ List of revisions is a general list. It does not list every change that was made to the document. For complete changes see previous version.



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2013 INDIANAPOLIS INDUSTRIAL PRETREATMENT PROGRAM PLAN

The Industrial Pretreatment Program (IPP) Plan addresses all monitoring, permitting, and reviewing activities necessary to ensure industrial compliance and proper reporting by self-reporter dischargers.

On November 30, 2012, CWA Authority, Inc. requested direct delegation of the Indianapolis Industrial Pretreatment Program from the United States Environmental Protection Agency (U.S. EPA). In anticipation of the delegation, the program will be transferred from the City of Indianapolis' authority to CWA Authority, Inc.

Identification of Staff

Identify the Company's pretreatment program manager.

The company will provide the staff necessary to carry out all requirements of the IPP including industrial permitting, inspection activities, enforcement, and sampling. Also, the IPP will provide the day-to-day oversight of CWA Authority's hauled waste program. The IPP staff includes:

- IPP Manager- Tim Heider
- IPP Specialist- Kim Cussen
- IPP Specialist- Nancy Williams
- IPP Field Operations- Astbury Water Technologies
- IPP Attendant- Candace Wineinger

Standard Identification Classification (SIC) Code Update

Develop schedule for updating the Standard Industrial Classification (SIC) codes for significant industrial users (SIUs).

The SIC codes for all significant industrial users have been updated based on the most recent publication of codes listed in the Standard Industrial Classification Manual. The manual is published by the federal Office of Management and Budget. In addition, all updated codes and industrial sectors have been added to CWA Authority's pretreatment *Linko* database. The permit numbers issued to SIU's will incorporate the appropriate SIC code for the industrial sector.



Identification of Potential Industries

Develop procedures to identify and contact potential industrial dischargers regarding industrial discharge permitting.

The company will utilize several sources to identify potential new industries that may require an industrial discharge permit under federal, state, and/or local rules and regulations. This activity is a continuous, ongoing identification program. The following sources will be utilized to identify potential SIU's:

- On-site inspections of industrial parks;
- Review of industrial park tenant lists;
- Sewer rate customer list provided by Citizens Water billing department;
- Information from sampling/surveillance/field personnel;
- Information from other industrial users;
- Review of sewer connection permits;
- Review of business licenses issued by the city, county, or state;
- Telephone listings (Yellow Pages);
- Yellowbook.com and related business web sites;
- Industrial Directory;
- Information from consultant and/or a potential industry;
- Previous survey information;
- Indiana Business Journal; and
- Indiana Department of Environmental Management.

Any potential new industries that are identified will be visited and/or contacted by the IPP. All potential industries will be required to submit a preliminary survey questionnaire (Attachment 1). After review of the completed questionnaire and site visit (if necessary), a determination will be made as to whether the facility is an SIU and warrants an industrial discharge permit. The determination will be based on the definition of an SIU as described in Chapter 671 of the Indianapolis Code and CWA Authority, Inc. Resolution 2-2011 and Resolution 3-2011. If a permit is not warranted, an exemption letter will be mailed to the facility describing any requirements that apply to the industry.

In 2012, a written SOP was updated to explain the activities required to maintain a current industrial database and IWS. The procedures are included in Attachment 9.

Inspection and Sampling Program

Perform inspections and sampling of industrial users and federal categorical users of the System.

All significant industrial facilities permitted and regulated under the IPP will be inspected at least annually during each calendar year. During 2013, a Standard Operating Procedures



(SOP) manual will be developed to describe the protocol and procedures for conducting an effective inspection and implementation of an inspection program (including the handling of confidential business information). It is anticipated that several facilities will require multiple inspections if they are newly identified or involved in the permit renewal process. The inspection form specified for the IPP will be used for each industrial inspection. The form was updated and expanded in 2011 and 2012 to address several new requirements. A completed inspection form (Attachment 2) will be placed in the industrial user's file. The inspection date as well as any pertinent information will be entered into the Linko database. Any deficiencies identified during the inspection will be discussed with the industrial user and followed up with a written letter. The letter will be delivered by certified mail or by e-mail with confirmation of receipt required. If specific activities are required to address inspection deficiencies, a compliance deadline will be imposed. Deficiencies that are deemed of a serious nature will be addressed through a notice of violation or other appropriate enforcement action.

All industrial users, significant and nonsignificant, permitted under the IPP will be sampled on a regular basis. The type of sample, parameters analyzed, and frequency will follow the requirements of the user's permit and the IPP sampling program. Actual sampling procedures are detailed in the IPP Sampling Plan and Procedures manual (Attachment 2).

At a minimum, categorical industrial users will be sampled four times annually, significant noncategorical users will be sampled twice annually, and nonsignificant, noncategorical users (if permitted) will be sampled annually. Currently, field sampling is being conducted by a subcontractor to United Water. Attachment 3 details a plan identifying all permitted users, regulated parameters, limitations, sampling frequency, and self-monitoring requirements. Standard protocol for industrial monitoring will be adhered to including proper chain-of-custody procedures, regular equipment calibration, sample labeling, and sample handling. All paperwork generated from the sampling program will be maintained by the IPP and stored for a minimum of three years. This includes chain-of-custody forms (internal and contract laboratory), field sheets and notes, laboratory QA/QC data sheets, and analytical reports. Field sampling that is conducted by an outside contractor shall adhere to the same requirements outlined above and will be subject to periodic audits by United Water and the CWA Authority to verify that proper procedures and protocol are being followed.

At least annually, the company will conduct an extensive review of surveillance sampling results and self-monitoring data to determine if permit limitations and local ordinance standards are still applicable. Based on this review, permit requirements may be revised to add/delete/modify specific parameters and/or requirements to reflect current conditions. Any changes will be documented in the industry's permit file. Specifically, any permit modification will include an updated fact sheet explaining the reason for the revisions. The industrial effluent data will be compared with Belmont and Southport AWT influent concentrations of regulated pollutants. In addition, evaluation of AWT sludge contamination levels will be conducted to further identify any changes in industrial contribution of pollutants. Influent, effluent, and sludge pollutant concentrations will be tracked on a monthly basis and compared against internal threshold levels to identify any potential changes in pollutant characteristics or loadings. In 2012, the NPDES permit required that a



local limits evaluation be completed prior to expiration of the permit in 2013. The evaluation has been completed and is under review by IDEM and USEPA.

Compliance Investigations

Develop procedures to conduct IPP compliance investigations, including communication protocol among the Company, the CWA Authority, and the SIU.

The IPP will coordinate all compliance and enforcement activities with the CWA Authority. Responsibilities for specific enforcement oversight and tracking of industrial compliance status was developed by CWA Authority in 2011 to reflect the reorganization of city departments and transition of POTW operations to the Authority. A detailed procedure addressing compliance and enforcement activities and the assignment of responsibilities is explained in the Enforcement Response Procedures (ERP) Plan. A copy of the updated ERP plan is included as Attachment 4. This plan was revised and approved by EPA on December 29, 2010 to incorporate the federal Streamlining Guidelines promulgated by U.S. EPA in 2005. The plan has been updated again in 2012 and will be reviewed by USEPA before final approval.

Enforcement Response Plan

Incorporate the approved City of Indianapolis' Enforcement Response Plan and CWA Authority's Enforcement Plan upon approval by U.S. EPA

The Company will incorporate all aspects of the City of Indianapolis approved Enforcement Response Procedures (ERP) Plan. Upon approval of the delegation by U.S. EPA, CWA Authority's ERP Plan will be implemented.

Laboratory Analysis

Specify type of laboratory sample analysis.

All industrial samples collected as part of the IPP will be analyzed according to *Standard Methods for the Examination of Water and Wastewater* and 40 CFR Part 136. Industrial users conducting self-monitoring activities will also be notified to comply with proper analytical procedures. The contract laboratory conducting sample analysis for the Company will provide the sample analysis method on each individual laboratory report submitted to the Company. The IPP will verify that correct analytical procedures are used for each industrial sample.



Industrial Permitting Procedures

Perform all permitting activities.

Once a new facility has been identified and a determination has been made that issuance of a permit is required, the permit process will be initiated. The procedure used for issuance of the industrial discharge permit will require mailing a permit application (Attachment 5) to the industrial user 90-120 days prior to expiration of the current permit for an existing user or immediately upon identification of a new user. Upon receipt of the application, the industrial user has thirty (30) days to complete and submit the required form and any other information requested by the IPP. A permitting schedule will be used to supply applications to existing users on a timely basis.

Upon receipt of the application, IPP will draft a preliminary permit incorporating appropriate local and/or federal requirements. An example of the standard permit form is included as Attachment 6. Significant revisions and additions were made to the permit template in 2012. Following review and approval by the IPP Manager, the draft permit is sent to the CWA Authority for final review and signature. The signed permit is then returned to the IPP for processing. A copy of the signed permit is placed in the industrial user's file. The original document along with any necessary reporting forms (SMR's, TTO certification forms, production reports, NSCIU exemption statements, etc) are sent via certified mail to the industrial user. All pertinent permit data, effective and expiration dates, parameters and limitations, and reporting requirements are entered into the Linko database. Currently, 56 industrial facilities hold Industrial Discharge Permits with oversight provided by the CWA Authority.

The City of Indianapolis developed a comprehensive policy in 2004 for the permitting of industrial dischargers. The permitting procedures identify various factors and conditions that could affect the water quality of specific surface waters within Marion County. Particular emphasis is placed on the potential effect of combined sewer overflows containing industrial wastewater. The new policy addresses these concerns and recognizes that certain steps may be necessary on the part of the discharger to protect surface water quality. This policy was developed as a joint cooperative effort between regulated industrial dischargers and the city's Clean Stream Team. The criteria set forth in the Industrial Pretreatment Permitting Policy and Process Manual are reviewed during the renewal and reissuance of each industrial discharge permit. The CWA Authority, Inc. has continued to implement this procedure.

Trucked-In Waste Program

Previously, the City of Indianapolis and currently the CWA Authority, under the day-to-day operations of United Water Services, has operated a hauled waste program under the provisions of Chapter 671, Article VI of the Municipal Code of the City of Indianapolis and Marion County since 1994. When delegation is approved by U.S. EPA, CWA Authority, Inc. will regulate hauler waste under the authority of CWA Resolutions 2-2011 and 3-2011. United Water has endeavored to expand the hauled waste program while remaining sensitive



to operational effectiveness. In 2012, the program managed disposal from approximately 70 permitted haulers.

Currently, three categories of hauled liquid waste are accepted.

1. **Sanitary septage**; residential and commercial (including portable restroom waste).
2. **Restaurant grease trap waste** resulting from total pump-outs.
3. **Special discharges** are defined as approved, commercial, non-sanitary hauled waste.
Note: Special discharge agreements are also issued for non-routine sewer discharges of similarly defined wastes.

The company will continue to operate the hauled waste program according to the rules and provisions set forth in Chapter 671, CWA Resolution 2-2011, and the Standard Operating Procedures (SOP) Plan included as Attachment 7. The hours of operation and program procedures are included in the SOP.

The company will provide a report to the CWA Authority specifying the volume of waste received, the type of waste, the hauler name, and origin of the waste. This information is provided to the CWA Authority on a daily basis through the Hauled Waste Log, monthly on the United Water Client Report, and annually in the IPP Annual Report. In addition, a detailed spreadsheet is available for review containing program details that include hauler name, volume of waste hauled, waste type, and a summary of monthly records.

Industry Outreach

If needed, each calendar year, the company will arrange an annual meeting with regulated users to update the industrial community on new regulations. The meeting will be prompted by the issuance of new or revised federal categorical pretreatment regulations, promulgation of revised State of Indiana standards, and/or the modification of Chapter 671 of the Indianapolis code, CWA Resolutions 2-2011 and 3-2011. Generally, meetings will be held with specific industries or industrial sectors to inform them of requirements that directly affect their operations.

The company will continue to conduct liaison activities with industry, U.S. EPA, IDEM, Marion County Health and Hospital Corporation, and the public through participation in the IWEA annual conference, the IWEA Pretreatment Committee, the Indiana Industrial Operators Association, the Industrial Discharge Advisory Committee, IDEM pretreatment workshops, and other periodic meetings and events.

Evaluation of AWT Influent and Interceptors

The company will conduct an ongoing evaluation of the Belmont and Southport AWT influent concentrations of regulated pollutants. Any instance where a pollutant is found to be in excess of IDEM-recommended influent loadings previously referenced in NPDES Permit No. IN0023183 will be investigated to identify the source of the elevated concentration. Analytical results of plant influent will be evaluated as they are received by IPP. The IPP



data entry program will automatically flag any result which approaches the recommended loadings. The threshold levels for the pollutants of concern are:

<u>Pollutant</u>	<u>Threshold Limit (mg/L)</u>
Cadmium	0.05
Chromium, T	1.00
Copper	0.18
Lead	0.57
Nickel	0.35
Zinc	1.46

In addition, pollutants which could potentially create a process upset, pass through condition or interfere with the beneficial reuse of biosolids, regardless of influent concentrations, will be evaluated to determine the source. Influent, effluent, biosolids and air emission data collected on a regular basis will be utilized for this evaluation.

Based on the identification of potentially elevated concentrations of pollutants in the System influent, a systematic investigation of the contributing interceptors and key sewer lines will be initiated. The investigation will include the collection of samples from the major interceptors connected to the specific AWT facility. Samples will also be collected from suspected regulated industrial users and/or nonpermitted dischargers. Samples will be collected with a frequency necessary to identify the source of the increased loading, including collection on a daily to weekly basis alternating sites and days of the week depending on the specific circumstances. Analytical results of samples collected from major interceptors and key sewer lines will be used to track the pollutant to the source. Utilizing the company's Interceptor Manual, sampling will continue until the suspected discharge is identified. Appropriate enforcement action, remediation activities, and recoupment of costs incurred by the CWA Authority or the company will be recommended to the Authority.

The beneficial reuse of biosolids, including the disposal/reuse of incinerator ash, can potentially be affected by the loading of certain pollutants from industrial, residential, and commercial sources. Because the quality of the incinerator ash is related directly to the quality of the sludge generated from the two plants, those pollutants which can restrict ash disposal options will be monitored monthly in the sludge. The pollutants affecting ash disposal options are:

- Arsenic
- Cadmium
- Chromium
- Lead
- Mercury
- Selenium

Ongoing analytical data from sludge sampling will be compared against historical baseline levels established from 2005-2012. Any results which exceed the baseline by greater than 100% for any given month or which exceed the highest annual average by more than 25% for



three consecutive months will be investigated using the procedures to track unidentified contributions. However, it should be noted that these procedures may not necessarily identify a source of the pollutant. It should be noted that the potential for a one-time discharge event from a source connected to the sanitary sewer that is not detected in an influent sample, but reflected in the monthly sludge sample is possible. These random events can be extremely difficult to identify. The adjusted baseline levels for each pollutant to be used for evaluation are as follows:

<u>Pollutant</u>	<u>Acute Threshold Limit (mg/Kg)</u>	<u>Chronic Threshold (mg/Kg)</u>
Arsenic	10.0	9.2
Cadmium	15.5	12
Chromium	78.5	52
Lead	154	106
Mercury	0.35	0.25
Selenium	56.5	41

Reports to IDEM

The company will prepare and submit to the CWA Authority for signature any compliance reports required by IDEM and Part III of the NPDES permit. At a minimum, these reports include the Quarterly Noncompliance Reports (QNCR), the Indianapolis Pretreatment Program Annual Report, and the annual inventory of influent, effluent, and sludge for organic pollutants at Belmont and Southport.

The QNCR's are due by February 28th, May 28th, August 28th, and November 28th of each calendar year.

The IPP annual report must be submitted by April 1st.

The annual report identifying the inventory of I/E/S organic compounds is due to IDEM's Pretreatment Section by December 31st of each calendar year.

The company will submit the reports for review and signature to the CWA Authority no later than ten (10) days prior to the submittal date.

Surcharge Program

The company will develop and submit to the CWA Authority for approval a Surcharge Revenue Verification Plan. The plan will include:

- The identification of appropriate monitoring locations;
- Evaluation of proper self-monitoring sampling techniques by the surcharge industries;
- Review of existing users and their surcharge levels;
- Identification of potential surcharge industries;
- Verification of self-reported information through surveillance sampling;



- Annual surveillance sampling of the appropriate surcharge parameters at the top twenty (20) revenue generating facilities. The 20 facilities relate only to those users discharging one or more surcharge parameters. Facilities reporting only flow volume will not be considered for annual sampling. Previously, industries that reported surcharge data but were not in the top twenty were independently sampled at least once every three years. In 2012, the frequency of sampling at individual dischargers was revised. Approval was given to United Water in 2011 to reassign certain minimum sampling events to other surcharge facilities that were of greater concern to the POTW or required additional oversight.
- A semi-annual surcharge surveillance audit report shall be submitted to the CWA Authority within 90 days following each six-month period. The report shall document any discrepancies found, clarifications to program requirements made with an individual discharger regarding their sampling and analysis plan, and recommendations provided to the CWA Authority to resolve outstanding program issues.

An updated plan will be submitted to the CWA Authority for approval no later than November 1st of each year. The 2013 plan is included as Attachment 8.

Attachment 1

INDUSTRIAL DISCHARGE SURVEY

INDUSTRIAL DISCHARGE SURVEY
CWA Authority/ United Water

Name of facility: _____

Address of facility: _____

Person to contact regarding this survey: _____

Telephone number: _____ E-Mail: _____

Product or service offered: _____

Brief description of process: _____

Days/hours of operation: _____

Number of employees at facility: _____

Is process-related wastewater generated? Yes _____ No _____

Water source(s): Citizens Water _____ Well _____

If purchased water is a source, please provide Customer & Site Number:

If well water is used, please provide estimate of usage (per day or month):

The above-referenced wastewater is discharged to: *(Check all that apply)*

Sewer _____

Holding or septic tank _____

Stream/Surface Water _____

Other (please specify) _____

Gallons of process wastewater discharged daily (estimates acceptable): _____

If the process wastewater is not discharged daily, what is the frequency and volume of each discharge? _____

Add'l water uses: Cooling _____ Irrigation _____ Other _____

Could any of the following types of substances be found in the process wastewater?

(Check all that apply)

Petroleum oils, greases or lubricants _____

Organic solvents, i.e. benzene, toluene, mineral spirits, paint thinner _____

Heavy metals, i.e. cadmium, chromium, lead, copper _____

Toxic chemicals, i.e. cyanides, pesticides, carcinogenic chemicals _____

Other, please specify: _____

Please provide any other significant information that would clarify water usage at this facility: _____

Signature of Company Representative: _____

Date: _____

Please mail the completed form to:

Mr. Tim Heider
United Water – Industrial Pretreatment Program
2700 South Belmont Avenue
Indianapolis, IN 46221
(317) 639-7047

Attachment 2

INDUSTRIAL PRETREATMENT INSPECTION REPORT

INDIANAPOLIS PRETREATMENT PROGRAM

2013 SAMPLING PLAN AND PROCEDURES

SAMPLING PLAN AND PROCEDURES

Sampling Conducted by Subcontractors

Currently, sampling activities required by the Indianapolis Pretreatment Program are the responsibility of United Water under contract to the CWA Authority. For 2013, United Water has subcontracted field sampling activities to Astbury Water Technologies (AWT). Samples collected by AWT are analyzed by ESG Laboratories. Field sampling procedures and protocol are audited by United Water staff at least once during each calendar year. In addition, the contract laboratory is inspected and audited to verify the proper handling of industrial samples and to document the use of approved analytical methods.

Preparing for Sampling Activities

Accurate sample collection and analysis are essential to determine an industrial user's compliance status with applicable standards and requirements. Sampling protocol involves a number of variables which can lead to erroneous findings and results that are not representative of the wastestream being sampled.

The IPP sampling program has four major goals:

1. Meet the requirements and intent of the general pretreatment regulations set forth in 40 CFR 403;
2. Determine compliance with categorical and local discharge limitations in a timely and effective manner;
3. Provide representative data that is necessary to meet reporting requirements; and
4. Provide sampling data which is admissible in civil and criminal court or in administrative hearings when enforcement action is necessary.

The variety of the Indianapolis industrial community requires a comprehensive understanding of the industrial process in order to develop the proper methods and procedures used to collect representative samples. Preparation for industrial sampling by field personnel includes:

1. An understanding the parameters to be sampled;
2. The type of containers necessary;
3. The preservatives needed;
4. The minimum sample volume needed for accurate laboratory analysis;
5. Understanding the type of sample to collect:
 - Grab- a sample taken from the wastestream on a one-time basis with no regard to flow and without consideration of time;
 - Composite- a sample collected either manually or automatically and continuously or discretely with not less than four (4) individual aliquots composited over the discharge period;
6. An awareness of process and flow variations related to shutdowns, weekends, weekdays, holidays, shift, and production cycles;
7. Having a thorough knowledge of the operation and maintenance of sampling equipment;
8. The proper calibration and testing of sampling equipment;
9. The accurate preparation of necessary documentation including chain-of-custody forms, container labels, and calibration logs;
10. Maintaining valid buffer solutions and preservatives; and
11. Coordination with laboratory personnel to ensure proper sample integrity.

The sampling program covers three major areas:

1. Random surveillance sampling of industrial discharges;
2. Enforcement or special sampling to confirm noncompliance situations or to identify suspected noncompliance;
3. Monitoring of major interceptors or contributory sewer lines to track the source of a particular pollutant or noncomplying discharge.

Additional objectives of the sampling program include:

1. Verify self-monitoring data;
2. Confirm that hazardous or harmful substances are not discharged to the sewer;
3. Support permit reissuance and/or modification;
4. Support other program or operational areas that require wastewater data;
5. Verify industrial surcharge data.

Sampling Location

The monitoring and sample collection at an industrial facility must produce samples that are representative of the discharge and accurately reflect the requirements contained in the user's permit. The sample point must be representative of the prevailing discharge and containing the facility's regulated wastestream. There may be situations in which the sample points used by the industry and the city are in separate locations.

Except in extraordinary circumstances, the monitoring point used for the collection of city surveillance samples must be accessible to field personnel at all times without any unnecessary delay. The point is usually a manhole or above-ground monitoring enclosure containing only the regulated facility's discharge. There are situations which require field personnel to enter the user's property or to collect samples inside the facility. These cases are site-specific and entry onto the user's premises may be necessary due to the location of the city's sewer system or limitations to access to the sewer.

Automatic Sampling

Two types of automatic sampling devices are used in the industrial surveillance sampling program:

1. Portable automatic samplers- These devices are used to sample individual industrial facilities or specific points in the sewer system. These samplers may be configured to collect a 24-hour composite sample in a single container, two or four separate containers, or 24 discrete sample bottles. The number of sample aliquots collected into the containers can be varied based on the program entered into the sampling device. Most industrial samples are composited into a single container with individual samples collected from the discharge every 30 minutes. For a facility operating 24 hours a day, a total of 48 individual samples are collected for the composite.
2. In-line permanent sampling stations- These stations were installed on major interceptors and at various points at the Belmont and Southport AWT plants. The stations generally are supplied with power, refrigerated sampling units, and equipment to lock down the unit. The IPP no longer maintains these sites or collects samples from these locations. AWT sampling responsibilities are the duty of plant operations staff. The interceptor stations were removed several years ago.

General Considerations for Industrial Sampling

There are several criteria to consider in industrial sampling:

1. Sample Intake System

- Must be maintained to ensure proper sample collection;
- Avoid conditions that would plug or clog the intake tubing;
- Place the sampling device to avoid damage to the sampling unit;
- Prevent tubing from kinks, sharp bends, and twists;
- Ensure intake tubing is secured in the discharge flow;
- Be aware of incompatible materials in the discharge.

2. Pumping System

- Portable samplers use a peristaltic pumping system to lift water into the collection container;
- Pump tube must be replaced on a regular basis to maintain the integrity of the tubing material to assist the flow of sample;
- Collect a manual sample at each sample site with the automatic sampler to verify pumping capability;
- Do not exceed the maximum head of lift when setting the sampling device. Recommended lift in feet can be found in the sampler manual;
- Pump and sample tubing must be flushed at each industrial sampling site. This function is programmed into each device;

3. Controls and Power System

- The programming sequences and use of external and battery power is detailed in the sampling manual supplied with each unit.

4. Installation of the Sampling Device

- The sampling unit should be secured in the manhole, monitoring enclosure, or in an area to prevent damage or tampering;
- Samplers placed in a manhole are usually suspended from the manhole collar with a metal ring insert. The sampler may also be placed on a suspended platform that is secured on the manhole casting;
- Above-ground monitoring enclosures should be placed directly over a cleanout or manhole and provide direct access to the discharge. It should be supplied with electrical power for a portable heating device if needed. A keyed padlock must also be placed on the enclosure after installation;
- Circumstances that require the sampler to be placed in an area without protection or in an area accessible to company personnel should be avoided whenever possible;
- Position the sampler so the collection tubing is in a vertical orientation or downward slope to ensure complete drainage of the water by gravity after each sample cycle. Avoid dips or loops in the tubing. This is particularly important during winter conditions or when temperatures drop below freezing for an extended period;
- Sample bottles, tubing, and the sampling device must be cleaned thoroughly between each industrial site;
- Inspect the end of the intake tube and/or the straining device after each sample period to remove solids that may have collected on the intake;
- If possible, the tubing intake should be oriented in an upstream position;

- When the sampler is installed, a test sample should be collected to verify the sampler is working properly, the correct aliquot volume is collected, and the device is operating normally.

5. Sample Type

- Composite samples- Composites should be collected for those parameters that are best represented by a 24-hour sample. These include metals, conventional pollutants, cyanide (under certain circumstances), and semivolatile organic compounds. Composite sampling also captures samples that reflect highly variable flows and/or pollutant characteristics;
- Grab samples- Grabs should be collected for those parameters that must be preserved immediately or potentially change over an extended time period. These parameters include pH, cyanides, volatile organic compounds, phenols, oil & grease, chlorine residual, temperature, and flash point. Grab samples can be used in specific circumstances for metals, etc. where the wastestream is consistent in flow and characteristics over a 24-hour period. They should also be used for any parameter where the discharge is intermittent or occurs as a batch discharge.

Field Procedures

The integrity of the sampling program lies with consistent field operations and protocol. Failure to follow established procedures and precautions will render the program meaningless. The key areas of concern are:

1. Cleaning and storage of containers and equipment

- All automatic sampling equipment should be checked and tested prior to sampling activities;
- Follow established protocol and written instructions;
- Ensure sample containers are new (for disposable bottles) or cleaned thoroughly (for reusable bottles);

2. Collecting representative samples

- Collect samples at the point described in the user's industrial discharge permit;
- Sample point should be at a point where the wastestream is well-mixed;
- Place the intake tubing in the center of the discharge channel at approximately 50% depth when possible;
- When using a grab sampler, place the mouth of the collection device facing upstream. Collection of excessive floating solids should be avoided;
- VOC vials must be filled completely with no headspace to ensure no loss of volatile compounds into the airspace above the sample;
- Collect a sufficient volume of sample to allow the use of duplicates, splits, and/or QA/QC testing;
- Verify the sampling program has completed the collection of all samples for a composite sample.

3. Sample Preservation

- Sample containers must contain the proper preservatives for the parameters to be tested;
- Preservatives maintain their effectiveness for a limited period of time. Follow the recommendations of the laboratory for scheduling the replacement of preservative chemicals;

- The type and quantity of preservative for a given parameter can be found in EPA's *Method for Chemical Analysis of Water and Wastes* or *Standard Methods for the Examination of Water and Wastewater*.

4. Sample Handling and Chain-of-Custody

- Minimize the number of people handling samples;
- Follow established protocol for sample handling;
- Store samples according to protocol. Generally, samples are refrigerated or iced in a cooler until delivery to the lab for analysis;
- Field information should be entered on the chain-of-custody sheets;

Sample Control and Chain-of Custody Procedures

Overview

A successful industrial monitoring program depends on both valid data and the ability to verify it. The program is contingent on proper sample collection, preservation, storage, handling, appropriate identification, and chain-of-custody procedures. In addition to this guidance, field personnel should be familiar with the guidelines set out in EPA's *Industrial User Inspection and Sampling Manual for POTW's* and the *Pretreatment Facility Inspection* guide.

It should be well understood that a sample is physical evidence. An essential element of all enforcement investigations is that evidence be controlled. Following proper chain-of-custody and sample handling procedures is essential for analytical results to hold up in civil and criminal proceedings.

Sample Identification

Each sample must be accompanied by a chain-of-custody form. The sample container must include information connecting it to the chain-of-custody form. Each sample bottle must have a label or contain information written directly onto with a permanent marker with the following data:

- Belmont/AWT/United Water/CWA Authority, Inc.;
- Industry name;
- Sample ID;
- Sample date;
- Sample time;
- Sampler's name;
- Grab or composite sample;
- Preservative name;
- Analysis requested

The information must never be written on the container cap. Caps are easily switched and could result in erroneous data. All splits and duplicates must contain the same information.

The use of field blanks involves the transport of a closed sample container of deionized water with the field sampler. It may be opened and closed in the field to verify that contamination has not taken place. The blank further confirms that sample procedures do not contaminate the industrial samples.

Chain-of-Custody Procedures

Because surveillance samples are potential evidence in civil or criminal proceedings, custody of the sample must be traceable from the time the sample is collected until it is introduced as evidence in a legal proceeding.

A sample is under custody if:

- It is in your personal possession;
- It is in your view after being in your possession;
- It was in your possession and/or view and then secured to prevent tampering ;
- It is stored in a designated secure area;
- It changes custody when signed over on the C-O-C form to another person.

The chain-of-custody form shall contain the following information:

- Name of sampling company or agency- United Water/CWA Authority;
- Industry permit number;
- Name of company;
- Sample point location;
- Company address;
- City;
- State;
- Zip code;
- Time sampler was set;
- Time sampler was retrieved;
- Name of field personnel;
- Industry contact name;
- Industry contact phone number;
- Discharge description- color, odor, floating material, flow
- pH result;
- Temperature of discharge;
- Special sample flag;
- Split sample flag;
- Lab sample ID #;
- Sample type- grab, composite, other;
- Collection date;
- Parameter #;
- Test ID- parameter name;
- Test procedure name;
- Bottle code;
- Preservation- name of preservative, refrigeration, pH of sample;
- Seals placed on sample- Y/N
- Chain-of-custody chronicle- Names and signatures of all parties in custody of the sample, date and time of custody transfer.

Field Custody Procedures

When collecting samples as part of the routine surveillance program or for evidence in a target investigation, only the number of samples necessary to represent the wastestream should be collected. The number of people handling the samples should be limited to the least possible.

The field sampler is responsible for the care and custody of all industrial samples until they are transferred or are properly dispatched. The identification numbers on the C-O-C forms and the sample containers must match. The form must accompany the sample wherever it is transferred. The field sampler must sign and date the form as well as all parties receiving and relinquishing the sample. IPP personnel normally relinquish samples to the United Water laboratory which in turn relinquishes samples to the contract laboratory.

INDIANAPOLIS INDUSTRIAL PRETREATMENT INSPECTION REPORT

Facility Name: (1) _____ Date: _____
Facility Address: (2) _____

_____ Time: _____

BACKGROUND INFORMATION

Person(s) Contacted: _____ Title: _____ Phone/E-mail: _____
(3) _____
(4) _____
(5) _____
of Employees: (6) _____ Shifts: (7) _____ Days: (8) _____
Product/Service: (9) _____
IU Category: (10) _____ (11) _____ (12) _____
Date Operations Began: (13) _____ PSNS/PSES (14) _____
Emergency Release Notification Procedure: (15) _____

INDUSTRIAL DISCHARGE PERMIT / REPORTING

Permit # _____ On File? (16) _____ Correct limits and requirements? (17) _____
Compliance Limits: Concentration-based? (18) _____ Mass-based? (19) _____
SMRs on File? (20) _____ Current/Complete? (21) _____ 2431s? (22) _____ Current/Complete? (23) _____
Authorized Representative: (24) _____ Authorization on File? (25) _____

DISCHARGE INFORMATION

Continuous Flow (26) _____ Batch ID (27) _____
_____ Batch Volume (28) _____
_____ Batch Frequency (29) _____
_____ Discharge Time (30) _____

Flow Measurement Method: (31) _____
Latest Meter Calibration Date, if appl.: (32) _____
Meter Reading: (33) _____ Units: (34) _____

Discharge Loss to:	Sewer (35) _____	NPDES (36) _____
	Product (37) _____	Evaporation (38) _____
	Hauled (39) _____	Other (40) _____
Sewer Discharge:	Process (41) _____	Cooling (42) _____
	Sanitary (43) _____	Boiler Blowdown (44) _____
	Softener/DI (45) _____	Other (46) _____

Self-Monitoring Sample Point(s): (47) _____
(48) _____
(49) _____
(50) _____
IPP Sample Point(s): (51) _____
(52) _____
(53) _____
(54) _____

Sample Point(s) Contain: (55) _____
(56) _____
(57) _____
(58) _____

MANUFACTURING / PRODUCTION / SERVICE

Process Description: (59) _____

Raw Materials: (60) _____

Process Chemicals: (61) _____

Organic Solvents: (62) _____

Chemical Storage Areas/ Practices: (63) _____

Current Flow Schematic: (64) Provided / On File _____

PRETREATMENT PROCEDURES

Process Description: (65) _____

Treatment Chemicals: (66) _____

WASTE DISPOSAL

Hazardous Waste Discharge to sewer? (67) _____

Sludge / HW / Liq. Waste Disposal: (68) _____

Transporter: (69) _____

Disposal: (70) _____

Quantity Generated: (71) _____

On-Site Storage: (72) _____

Manifests / B/L / Documents: (73) _____

SAMPLING / ANALYSIS

Composite: (74) _____ Description: (75) _____

Grab: (76) _____

Laboratory ID: In-house (77) _____ Commercial Lab: (78) _____

Lab Reports on file [QA / QC; C-O-C]: (79) _____

Sample Handling: Container Type (80) _____

Preservatives (81) _____

Holding Time (82) _____

TOTAL TOXIC ORGANICS CERTIFICATIONS / TOXIC ORGANIC MANAGEMENT PLANS

Filed: (83) _____ Current: (84) _____ Complete: (85) _____

SLUG CONTROL PLAN

	(Circle)	Comments
Has this facility been evaluated for the need of a Slug Control Plan ?	(86) Yes / No	_____
Does this facility need a Slug Control Plan ?	(87) Yes / No	_____
If (87) is <u>YES</u> , has a plan been submitted?	(88) Yes / No	_____
Does the plan meet 40CFR403(f)(2)(vi)(A-D) requirements?	(89) Yes / No	_____
Has the plan been approved by the Control Authority?	(90) Yes / No	_____
Is the plan adequate?	(91) Yes / No	_____
If (87) is <u>NO</u> , has a plan been voluntarily submitted?	(92) Yes / No	_____
If (92) is YES, what is the name of the plan?	(93) _____	_____

PERSONAL PROTECTIVE EQUIPMENT

	<u>Required / Recommended</u>	<u>Notes</u>
Safety Glasses	/	_____
Boots	/	_____
Hard Hat	/	_____
Hearing	/	_____
Respiratory	/	_____

Exposed to outside conditions? Yes / No

Other Conditions? (Describe): _____

Inspector

Title

[illegible]

Attachment 3

Industry Limits

INDUSTRY PERMIT LIMITS & SAMPLING FREQUENCIES

Permit Number	Industry	City	Parameter	Parameter	Container	Daily	Monthly	4-Day
Industry Name	Frequency	Frequency	Number	Name	Type	Maximum	Average	Average
34990101								
Alexandria Extrusion MidAmerica LLC		180	162	Chromium,T	G/P	0.40	0.17	
4925 Aluminum Drive		180	190	Zinc,T	G/P	1.33	0.56	
Indpls 46218		180	258	Cyanide,T	G/P	0.27	0.11	
		180	264	Oil & Grease	G/P	48	24	
		90	266	pH	G/P	5-12 s.u.		
34712401								
All America Threaded Products, Inc.		180	156	Cadmium,T	G/P	0.69	0.26	
1929 Columbia Avenue		180	162	Chromium,T	G/P	2.77	1.71	
Indpls 46202		180	164	Copper,T	G/P	2.2	2.07	
		180	168	Lead,T	G/P	0.69	0.43	
		180	176	Nickel,T	G/P	3.98	2.38	
		180	186	Silver,T	G/P	0.43	0.24	
	30	180	190	Zinc,T	G/P	2.61	1.48	
		180	258	Cyanide,T	G/P	1.20	0.65	
		180	261	TPH	G	200		
	30	90	266	pH	G/P	5-12 s.u.		
72180201								
Aramark Uniform Services		180	261	TPH	G	200		
2050 West Oliver Avenue	30		254	BOD	G/P	250		
Indpls 46221	30		274	TSS	G/P	300		
		180	266	pH	G/P	5-12 s.u.		
34790401								
Arrow Powder Coating, LLC		180	156	Cadmium,T	G/P	0.11	0.07	
1030 East New York Street		180	162	Chromium,T	G/P	2.77	1.71	
Indpls 46202		180	164	Copper,T	G/P	2.2	2.07	
		180	168	Lead,T	G/P	0.69	0.43	
		180	176	Nickel,T	G/P	3.98	2.38	
		180	186	Silver,T	G/P	0.43	0.24	
		180	190	Zinc,T	G/P	2.61	1.48	
		180	258	Cyanide,T	G/P	1.20	0.65	
		90	266	pH	G/P	5-12 s.u.		
72180901								
Cintas Corporation		180	164	Copper,T	G/P	2.2		
Georgetown Road Facility		180	168	Lead,T	G/P	4.7		
7258 Georgetown Road		180	261	TPH	G	200		
Indpls 46268	30		254	BOD	G/P	250		
	30		274	TSS	G/P	300		
		180	266	pH	G/P	5-12 s.u.		
72180701								
Cintas Corporation	30		254	BOD	G/P	250		
Park Davis Facility	30		274	TSS	G/P	300		

9949 Park Davis Drive	180	266	pH	G/P	5-12 s.u.
Indpls 46236					

33120501

Citizens Energy Group	30	538	Naphthalene	G	Monitor
2950 East Prospect Street	30	180	TPH	G	200
Indpls 46203	30	180	Ammonia-N	G/P	20
	180	401	SVOCs	G	Monitor
	180	400	VOCs	G	Monitor
	30	180	pH	G/P	5-12 s.u.

36230101

CMW, Inc.	180	151	Arsenic,T	G/P	4.0	
70 South Gray Street	180	156	Cadmium,T	G/P	0.08	0.04
Indpls 46201	180	162	Chromium,T	G/P	0.18	0.07
	180	164	Copper,T	G/P	2.2	2.97
	180	168	Lead,T	G/P	0.06	0.05
	180	174	Mercury,T	G/P	0.025	
	180	176	Nickel,T	G/P	5.23	3.46
	180	186	Silver,T	G/P	0.10	0.04
	180	190	Zinc,T	G/P	0.62	0.26
	180	192	Molybdenum,T- Mo	G/P	15.20	7.86
	180	258	Cyanide,T	G/P	0.07	0.03
	180	264	Oil & Grease *	G	8.45	5.07
	180	293	Fluoride	G/P	136	60.7
	90	266	pH	G/P	5-12 s.u.	

* Alternative to TTO limit

34710201

Colors, Inc.	180	156	Cadmium,T	G/P	1.2	0.7
5780 Massachusetts Avenue	180	162	Chromium,T	G/P	6.9	4.0
Indpls 46218	180	164	Copper,T	G/P	2.2	2.7
	180	168	Lead,T	G/P	0.6	0.4
	180	176	Nickel,T	G/P	4.1	2.6
	180	190	Zinc,T	G/P	4.2	2.6
		193	Total Metals		10.4	6.7
	180	258	Cyanide,T	G/P	1.9	1.0
	90	266	pH	G/P	5-12 s.u.	

34713401

Commercial Finishing Corp.	180	156	Cadmium,T	G/P	0.07	0.04
7200 English Avenue	180	162	Chromium,T	G/P	1.73	1.06
Indpls 46219	180	164	Copper,T	G/P	2.10	1.29
	180	168	Lead,T	G/P	0.43	0.27
	180	176	Nickel,T	G/P	2.48	1.48
	180	186	Silver,T	G/P	0.27	0.15
	180	190	Zinc,T	G/P	1.63	0.92
	180	258	Cyanide,T	G/P	0.75	0.40
	90	266	pH	G/P	5-12 s.u.	

49530101

Covanta Indianapolis, Inc.	180	156	Cadmium,T	G/P	1.2
2320 South Harding Street	180	164	Copper,T	G/P	2.2

Indpls 46221	180	168	Lead,T	G/P	4.7
	180	190	Zinc,T	G/P	38.0
	365	274	TSS	G/P	300
	180	266	pH	G/P	5-12 s.u.

20260101

Crossroad Farms Dairy	30		254	BOD	G/P	250
400 South Shortridge Road	30		274	TSS	G/P	300
Indpls 46219		180	266	pH	G/P	5-12 s.u.

28300101 Bldg 335 lift station

Eli Lilly & Company	30		252	Ammonia-N	G/P	20
LTC North	30		254	BOD	G/P	250
1555 Kentucky Avenue	30		274	TSS	G/P	300
Indpls 46221		90	266	pH	G/P	5-12 s.u.

28300102 Howard & Harding manhole

Eli Lilly & Company	30		252	Ammonia-N	G/P	20
LTC North	30		254	BOD	G/P	250
1555 Kentucky Avenue	30		274	TSS	G/P	300
Indpls 46221		90	266	pH	G/P	5-12 s.u.

28300103 Bldg 138 sample port

Eli Lilly & Company	30	180	258	Cyanide,T	G/P	0.993	0.28
LTC South	15	180	007	n-Butyl acetate	VOC vial	53.2 lbs	21 lbs
1555 Kentucky Avenue		180	808	Chloroform	VOC vial	0.4 lbs	0.2 lbs
Indpls 46221		180	319	4-Methyl-2-pentanone	VOC vial	53.2 lbs	21 lbs
		180	004	Methyl formate	VOC vial	53.2 lbs	21 lbs
		180	005	Tetrahydrofuran	VOC vial	24 lbs	8.7 lbs
				439.16 Organics Scan	VOC vial		

28300104 Bldg 182 lift station

Eli Lilly & Company	15	180	006	Acetone (lbs/day)	VOC vial	91.1 lbs	36 lbs
LTC South							
1555 Kentucky Avenue	30		252	Ammonia-N	G/P	20	
Indpls 46221	30		254	BOD	G/P	250	
	30		274	TSS	G/P	300	
	30	90	266	pH	G/P	5-12 s.u.	

28300105 Bldg K 333 manhole

Eli Lilly & Company		180	837	Acetone	VOC vial	17.1	6.8
Building K 333- Fermentation		180	808	Chloroform	VOC vial	0.1	0.07
1555 Kentucky Avenue		180	007	n-Butyl acetate	VOC vial	17.1	6.8
Indpls 46221		180	004	Methyl formate	VOC vial	17.1	6.8
	365			439.16 Organics Scan	VOC vial		

28300107 LTC-S east manhole #S103

Sample Point Eliminated

Eli Lilly & Company
Building K 334- Vancomycin
1555 Kentucky Avenue
Indpls 46221

28300108 LTC-S west manhole #S042

Eli Lilly & Company		180	316	Methylene chloride	VOC vial	0.80	0.2
Building K 334- Vancomycin							
1555 Kentucky Avenue	365			439.16 Organics Scan	VOC vial		
Indpls 46221							

28300109 LTC-S east manhole #S115

Eli Lilly & Company		180	808	Chloroform	VOC vial	0.09	0.05
Building K 334- Vancomycin		180	316	Methylene chloride	VOC vial	0.93	0.2
1555 Kentucky Avenue		180	319	4-Methyl-2-pentanone	VOC vial	5.94	2.4
Indpls 46221		180	004	Methyl formate	VOC vial	5.94	2.4
	365			439.16 Organics Scan	VOC vial		

29520101

Firestone Building Products		180	264	Oil & Grease	G	100	
3525 South Arlington Avenue		90	266	pH	G/P	5-12 s.u.	
Indpls 46203							

72180801

G&K Services, Inc.	30	180	261	TPH	G	200	
9145 East 33rd Street	30		254	BOD	G/P	250	
Indpls 46235	30		274	TSS	G/P	300	
		180	266	pH	G/P	5-12 s.u.	

34710401

General Devices Company		180	156	Cadmium,T	G/P	0.69	0.26
525 South Webster Avenue		180	162	Chromium,T	G/P	2.77	1.71
Indpls 46219		180	164	Copper,T	G/P	2.2	2.07
		180	168	Lead,T	G/P	0.69	0.43
		180	176	Nickel,T	G/P	3.98	2.38
		180	186	Silver,T	G/P	0.43	0.24
		180	190	Zinc,T	G/P	2.61	1.48
		180	258	Cyanide,T	G/P	1.20	0.65
		90	266	pH	G/P	5-12 s.u.	

39950101

Genesis Casket Company, LLC		180	156	Cadmium,T	G/P	0.08	0.05
3011 North Franklin Road		180	162	Chromium,T	G/P	2.08	1.28
Indpls 46226		180	164	Copper,T	G/P	2.2	1.55
		180	168	Lead,T	G/P	0.52	0.32
		180	176	Nickel,T	G/P	2.99	1.79
		180	186	Silver,T	G/P	0.32	0.18
		180	190	Zinc,T	G/P	1.96	1.11
		180	258	Cyanide,T	G/P	0.90	0.49
		90	266	pH	G/P	5-12 s.u.	

73990101 MAIN OUTFALL

Heritage Environmental Services	1	180	257	Cyanide,A	G/P	0.4	
7901 West Morris Street		180	163	Chromium,+6	G/P	3.4	
Indpls 46231		180	267	Phenols, 4-AAP	Amber glass	46	
		180	261	TPH	G	200	
	30	180	020	Polychlorinated biphenyls	Amber glass	<MDL	
	30		252	Ammonia-N	G/P	20	

	30		254	BOD	G/P	250	
	30		274	TSS	G/P	300	
	1	90	266	pH	G/P	5-12 s.u.	
73990102 METALS TREATMENT							
Heritage Environmental Services	7	180	013	Vanadium,T- V	G/P	0.218	0.0662
7901 West Morris Street		180	014	Cobalt,T- Co	G/P	0.192	0.124
Indpls 46231	30	180	015	Titanium,T	G/P	0.0947	0.0618
		180	151	Arsenic,T- As	G/P	0.162	0.104
		180	156	Cadmium,T	G/P	0.474	0.0962
		180	162	Chromium,T	G/P	15.5	3.07
		180	164	Copper,T	G/P	2.6	1.06
		180	168	Lead,T	G/P	1.32	0.283
	7	180	174	Mercury,T	G/P	0.00234	0.000739
	7	180	176	Nickel,T	G/P	3.95	1.45
	7	180	186	Silver,T	G/P	0.120	0.0351
	7	180	190	Zinc,T	G/P	2.87	0.641
		180	191	Antimony,T- Sb	G/P	0.249	0.206
	7	180	286	Tin,T- Sn	G/P	0.409	0.120
73990103 ORGANICS TREATMENT							
Heritage Environmental Services	30	180	017	o-Cresol	Amber glass	1.92	0.561
7901 West Morris Street	30	180	018	p-Cresol	Amber glass	0.698	0.205
Indpls 46231		180	410	2,4,6-Trichlorophenol	Amber glass	0.155	0.106
73990104 CYANIDE TREATMENT							
Heritage Environmental Services	30	180	258	Cyanide,T	G/P	500	178
7901 West Morris Street							
Indpls 46231							
34714701							
Imagineering Solutions LLC		180	156	Cadmium,T	G/P	0.11	0.07
2719 North Emerson Avenue	30	180	162	Chromium,T	G/P	2.74	1.69
Indpls 46218		180	164	Copper,T	G/P	2.2	2.05
		180	168	Lead,T	G/P	0.68	0.43
	30	180	176	Nickel,T	G/P	3.93	2.35
		180	186	Silver,T	G/P	0.43	0.24
		180	190	Zinc,T	G/P	2.58	1.46
		180	258	Cyanide,T	G/P	1.19	0.64
	30	90	266	pH	G/P	5-12 s.u.	
	30		252	Ammonia-N	G/P	20	
33980101							
Indiana Metal Treating, Inc.		180	156	Cadmium,T	G/P	1.2	0.7
512 South Harding Street		180	168	Lead,T	G/P	0.6	0.4
Indpls 46221		180	257	Cyanide,A	G/P	0.4	2.7
		90	266	pH	G/P	5-12 s.u.	
45810701							
Indianapolis Airport Authority		180	261	TPH	G	200	
Indianapolis Maintenance Center		180	266	pH	G/P	5-12 s.u.	

2825 West Perimeter Road
Indpls 46241

50850101

Indianapolis Drum Service	180	156	Cadmium,T	G/P	1.2
3619 East Terrace Avenue	180	162	Chromium,T	G/P	24.0
Indpls 46203	180	164	Copper,T	G/P	2.2
	180	168	Lead,T	G/P	4.7
	180	176	Nickel,T	G/P	7.3
	180	190	Zinc,T	G/P	38.0
	180	174	Mercury,T	G/P	0.025
	180	257	Cyanide,A	G/P	0.4
30	180	261	TPH	G	200
30	180	267	Phenols, 4-AAP	Amber glass	46
	180	020	Polychlorinated biphenyls	Amber glass	<MDL
30		254	BOD	G/P	250
30	180	266	pH	G/P	5-12 s.u.

45810201

Indianapolis International Airport	1	012	BOD (lbs)		65000 lbs
2500 South High School Road	1	254	BOD	G/P	250
Indpls 46241	1	995	Propylene glycol	G/P	
	1	022	Flow		
Mars Ditch (uncontaminated)	1	180	266	pH	G/P 5-12 s.u.

45810202

Indianapolis International Airport	1	012	BOD (lbs)		65000 lbs
2500 South High School Road	1	254	BOD	G/P	250
Indpls 46241	1	995	Propylene glycol	G/P	
	1	022	Flow		
Seerley Creek (contaminated)	1	180	266	pH	G/P 5-12 s.u.

45810203

Indianapolis International Airport		012	BOD (lbs)		65000 lbs
2500 South High School Road		254	BOD	G/P	250
Indpls 46241		995	Propylene glycol	G/P	
		022	Flow		
Midfield Spent Glycol Tank		266	pH	G/P	5-12 s.u.

45810204

Indianapolis International Airport		012	BOD (lbs)		65000 lbs
2500 South High School Road		254	BOD	G/P	250
Indpls 46241		995	Propylene glycol	G/P	
		022	Flow		
Seerley Creek (uncontaminated)		266	pH	G/P	5-12 s.u.

34711002 North Sample Point

Industrial Anodizing Company	180	156	Cadmium,T	G/P	1.2	0.7
1610 West Washington Street	180	162	Chromium,T	G/P	7.0	4.0
Indpls 46222-4541	180	164	Copper,T	G/P	2.2	2.7
	180	168	Lead,T	G/P	0.6	0.4

	180	176	Nickel,T	G/P	4.1	2.6
	180	190	Zinc,T	G/P	4.2	2.6
		193	Total Metals		10.5	6.8
	180	258	Cyanide,T	G/P	1.9	1.0
	90	266	pH	G/P	5-12 s.u.	

34711003 East Sample Point

Industrial Anodizing Company	180	156	Cadmium,T	G/P	1.2	0.7
1610 West Washington Street	180	162	Chromium,T	G/P	7.0	4.0
Indpls 46222-4541	180	164	Copper,T	G/P	2.2	2.7
	180	168	Lead,T	G/P	0.6	0.4
	180	176	Nickel,T	G/P	4.1	2.6
	180	190	Zinc,T	G/P	4.2	2.6
		193	Total Metals		10.5	6.8
	180	258	Cyanide,T	G/P	1.9	1.0
	90	266	pH	G/P	5-12 s.u.	

20460201 Drover & York

Ingredion Indianapolis Plant	30		254	BOD	G/P	250
1515 South Drover Street	30		274	TSS	G/P	300
Indpls 46221	1	180	266	pH	G/P	5-12 s.u.

20460202 White River Parkway

Ingredion Indianapolis Plant	30		254	BOD	G/P	250
1515 South Drover Street	30		274	TSS	G/P	300
Indpls 46221	1	180	266	pH	G/P	5-12 s.u.

20460203 Raymond Street Plant

Ingredion Indianapolis Plant	30		254	BOD	G/P	250
1515 South Drover Street	30		274	TSS	G/P	300
Indpls 46221	1	180	266	pH	G/P	5-12 s.u.

34790601

KECO Engineered Coatings, Inc.	180	156	Cadmium,T	G/P	0.08	0.05
Plant #3	180	162	Chromium,T	G/P	1.94	1.20
1102 West 16th Street	180	164	Copper,T	G/P	2.2	1.45
Indpls 46203	180	168	Lead,T	G/P	0.48	0.30
	180	176	Nickel,T	G/P	2.79	1.67
	180	186	Silver,T	G/P	0.30	0.17
	180	190	Zinc,T	G/P	1.83	1.04
	180	258	Cyanide,T	G/P	0.84	0.46
	90	266	pH	G/P	5-12 s.u.	

34711601

Magnode Corporation	180	156	Cadmium,T	G/P	0.68	0.26
4151 West Washington Street	180	162	Chromium,T	G/P	2.73	1.69
Indpls 46241	180	164	Copper,T	G/P	2.2	2.04
	180	168	Lead,T	G/P	0.68	0.42
	180	176	Nickel,T	G/P	3.93	2.35
	180	186	Silver,T	G/P	0.42	0.24
	180	190	Zinc,T	G/P	2.58	1.46
	180	258	Cyanide,T	G/P	1.18	0.64
	90	266	pH	G/P	5-12 s.u.	

29920101

Metalworking Lubricants Co.	30	180	014	Cobalt,T- Co	G/P	55.0	18.3
1509 South Senate Avenue	30	180	156	Cadmium,T	G/P	1.2	
Indpls 46225		180	162	Chromium,T	G/P	0.923	0.475
	30	180	164	Copper,T	G/P	0.395	0.294
	30	180	168	Lead,T	G/P	0.216	0.168
	30	180	174	Mercury,T	G/P	0.025	
	30	180	190	Zinc,T	G/P	6.78	4.35
	30	180	286	Tin,T- Sn	G/P	0.243	0.142
	15	180	261	TPH	G	200	
		180	314	Benzene	VOC vial		
		180	317	Toluene	VOC vial		
		180	315	Ethylbenzene	VOC vial		
		180	318	Xylene	VOC vial		
		180	843	MTBE	VOC vial		
		180	016	Carbazole	Amber glass	0.382	0.227
		180	017	o-Cresol	Amber glass	1.870	0.547
		180	018	p-Cresol	Amber glass	0.681	0.200
		180	019	n-Decane	Amber glass	5.65	3.23
		180	021	n-Octodecane	Amber glass	1.190	0.902
		180	410	2,4,6-Trichlorophenol	Amber glass	0.151	0.103
		180	530	Fluoranthene	Amber glass	0.768	0.383
		180	512	Bis(2-ethylhexyl)phthalate	Amber glass	0.260	0.154
	30	180	020	Polychlorinated biphenyls	Amber glass	<MDL	
	7		252	Ammonia-N	G/P	20	
	7		254	BOD	G/P	250	
	7		274	TSS	G/P	300	
	7	180	287	Temperature	G/P	<140°	
	30		301	Closed Cup Flash Pt.	G/P	<140°	
	30	90	266	pH	G/P	5-12 s.u.	

28190101

Micronutrients, LLC	7	180	164	Copper,T	G/P	3.2	1.1
1550 Research Way		180	176	Nickel,T	G/P	6.4	2.1
Indpls 46231		180	184	Selenium,T- Se	G/P	1.6	0.53
		180	190	Zinc,T	G/P	38.0	
	7	180	252	Ammonia-N	G/P	20	
	7	90	266	pH		5-12 s.u.	

20860101

Pepsi Cola General Bottlers	30		254	BOD	G/P	250	
5411 West 78th Street	30		274	TSS	G/P	300	
Indpls 46268		180	266	pH	G/P	5-12 s.u.	

34460101

Procoat, Inc.		180	156	Cadmium,T	G/P	0.10	0.06
920 East New York Street		180	162	Chromium,T	G/P	2.41	1.49

Indpls 46202	180	164	Copper,T	G/P	2.2	1.80
	180	168	Lead,T	G/P	0.60	0.37
	180	176	Nickel,T	G/P	3.47	2.07
	180	186	Silver,T	G/P	0.37	0.21
	180	190	Zinc,T	G/P	2.27	1.29
	180	258	Cyanide,T	G/P	1.05	0.57
	90	266	pH	G/P	5-12 s.u.	

34711201

Progressive Plating Company	180	156	Cadmium,T	G/P	0.11	0.07
2064 Columbia Avenue	180	162	Chromium,T	G/P	2.77	1.71
Indpls 46202	180	164	Copper,T	G/P	2.2	2.07
	180	168	Lead,T	G/P	0.69	0.43
	180	176	Nickel,T	G/P	3.98	2.38
	180	186	Silver,T	G/P	0.43	0.24
	180	190	Zinc,T	G/P	2.61	1.48
	180	258	Cyanide,T	G/P	1.20	0.65
	90	266	pH	G/P	5-12 s.u.	

33410101 City Sampling Point

Quemetco, Inc.	180	151	Arsenic,T- As	G/P	2.31	0.95
7870 West Morris Street	180	156	Cadmium,T	G/P	1.2	
Indpls 46231	180	164	Copper,T	G/P	2.2	
	180	168	Lead,T	G/P	0.46	0.22
	180	186	Silver,T	G/P	4.2	
	180	190	Zinc,T	G/P	1.69	0.70
	180	191	Antimony,T- Sb	G/P	3.20	1.43
	90	266	pH	G/P	5-12 s.u.	

33410102 Self-Monitoring Point

Quemetco, Inc.	15	151	Arsenic,T- As	G/P	3.01	1.24
7870 West Morris Street	15	156	Cadmium,T	G/P	1.2	
Indpls 46231	15	168	Lead,T	G/P	0.61	0.28
	15	191	Antimony,T- Sb	G/P	4.18	1.86
	15	266	pH	G/P	5-12 s.u.	

34711401

R&S Plating Inc.	180	156	Cadmium,T	G/P	1.2	0.7
2302 Bloyd Avenue	180	162	Chromium,T	G/P	24.0	
Indpls 46218	180	164	Copper,T	G/P	2.2	
	180	168	Lead,T	G/P	0.6	0.4
	180	176	Nickel,T	G/P	7.3	
	180	190	Zinc,T	G/P	38.0	
	180	257	Cyanide,A	G/P	0.4	2.7
	90	266	pH	G/P	5-12 s.u.	

35620101

Rexnord Industries LLC	180	156	Cadmium,T	G/P	0.35	0.13
Link Belt Bearing Division	180	162	Chromium,T	G/P	1.42	0.87
7601 Rockville Road	180	164	Copper,T	G/P	1.73	1.06
Indpls 46214	180	168	Lead,T	G/P	0.35	0.22
	180	176	Nickel,T	G/P	2.03	1.22
	180	186	Silver,T	G/P	0.22	0.12

	180	190	Zinc, T	G/P	1.33	0.76
	180	258	Cyanide, T	G/P	0.61	0.33
	180	261	TPH	G	200	
	90	266	pH	G/P	5-12 s.u.	

35620102 Remediation

Rexnord Industries LLC	30	998	Chlorinated Org Compounds	VOC vial	0.05	
Link Belt Bearing Division	30	266	pH	G/P	5-12 s.u.	
7601 Rockville Road						
Indpls 46214						

37240101

Rolls-Royce Corporation	180	156	Cadmium, T	G/P	0.10	0.06
Single Crystal Operations	180	162	Chromium, T	G/P	2.49	1.54
5601 Fortune Circle South	180	164	Copper, T	G/P	2.2	1.86
Suite 1	180	168	Lead, T	G/P	0.62	0.39
Indpls 46241	180	176	Nickel, T	G/P	3.58	2.14
	180	186	Silver, T	G/P	0.39	0.22
	180	190	Zinc, T	G/P	2.35	1.33
	180	258	Cyanide, T	G/P	1.08	0.59
	90	266	pH	G/P	5-12 s.u.	

37240401

Rolls Royce Corporation	7	180	156	Cadmium, T	G/P	0.67	0.25
Plant 5 & 8	7	180	162	Chromium, T	G/P	2.71	1.67
2355 South Tibbs Avenue	7	180	164	Copper, T	G/P	2.2	2.02
Indpls 46241	7	180	168	Lead, T	G/P	0.67	0.42
	7	180	176	Nickel, T	G/P	3.89	2.32
	7	180	186	Silver, T	G/P	0.42	0.23
	7	180	190	Zinc, T	G/P	2.55	1.45
	7	180	258	Cyanide, A	G/P	0.08	0.03
	7	90	266	pH	G/P	5-12 s.u.	
	30	180	261	TPH	G	200	
	180	180		Total Toxic Organics	Various	2.08	

34714001

Seleco, Inc.	180	156	Cadmium, T	G/P	0.11	0.07
8425 Zionsville Road	180	162	Chromium, T	G/P	2.77	1.71
Indpls 46268	180	164	Copper, T	G/P	2.2	2.07
	180	168	Lead, T	G/P	0.69	0.43
	180	176	Nickel, T	G/P	3.98	2.38
	180	186	Silver, T	G/P	0.43	0.24
	180	190	Zinc, T	G/P	2.61	1.48
	180	258	Cyanide, T	G/P	1.20	0.65
	90	266	pH	G/P	5-12 s.u.	

20890101

Sensient Technologies Corp.	30	254	BOD	G/P	250	
5600 West Raymond Street	30	274	TSS	G/P	300	
Indpls 46241	180	266	pH	G/P	5-12 s.u.	

20890102

Sensient Technologies Corp.	30		254	BOD	G/P	250
5600 West Raymond Street	30		274	TSS	G/P	300
Indpls 46241		180	266	pH	G/P	5-12 s.u.

35890301

Siemens Industry, Inc.		180	266	pH	G/P	5-12 s.u.
6125 Guion Road						
Indpls 46254						

28300701

Sigma-Tau PharmaSource		180	008	N-Amyl acetate	VOC vial	19.4	7.7
6925 Guion Road		180	009	Ethyl acetate	VOC vial	19.4	7.7
Indpls 46268		180	010	Isopropyl acetate	VOC vial	19.4	7.7
		180	316	Methylene chloride	VOC vial	2.8	0.7
		180	837	Acetone	VOC vial	19.4	7.7
	30		254	BOD	G/P	250	
	30		274	TSS	G/P	300	
		90	266	pH	G/P	5-12 s.u.	

50820101

S-K, JV Indianapolis	30	180	261	TPH	G	200
Deep Rock Tunnel Connector WTP	15	180	254	BOD	G/P	250
6640 South Tibbs Avenue	15	180	274	TSS	G/P	300
Indpls, IN 46217	30	180	400	VOCs	VOC vial	Monitor
	30	180	401	SVOCs	Amber glass	Monitor
	30	180	266	pH	G/P	6-9 s.u.

95110101

South Side Landfill, Inc.		180	151	Arsenic,T	G/P	4.0
2561 Kentucky Avenue		180	156	Cadmium,T	G/P	1.2
Indpls 46221		180	164	Copper,T	G/P	2.2
		180	168	Lead,T	G/P	4.7
		180	174	Mercury	G/P	0.025
		180	257	Cyanide,A	G/P	0.4
	30		252	Ammonia-N	G/P	20
		180	266	pH	G/P	5-12 s.u.

34290101

Stanley Security Solutions, Inc.		180	156	Cadmium,T	G/P	0.69	0.26
6161 East 75th Street		180	162	Chromium,T	G/P	2.77	1.71
Indpls 46250		180	164	Copper,T	G/P	2.2	2.07
		180	168	Lead,T	G/P	0.69	0.43
		180	176	Nickel,T	G/P	3.98	2.38
		180	186	Silver,T	G/P	0.43	0.24
		180	190	Zinc,T	G/P	2.61	1.48
		180	258	Cyanide,T	G/P	1.20	0.65
		90	266	pH	G/P	5-12 s.u.	

34712601

City Sample Point

Sumco, Inc.	180	156	Cadmium,T	G/P	0.11	0.07
1351 South Girls School Road	180	162	Chromium,T	G/P	2.70	1.67
Indpls 46231	180	164	Copper,T	G/P	2.2	2.02
	180	168	Lead,T	G/P	0.67	0.42
	180	176	Nickel,T	G/P	3.89	2.32
	180	186	Silver,T	G/P	0.42	0.23
	180	190	Zinc,T	G/P	2.55	1.45
	90	266	pH	G/P	5-12 s.u.	

34712602 Self-Monitoring Point

Sumco, Inc.	15	164	Copper,T	G/P	2.3	2.07
1351 South Girls School Road	15	176	Nickel,T	G/P	3.98	2.38
Indpls 46231	15	186	Silver,T	G/P	0.43	0.24
	15	266	pH	G/P	5-12 s.u.	

34712603 Cyanide Treatment Point

Sumco, Inc.	15	180	257	Cyanide,A	G/P	0.86	0.32
1351 South Girls School Road							
Indpls 46231							

34710601

Superior Metal Technologies		180	156	Cadmium,T	G/P	0.10	0.07
9850 East 30th Street	30	180	162	Chromium,T	G/P	2.60	1.61
Indpls 46229		180	164	Copper,T	G/P	2.2	1.94
		180	168	Lead,T	G/P	0.65	0.40
	30	180	176	Nickel,T	G/P	3.74	2.24
		180	186	Silver,T	G/P	0.40	0.23
		180	190	Zinc,T	G/P	2.45	1.39
		180	258	Cyanide,T	G/P	1.13	0.61
	30		252	Ammonia-N	G/P	20	
	30		274	TSS	G/P	300	
	30	90	266	pH	G/P	5-12 s.u.	

20330301

SVC Manufacturing, Inc.	30		254	BOD	G/P	250	
5858 Decatur Boulevard		180	266	pH	G/P	5-12 s.u.	
Indpls 46241							

37280201

Tube Processing Corporation		180	156	Cadmium,T	G/P	0.08	0.05
AeroFab Division		180	162	Chromium,T	G/P	2.08	1.29
604 East LeGrande Avenue		180	164	Copper,T	G/P	2.2	1.56
Indpls 46203		180	168	Lead,T	G/P	0.52	0.32
		180	176	Nickel,T	G/P	2.99	1.79
		180	186	Silver,T	G/P	0.32	0.18
		180	190	Zinc,T	G/P	1.96	1.11
		180	258	Cyanide,T	G/P	0.90	0.49
		90	266	pH	G/P	5-12 s.u.	

72181001

UniFirst Corporation		180	156	Cadmium,T	G/P	1.2	
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4201 Industrial Drive Indpls, IN 46254		180	164	Copper,T	G/P	2.2	
		180	168	Lead,T	G/P	4.7	
		180	190	Zinc,T	G/P	38.0	
		180	261	TPH	G	200	
	30		254	BOD	G/P	250	
	30		274	TSS	G/P	300	
		180	266	pH	G/P	5-12 s.u.	
28590101							
Vertellus Agriculture & Nutrition	7	180	190	Zinc	G/P	1.29	0.52
OCPSF Plant	7	180	257	Cyanide,A	G/P	0.4	0.22
1500 South Tibbs Avenue Indpls 46241	15	180	314	Benzene	VOC vial	0.119	0.05
	15	180	315	Ethylbenzene	VOC vial	0.336	0.126
	15	180	316	Methylene chloride	VOC vial	0.150	0.032
	15	180	317	Toluene	VOC vial	0.065	0.025
	7		252	Ammonia-N	G/P	20	
	30		254	BOD	G/P	250	
	30		274	TSS	G/P	300	
	1	90	266	pH		5-12 s.u.	
	180	180	350	Acenaphthene	Amber glass	0.042	0.017
	180	180	502	Anthracene	Amber glass	0.042	0.017
	180	180	512	Bis(2-ethylhexyl) phthalate	Amber glass	0.228	0.084
	180	180	351	Carbon tetrachloride	VOC vial	0.336	0.126
	180	180	352	Chlorobenzene	VOC vial	0.336	0.126
	180	180	353	Chloroethane	VOC vial	0.261	0.097
	180	180	808	Chloroform	VOC vial	0.287	0.098
	180	180	354	Di-n-butyl phthalate	Amber glass	0.038	0.018
	180	180	355	1,2-Dichlorobenzene	VOC vial	0.702	0.173
	180	180	356	1,3-Dichlorobenzene	VOC vial	0.336	0.126
	180	180	357	1,4-Dichlorobenzene	VOC vial	0.336	0.126
	180	180	358	1,1-Dichloroethane	VOC vial	0.052	0.019
	180	180	359	1,2-Dichloroethane	VOC vial	0.508	0.159
	180	180	360	1,1-Dichloroethylene	VOC vial	0.053	0.019
	180	180	361	1,2-trans-Dichloroethylene	VOC vial	0.058	0.022
	180	180	362	1,2-Dichloropropane	VOC vial	0.702	0.173
	180	180	363	1,3-Dichloropropylene	VOC vial	0.702	0.173
	180	180	364	Diethyl phthalate	Amber glass	0.100	0.041
	180	180	365	Dimethyl phthalate	Amber glass	0.042	0.017
	180	180	366	4,6-Dinitro-o-cresol	Amber glass	0.245	0.069
	180	180	530	Fluoranthene	Amber glass	0.048	0.019
	180	180	367	Fluorene	Amber glass	0.042	0.017
	180	180	368	Hexachlorobenzene	Amber glass	0.702	0.173
	180	180	369	Hexachlorobutadiene	Amber glass	0.336	0.126
	180	180	370	Hexachloroethane	Amber glass	0.702	0.173
	180	180	371	Methyl chloride	VOC vial	0.261	0.097
	180	180	538	Naphthalene	Amber glass	0.042	0.017
	180	180	372	Nitrobenzene	Amber glass	5.663	1.979

180	180	373	2-Nitrophenol	Amber glass	0.204	0.057
180	180	374	4-Nitrophenol	Amber glass	0.509	0.143
180	180	375	Phenanthrene	Amber glass	0.042	0.017
180	180	376	Pyrene	Amber glass	0.042	0.018
180	180	377	Tetrachloroethylene	VOC vial	0.145	0.046
180	180	378	1,2,4-Trichlorobenzene	VOC vial	0.702	0.173
180	180	820	1,1,1-Trichloroethane	VOC vial	0.052	0.019
180	180	379	1,1,2-Trichloroethane	VOC vial	0.112	0.028
180	180	380	Trichloroethylene	VOC vial	0.061	0.023
180	180	381	Vinyl chloride	VOC vial	0.152	0.086

28300801

Vesta Pharmaceuticals, Inc.	180	837	Acetone	VOC vial	20.3	8.1
5767 Thunderbird Road	180	009	Ethyl acetate	VOC vial	20.3	8.1
Indpls, IN 46236	180	010	Isopropyl acetate	VOC vial	20.3	8.1
	180	316	Methylene chloride	VOC vial	2.9	0.7
	90	266	pH	G/P	5-12 s.u.	

34420101

Von Duprin, Inc.	180	156	Cadmium,T	G/P	0.09	0.06
2720 Tobey Drive	180	162	Chromium,T	G/P	2.29	1.41
Indpls 46219	180	164	Copper,T	G/P	2.2	1.71
	180	168	Lead,T	G/P	0.57	0.35
	180	176	Nickel,T	G/P	3.28	1.96
	180	186	Silver,T	G/P	0.35	0.20
	180	190	Zinc,T	G/P	2.15	1.22
	180	258	Cyanide,T	G/P	0.99	0.54
	90	266	pH	G/P	5-12 s.u.	

34711101

Williamson Polishing & Plating	180	156	Cadmium,T	G/P	1.2	0.7
2080 Dr. Andrew J. Brown	180	162	Chromium,T	G/P	6.9	3.9
Indpls 46202	180	163	Chromium,+6	G/P	3.4	
	180	164	Copper,T	G/P	2.2	2.7
	180	168	Lead,T	G/P	0.6	0.4
	180	176	Nickel,T	G/P	4.0	2.6
	180	186	Silver,T	G/P	1.2	0.7
	180	190	Zinc,T	G/P	4.1	2.6
		193	Total Metals		10.3	6.7
	180	258	Cyanide,T	G/P	1.9	1.0
	90	266	pH	G/P	5-12 s.u.	

27410201

World Media Group	180	156	Cadmium,T	G/P	0.08	0.07
6737 East 30th Street	180	162	Chromium,T	G/P	1.94	1.20
Indpls 46219	180	164	Copper,T	G/P	2.37	1.45
	180	168	Lead,T	G/P	0.48	0.30
30	180	176	Nickel,T	G/P	2.79	1.67
	180	186	Silver,T	G/P	0.30	0.17
	180	190	Zinc,T	G/P	1.83	1.04
	180	258	Cyanide,T	G/P	0.84	0.46
30	90	266	pH	G/P	5-12 s.u.	

Attachment 4

Enforcement Response Plan



Department of Public Works

Indianapolis

Gregory A. Ballard, Mayor

2700 SOUTH BELMONT AVENUE
INDIANAPOLIS, IN 46221

February 7, 2011

Certified Mail - 91 7108 2133 3934 5198 0070

Kevin M. Pierard, Chief
NPDES Programs Branch
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: City of Indianapolis Streamlining Sewer User Ordinance Revisions and
Enforcement Response Plan Revisions
EPA Letter Dated December 29, 2010 and Received January 24, 2011
Attention: WN -16J

Dear Mr. Pierard:

We are writing to confirm receipt of the enclosed letter dated December 29, 2010 and received January 24, 2011 notifying the City of Indianapolis of approval of the proposed changes to the City's sewer user ordinance (SOU) and enforcement response plan (ERP) submitted to USEPA on November 16, 2009 and also on November 16, 2010.

The letter requests a signed copy of the final version of both the SUO and ERP. **A signed copy of the ERP is submitted with this letter.**

A signed copy of the City-County Council Ordinance promulgating the proposed revisions to the SUO is not yet available as the proposed revisions have not yet been passed by the City-County Council. Our current plan is to present the proposed revisions this month and we will provide both you and the Indiana Department of Environmental Management with a signed copy of the Council's action as soon as it is available.

We also understand that EPA wishes us to revise our industrial permits as necessary. We wish to clarify that we will make any necessary revisions within 90 days of the effective date of the revised SUO.

If you have any questions or require additional information, please contact me.

Sincerely,

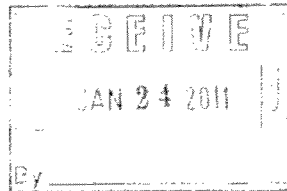
Richard Wise
Assistant Administrator
Environmental Resources Management and Compliance

cc: Ash Sajjad, Pretreatment Coordinator, NPDES Program Branch, USEPA
Natalie Maupin, Pretreatment Coordinator, Office of Water Quality, IDEM
Tim Heider, Industrial Pretreatment Coordinator, United Water Services
Sue Michael, Assistant Corporation Counsel
Cheryl Carlson, Code Enforcement



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

January 20, 2010



REPLY TO THE ATTENTION OF

WN-16J

Richard Wise, Assistant Administrator
Department of Public Works
Office of Environmental Resources
Management and Compliance
City of Indianapolis
2700 South Belmont Avenue
Indianapolis, Indiana 46221

Dear Mr. Wise:

In accordance with 40 CFR Sections 403.11(b)-(f) and 403.18(b)(2) of the General Pretreatment Regulations, I am pleased to inform you that the City of Indianapolis, Indiana's (the city) Sewer Use Ordinance (SUO) and Enforcement Response Plan (ERP) is hereby approved. Your National Pollutant Discharge Elimination System permit will be modified in the near future to incorporate the conditions of the revised program.

We believe these modifications are consistent with the Federal requirements and your responsibilities with regard to pretreatment.

The U.S. Environmental Protection Agency and the Indiana Department of Environmental Management request the submittal of a signed copy of the final version of your SUO and ERP for our records. Within 90 days, the District should also revise its Industrial User permits where necessary to reflect the program modifications.

Sincerely,

Kevin M. Pierard, Chief
NPDES Programs Branch

cc: Natalie Maupin, IDEM

CITY OF INDIANAPOLIS

INDUSTRIAL PRETREATMENT PROGRAM

ENFORCEMENT RESPONSE PROCEDURES

PLAN

Revised November 2010
Revised May 2005
Revised January 2004
Revised January 1998
January 1990

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INTRODUCTION

This document provides guidance to City personnel in identifying, addressing, and correcting violations of the City of Indianapolis' Pretreatment Program. The Enforcement Response Plan, detailed herein, outlines in a step-by-step manner the procedures used by the City of Indianapolis (City) in responding to violations. The plan provides equitable treatment to all industrial users affected by the City's enforcement process. The plan further specifies staff responsibilities and approximate response times for specific enforcement activities. The application of enforcement procedures will apply to all industrial users regulated under the Industrial Pretreatment Program, dischargers of wastewater regulated by the City's Wastewater Haulers Program, dischargers operating under the Special Discharge Program, and other non-domestic dischargers regulated by Chapter 671 of the Code of the City of Indianapolis and Marion County, Indiana.

On July 24, 1990, the U.S. Environmental Protection Agency (EPA) promulgated final revisions to 40 CFR 403 - General Pretreatment Regulations. One revision to the standards requires the development and implementation of an Enforcement Response Plan. Specifically, 40 CFR 403.8(f)(5) states:

“The POTW shall develop and implement an Enforcement Response Plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

- i. Describe how the POTW will investigate instances of noncompliance;
- ii. Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
- iii. Identify (by title) the official(s) responsible for each type of response;
- iv. Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8(f)(1) and (f)(2).”

In order to aid Control Authorities in the development of an effective Enforcement Response Plan, the U.S. EPA issued a guidance document in September, 1989, titled “Guidance for Developing Control Authority Enforcement Response Plans.” This document was used extensively in drafting the Indianapolis plan. The guidance document suggests a review and evaluation of existing program conditions, such as:

- Industrial user inventory;
- Compliance monitoring procedures;
- Procedures used to screen compliance monitoring data;
- Sewer use ordinance provisions.

In addition to the requirements specified in 40 CFR 403.8(f)(5), the guidance document states the plan should also contain:

- Criteria for scheduling periodic inspections and/or sampling visits to industrial users;
- Forms and guidelines for documenting compliance data for use as evidence in enforcement proceedings;
- A system to track due dates of required reports, schedule milestones, and pending enforcement actions;
- Criteria and procedures to select and initiate an enforcement response from approved options.

On October 15, 2005, the United States Environmental Protection Agency (EPA) finalized the Streamlining Rule to improve the effectiveness of the Pretreatment Program. On April 3, 2009 the Indiana Department of Environmental Management (IDEM) finalized the incorporation of the federal Streamlining Rules into 327 IAC 5, Sections 5-16 through 5-21. The City has incorporated the requirements of both the federal and state Streamlining Rules into Chapter 671 and this plan.

The plan outlined herein attempts to address each of the requirements set forth above. Although specific responses to pretreatment violations are explained, the City retains the ability to exercise enforcement discretion in any given enforcement action. This flexibility is necessary to allow an appropriate response to noncompliance situations involving extraordinary or mitigating circumstances.

DEVELOPING THE ENFORCEMENT RESPONSE PLAN

A discussion of the activities undertaken by the City on a regular basis to maintain current information for the compliance and enforcement program is presented in the following sections. The Industrial User Inventory, Compliance Monitoring Procedures, Data Screening, and Evaluation of the Sewer Use Ordinance are included. An evaluation of this information was necessary to establish a background for development of the Enforcement Response Plan.

INDUSTRIAL USER INVENTORY

The General Pretreatment Regulations, 40 CFR 403.8(f)(2), require all Publicly Owned Treatment Works (POTWs) to identify potential industrial users subject to the requirements of the pretreatment program and to identify the volume and character of pollutants discharged by the industrial users. Per Chapter 671, the POTW means "all publicly owned facilities for collecting, pumping, treating and disposing of wastewater, including sewers, lift stations, manhole stations and the wastewater treatment plants". An Industrial Waste Survey (IWS) was initially conducted in 1983 to satisfy the requirements of this provision and to establish the initial base of industries for regulation. Subsequent to 1983, a formal review of current users was not conducted again until 1989.

In order to implement an effective Enforcement Response Plan, all industries subject to pretreatment regulations must be identified and controlled. Therefore, the City developed a systematic approach to identifying new users and began its implementation in 1989. The process, rather than being conducted on an annual basis, requires the completion of ongoing activities to remain current with the industrial community.

Initially, all previous questionnaires and survey results collected during the development of the Indianapolis Pretreatment Program were reviewed. After screening this information, potential users were either contacted by telephone or sent an informational letter to advise them of pretreatment requirements. The facilities remaining after this process were contacted to arrange a site visit to determine if a permit was needed. If a permit was needed, an Industrial Discharge Permit Application was provided, along with a date for submission to the City. Industries identified through ongoing activities are evaluated by the same procedures.

Due to the size of the Indianapolis industrial base and the added responsibility for oversight of pretreatment responsibilities in satellite communities (Lawrence, Ben Davis, Beech Grove, and Greenwood), there is no single reliable source for identification of new industrial facilities. Therefore, discovery of new industries occurs as a result of varied activities and from diverse areas. The following list includes a number of resources used by the City for identifying new facilities:

- Telephone listings (Yellow Pages);
- Previous survey results;
- Industrial directories;
- Sewer connection permits;
- Referrals from other agencies (Marion County Health Department, IDEM, etc.);
- Site visits;

- Reports from other regulated industries;
- Citizen reports;
- Information supplied by satellite communities;
- Notification from potential industries;
- Observations by sampling/surveillance/inspection/field personnel;
- Newspaper articles/trade journals/business magazines;
- Greater Indianapolis Chamber of Commerce;
- Internet listings;
- Industrial park tenant lists; and
- Indianapolis Water Company accounts.

All new industries subject to pretreatment requirements are issued an Industrial Discharge Permit and added to the master list of regulated facilities. This list is provided to the Approval Authority (EPA) and to IDEM on a quarterly basis as an attachment to the Quarterly Noncompliance Report (QNCR). The master list contains the significant and nonsignificant regulated industries divided into categorical and noncategorical groups. All permitted facilities under the Indianapolis Pretreatment Program are potentially subject to all program requirements.

An additional requirement associated with the Industrial User Inventory is the maintenance of an accurate characterization of the type, volume, and quality of the discharges from the regulated users. This is accomplished by the completion of ongoing activities including:

- Scheduled annual inspections at each significant industry;
- Unscheduled inspections conducted at selected industries;
- Industry's requirement to report changed discharges;
- Observations from field personnel;
- Information submitted on Industrial Discharge Permit Applications; and
- Review of self-monitoring and/or surveillance sampling data.

Updated information collected as part of the City's Industrial User Inventory activities is entered into the database (Linko Data Management System) as it is received.

The majority of inventory responsibilities are assumed by the Industrial Pretreatment Program Specialists. Other support responsibilities are provided by the IPP Coordinator, IPP Sampler, and the IPP Attendant.

COMPLIANCE MONITORING PROCEDURES

Compliance monitoring activities conducted by the City are necessary to identify and document violations that can be presented as admissible and irrefutable evidence in legal proceedings. Industrial compliance with applicable regulations is determined and evaluated through:

- Self-monitoring data from industrial users;
- Inspections conducted by City representatives;
- Surveillance sampling and analysis conducted by City representatives; and
- Evaluation of application information by City representatives.

Self-monitoring activities are required by a select number of industrial users on a monthly basis. The forms used are prescribed by the City to ensure all necessary information is submitted. Each report must also be signed by an authorized representative of the industry. These data are prima facie evidence if violations are identified.

Inspections by the IPP Coordinator, IPP Specialists, and the IPP Sampler are conducted to verify compliance and to identify any potential problems or violations. A standard inspection form is used to ensure all areas are evaluated. The form is signed and dated by the inspector. Any noncompliance situations are noted, either on the inspection form or by separate report, and follow-up is then conducted with the industry. A field notice of violation (NOV) may be issued for specific instances of noncompliance, including pH violations, monitoring equipment deficiencies and/or failure to allow prompt access to the facility.

Surveillance sampling conducted by City representatives and analysis by the laboratory is the cornerstone of compliance monitoring. Therefore, it requires strict adherence to standard procedures. Trained sampling personnel collect industrial samples and complete a field chain-of-custody (C-O-C) form which accompanies each sample. This field C-O-C form follows the sample through the analytical process to maintain its identity and to assign to it the proper results. Specific procedures are outlined in the Sampling Plan and Procedures Manual. Each person receiving custody of the sample is required to sign the chain-of-custody form.

Information submitted by industrial users on the Industrial Discharge Permit Application must also be evaluated for compliance with regulations. The IPP staff must also determine if the industrial user has failed to document information necessary to complete the application. Failure to disclose vital information is a violation of the permit program. The application form contains a statement attesting to the accuracy and completeness of the information submitted which must be signed by an authorized representative of the industrial user.

DATA SCREENING

The majority of data to be screened and evaluated is generated through industrial self-monitoring and surveillance sampling. Data are entered into the Linko Data Management Program on an as-received basis by IPP personnel. The computer program identifies all daily maximum and monthly average (if applicable) violations.

On a monthly basis, or more often if necessary, a noncompliance report is generated for internal use by the IPP Coordinator. Each violation is noted and appropriate enforcement action is initiated. The specific responses and time frames are detailed in the Enforcement Response Section.

In addition, a report of all facilities which failed to submit a Self-Monitoring Report (SMR) or submitted the report late is generated by the IPP Specialist and made available to the IPP Coordinator. The submittal dates are part of the permanent record as well as being recorded on the report form. Enforcement of this violation is explained in the Enforcement Response Section.

Screening and tracking of reports submitted as part of compliance schedule activities are accomplished by the City's Enforcement staff. Each facility operating under a compliance schedule is tracked by a separate file which is reviewed at least monthly. Action is taken if required reports are not received or if milestones are missed. Compliance schedule files for each industrial user remain open for review pending completion of all activities and demonstration of final compliance.

EVALUATION OF THE SEWER USE ORDINANCE

The authority for the City to take effective enforcement action is provided by Chapter 671 of the Code of the City of Indianapolis and Marion County, Indiana. This chapter is contained in General Ordinance #77. Major modifications were made to Chapter 671 (formerly Chapter 27) in 1984 as a requirement of pretreatment program development. Since 1984, several modifications relating to the program have taken place. The maximum penalty amount of \$1,000.00 per day's violation was increased to \$2,500.00 in 1988.

The ordinance has further been revised to incorporate various federal requirements promulgated as a result of the Domestic Sewage Study as well as changes necessary to update compliance and enforcement efforts. The objective of ordinance revisions is to strengthen the City's authority to (1) impose pretreatment standards and requirements on discharges of non-domestic waste; (2) use a sufficient range of enforcement responses; and (3) eliminate obstacles to effective enforcement of pretreatment standards and regulations.

All ordinance revisions or implementation of new procedures allowed under Chapter 671 are reviewed by the Office of Corporation Counsel. Revisions are submitted to the City-County Council for approval after review by the Council's Public Works Committee and the Public Works Board. These procedures satisfy public participation requirements and provide a forum for input from the public, regulated industrial users, and other interested parties. The final draft of revisions is also submitted to EPA for approval, when applicable, as a substantial modification to the City's pretreatment program, with a copy to IDEM.

The major provisions associated with enforcement authority set forth in Chapter 671 of the Code are paraphrased below:

- | | |
|------------------|--|
| Section 671-4 | Regulation of Discharges to Public Sewer <ul style="list-style-type: none">• Regulates prohibited discharges• Contains numerical effluent limitations |
| Section 671-10.5 | Plan to control Slug discharges <ul style="list-style-type: none">• Outlines requirements and elements to control slug discharges for a significant user. |

Section 671-11	<p>Liability for Damage</p> <ul style="list-style-type: none"> Allows recovery of costs for work required to clean or repair the POTW or fines imposed against the City as a result of a user's discharge.
Section 671-16	<p>Penalties</p> <ul style="list-style-type: none"> \$2,500.00 maximum for each day's violation.
Section 671-50.5	<p>Reporting and sampling Requirement</p> <ul style="list-style-type: none"> Outlines procedures for sampling protocols and periodic reporting.
Section 671-52	<p>Emergency Suspension of Service and Industrial Discharge Permit</p> <ul style="list-style-type: none"> Authorizes the Director, without notice or hearing, to suspend service or a discharge permit in order to stop an actual or threatened discharge presenting or which in any way presents an imminent or substantial endangerment to the health or welfare of persons or the environment, causes interference to the POTW, or causes a violation of the City's NPDES Permit. Allows immediate elimination of the contribution and severance of the sewer connection. The user pays all costs and a written report to the Director is required within five (5) days.
Section 671-53	<p>Revocation</p> <ul style="list-style-type: none"> A permit may be revoked for violations, failure to timely file reports, factually report wastewater characteristics, refusal of reasonable access for review of records, inspection or monitoring, or violation of permit conditions.
Section 671-54	<p>Notice of Revocation</p> <ul style="list-style-type: none"> The Director must give written notice to the industrial user of facts or conduct warranting the action and an opportunity for the user to demonstrate or achieve compliance with all lawful requirements.
Section 671-55	<p>Notification of Violation</p> <ul style="list-style-type: none"> The Director may serve written notice for a violation of a provision or condition of a permit. User must submit, if required by the City, within fifteen (15) days of the notice, a plan for the satisfactory correction of the violation.
Section 671-56	<p>Show Cause Hearing</p> <ul style="list-style-type: none"> The Director may issue a written notice to a user to show cause at a departmental hearing why an enforcement action should not be taken. <p>The notice must:</p> <ul style="list-style-type: none"> ➤ discuss the reason why the action is taken; ➤ describe the proposed action; ➤ direct the user to show cause why the action should not be taken; and ➤ be delivered personally or by registered/certified mail at least ten (10) days before the hearing.

Section 671-57

Appeals

- Allows the user to file with the Director a written request for reconsideration within fifteen (15) days of any action, decision, or determination taken as part of the Department's Administrative Enforcement Program. A decision is required within ten (10) days by the Director.

Section 671-58

Publication of Violations

- At least annually and by April of each year, the City shall publish, in the newspaper of general circulation that provides meaningful notice in the Central Indiana area, the list of industrial users which at any time during a calendar year were in significant noncompliance with applicable pretreatment requirements as set forth in 40 CFR 403.8(f)(2)(vii). An industrial user is considered in significant noncompliance if its violation meets at least one of the following criteria:
 1. Chronic violations of discharge limitations in which sixty-six (66%) per cent or more of all measurements taken during a six (6) month period exceed by any magnitude a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
 2. Technical Review Criteria (TRC) violations in which thirty-three (33%) per cent or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC;
 3. Any other violation of an effluent limit or a pretreatment standard or requirement as defined in 40 CFR 403.3(l) that the Director determines has caused, alone or in combination with other discharges, interference or pass-through at the POTW or endangerment to the health of POTW personnel or the public;
 4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or resulting in the Director's exercise of emergency authority under Section 671-52 to halt or prevent such a discharge;
 5. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a schedule or order;
 6. Failure to provide a required report within forty-five (45) days after the due date;
 7. Failure to accurately report noncompliance; or
 8. Any other violation or group of violations, that may include best management practices, that the Director determines will adversely affect the operation or implementation of the City's pretreatment program.

ENFORCEMENT RESPONSE GUIDE

IDENTIFICATION OF VIOLATIONS

The identification of a violation of pretreatment requirements, regardless of the severity, will initiate the enforcement process. Discovery of a violation may occur as a result of any number of activities. The list below represents the most common sources of identifying violations:

- Review of city surveillance sampling results;
- Review of industrial user self-monitoring results;
- Spill/accidental discharge reports from industrial users;
- Site visits/inspections by city personnel;
- Information provided by industrial user employees;
- Observations by field personnel;
- Information provided by the public or private citizens;
- Review of compliance schedule requirements;
- Review of compliance agreement or agreed judgment requirements; and
- Information provided by other agencies (EPA, IDEM, Marion County Health Department (MCHD), etc.).

Once a violation is identified, it is the responsibility of City representatives to implement the appropriate enforcement response required in the plan. When determining an appropriate response, particularly one which includes the imposition of penalties, the specific procedures outlined in the Enforcement Procedures Section must be followed. However, additional criteria may be used in determination of the response including:

- Magnitude of the violation;
- Duration of the violation;
- Effect of the violation on the POTW's receiving stream;
- Effect of the violation on POTW processes and equipment;
- Effect on the City's or its representatives' equipment;
- Compliance history of the industrial user;
- Good faith of the industrial user; or
- Pollutants of particular importance to the POTW.

ENFORCEMENT RESPONSES AVAILABLE

The City has available to it a number of enforcement responses allowed under local and state law. The responses described below include both administrative as well as civil responses. All actions taken by the City requiring a response by the industrial user are accomplished in writing and sent by certified mail to ensure receipt by the industrial user.

Administrative Responses

Telephone Contact - Minor violations which do not require a formal response may be addressed by a telephone call to the industrial user. These types of violations may include late submission

of a self-monitoring report (SMR), errors on the SMR, or a violation of an effluent limitation within the TRC. A written record of the contact is accomplished for inclusion in the file and may be used as documentation in the event further enforcement action is necessary in the future.

Enforcement/Compliance Status Meeting - A meeting/inspection of the industrial user to address situations involving violations of procedural requirements, improper completion of reports, or follow-up to noncompliance events may be used to correct errors, identify possible problems, or propose potential solutions before noncompliance becomes significant. Any recommendations or required actions are documented in writing to the industrial user.

Warning Letter - Written notice of a noncompliance situation may be used for a violation which is minor in nature. Often used following an inspection of a facility in which specific actions need to be taken to prevent a potential noncompliance event. This mechanism establishes a base for more formal enforcement action if a violation occurs or continues.

Field Notice of Violation (NOV) with no assessment of penalty - Issued to an industrial user for a noncompliance situation identified by field personnel, the NOV form is completed in the field and served to a company representative. Typical situations resulting in a field issued NOV include pH, temperature and LEL violations, blockages, failure to properly maintain sample point, etc.

Initial Notice of Violation (NOV) with no assessment of penalty - Issued to an industrial user for a first-time violation, usually, this notice requires no further action on the part of the industrial user and addresses violations which have had no noticeable environmental harm, impact on the POTW or the receiving stream, or other detrimental effects. This notice puts the industrial user on probationary status and is initiation of preliminary enforcement procedures. This type of NOV will also be issued for repeat violations that do not result in initiation of formal action with referral to the City Prosecutor or Administrative Hearing Officer.

Compliance Schedule - Certain instances of noncompliance in which it has been determined the noncompliance may continue for a period of time can be addressed by issuance of an administrative compliance schedule. This option is used where the schedule period is of short duration preventing its incorporation into a court-approved document or if assessment of penalties is not being considered.

During the compliance schedule period, continuing effluent violations may occur. The industrial user must demonstrate to the satisfaction of the City that every possible effort to prevent or mitigate the magnitude of violations during the schedule period is accomplished.

Violations that occur during completion of the schedule period may not necessarily be assessed penalties (at the discretion of the City). However, their occurrence will be documented and recorded on the user's compliance record. If the industrial user fails to achieve compliance by the end of the schedule or to demonstrate a good faith effort, penalties may be assessed for all violations occurring during that interim period.

Show Cause Hearing - Under certain circumstances, the City may issue an order to an industrial user to appear and show cause at a departmental hearing why a proposed administrative action

should not be taken. This action is usually reserved for recalcitrant industries or to further investigate a noncompliance situation. This action is often followed by issuance of a compliance schedule or a referral for civil action.

Recovery of Costs - Any discharger of waste to the city sewer system can be held liable for causing interference, obstruction, damage, or impairment to the POTW, the work required to clean or repair the POTW, or any fine imposed against the city as a result of the discharge. The City may determine the costs incurred as a result of the noncomplying discharge and assess the charges on the user's regular sewer bill.

Emergency Suspension of Service/Industrial Discharge Permit - The City may suspend the wastewater treatment service or the industrial discharge permit without notice or hearing to the user in order to stop an actual or threatened discharge which presents an imminent or substantial danger to the health or welfare of persons, the environment, the POTW, or causes the POTW to violate any condition of its NPDES permit. This suspension is issued by the Director of the Department of Public Works and requires the user to immediately stop or eliminate the noncomplying discharge. Failure to comply with the order can result in severance of the sewer connection to prevent further damage.

Revocation of Permit - The City may revoke the industrial discharge permit and the legal rights to discharge of any user for the following reasons:

- Violation of any provision of Chapter 671, state, or federal law;
- Repeated failure to timely submit any required reports;
- Failure to factually report wastewater characteristics;
- Refusal to allow reasonable access to the user's premises for inspection, monitoring, or review of records; or
- Violation of any condition of the user's discharge permit.

The permittee must be given written notice by the City of the conditions that warrant revocation of the permit and be allowed an opportunity to achieve compliance with applicable requirements.

Publication of Violators - The City publishes annually in the Indianapolis Star all users found in significant noncompliance (SNC) of pretreatment requirements. This action serves to deter industrial users from noncompliance by avoiding public scrutiny. The publication of SNC is required by USEPA and 40 CFR 403.8(f)(2)(vii).

Accelerated Monitoring - In response to industrial noncompliance, the City may require an industrial user to perform additional sampling and analysis of the discharge to demonstrate consistent compliance. The City may also conduct increased surveillance activities to verify compliance independent of self-monitoring results. This action is normally short-term in nature, but the increased expense to the industrial user provides the motivation to achieve compliance as quickly as possible.

Termination of Water Service - Through an agreement between the Department of Public Works and the Indianapolis Water Company (IWC), the water service to an industrial user may be terminated at the request of the Department of Public Works. The cost of resuming service is

borne by the industrial user and provides an incentive to comply with the necessary requirements. Adequate written notice is given to the industrial user of such action.

This procedure is used almost exclusively for industrial users that are severely delinquent on payment of sewer charges, including surcharges and industrial surveillance costs.

This option is available only for those industrial users on the IWC system.

Civil Responses

Notice of Violation (NOV) with Referral to City Prosecutor/Administrative Hearing Officer (AHO) - Any violation or set of violations requiring assessment of monetary penalties, adherence to a formal compliance schedule, or completion of ordered activities is addressed by an NOV issued by the City with a request to the City Prosecutor/Hearing Officer to file a complaint of ordinance violation.

Complaint of Ordinance Violation - This notice is issued by the City Prosecutor or AHO in response to an enforcement referral. The complaint explains the nature of the violation, the specific requirement or standard violation. This is official notice to the industrial user that a lawsuit is being filed by the City. Any action involving assessment of a monetary penalty must follow the formal complaint process.

Agreed Judgment/Compliance Agreement - This document is an agreement between the industrial user and the City preventing a full hearing on the violations. The agreed judgment/compliance agreement is used when the industrial user is willing to admit to and correct the noncompliance situation. The requirements of the agreement are negotiated by the industrial user and the City representative. This information is referred to the City Prosecutor/AHO and used to draft an agreed judgment or compliance agreement. The City Prosecutor/AHO then sends the agreement to the industrial user for signature. If a civil proceeding is used, the judgment must also be signed by the presiding judge after a hearing with the industrial user. The hearing is used to clarify any questions the judge has regarding the case and to ensure that all parties understand the obligations of the agreed judgment. In some cases, the judge may waive the appearance requirement.

In the case of a compliance agreement generated by the AHO, the document is sent to the industrial user for signature and then to the hearing officer for final approval. If a hearing is held, the hearing officer may assess a penalty through a judgment. The judgment of a hearing officer may be appealed by the user to Municipal Superior Court.

The judgment may contain any combination of the following:

- Description of the noncompliance;
- Civil penalty;
- Recovery of costs incurred by the City;
- Formal and enforceable compliance schedule;
- Other corrective action.

Penalties proposed by the City can be assessed through the agreed judgment or compliance agreement process. The amount of up to \$2,500.00 can be assessed for each day's violation. The actual amount, based on specific factors explained in the Penalties Section, will be calculated by the City and recommended to the City Prosecutor or the Administrative Hearing Officer.

Penalty Hearing - In some cases, the industrial user acknowledges a noncompliance event and agrees to corrective action, but an agreement on an appropriate penalty cannot be reached. These situations require evaluation of the case by the judge and a decision as to the amount of the penalty, if any.

Hearing or Trial - Enforcement cases involving a dispute as to whether a violation occurred or a failure to reach a negotiated settlement are set for hearing or trial. These cases require full disclosure of all facts related to the noncompliance and testimony may be provided by the industrial user, IPP staff, City staff, witnesses, or other parties with relevant information may be provided.

Injunctive Relief - This action results in a court-ordered cessation of violations that may include termination of discharges, installation of treatment equipment, etc. Because Chapter 671 provides the Director with cease and desist power, it is unlikely this option would be used. However, if a discharger disregards agreed judgment, a compliance agreement, or the administrative order, court-ordered relief may be necessary.

Criminal Violations

Willful or negligent violations, including false statements or tampering with city equipment, may be punishable by criminal prosecution. Although City representatives are trained to recognize possible criminal violations, any criminal enforcement action will proceed only with the cooperation and guidance of other enforcement agencies.

Depending on the nature of the violations, a criminal enforcement action may involve any of the following entities:

- Assistant Corporation Counsel representing the City
- City Prosecutor's Office
- IDEM Office of Criminal Investigations
- United States Department of Justice
- Federal Bureau of Investigations
- EPA Criminal Investigation Division
- Marion County Prosecutor's Office
- Marion County Sheriff's Department
- Indianapolis Metropolitan Police Department
- Marion County Health Department

The City will consult with appropriate personnel whenever evidence of a noncompliance situation shows possible criminal intent.

Other Enforcement Responses

Noncompliance by an industrial user will always bring some type of enforcement response by the City. Depending on the circumstances of the violations, the City can choose to exercise a number of options as detailed previously. However, the initiation of enforcement action by the City does not prevent additional enforcement action through other sources. These actions are outside the realm of the City's responsibilities and are usually brought by other regulatory agencies or private parties. Although these actions are not part of the City's enforcement response procedures plan, they are discussed here to educate industrial users of their existence.

Third Party Intervention/Citizen Suits

Industrial users should be aware of the ability of citizens to bring lawsuits for noncompliance with pretreatment requirements. The Clean Water Act (Act) of 1977 (P.L. 95-217) allows intervention by private parties to seek enforcement of any effluent standard or limitation. A citizen suit under Section 505 of the Act can be brought in any instance of a violation of pretreatment standards where it may be reasonably assumed that violations could recur in the future. A citizen is defined in the Act as any person having an interest that is or may be adversely affected.

A citizen suit must give sixty (60) days notice to the alleged violator, the Administrator of the EPA, and the Commissioner of IDEM of the commencement of a civil action (intent to sue).

The Act provides limited protection to industrial users from additional enforcement action on identical violations initiated by separate parties. If an enforcement action is taken for specific violations, it must be shown the action was comparable or capable of being comparable to actions afforded by state or federal enforcement. If proven otherwise, an additional action could be brought for the same violations with additional penalties and corrective measures, if deemed appropriate.

Therefore, any enforcement action taken by the City, either prior or subsequent to the initiation of a citizen suit, will not necessarily protect the industrial user from redundant enforcement action. Absolute protection from citizen suits is possible only when IDEM or EPA diligently pursue an enforcement action for the same specified violations.

State/EPA Action

Any violations of pretreatment standards and regulations are potentially subject to an enforcement action by IDEM or EPA. This will usually occur for one of two reasons;

1. If the City does not properly enforce the requirements of its approved pretreatment program, including assessment of inappropriate penalties or failure to bring enforcement action when necessary; or
2. If the City requests the help of the agencies to prosecute a specific enforcement case.

ENFORCEMENT PROCEDURES

Generally, all violations identified by City representatives are reviewed, evaluated, and addressed by the appropriate enforcement response. The responses fall within the guidelines of the Enforcement Response Guide.

The majority of enforcement actions begin with issuance of an initial notice of violation. The NOV, sent via certified mail, describes the nature of the violation and informs the industrial user that any additional violations may result in referral to the City Prosecutor or Administrative Hearing Officer for appropriate enforcement action. Barring mitigating circumstances surrounding the violations, such as an initial violation which has caused damage or harm to the POTW, human health or safety, caused the POTW to violate its NPDES permit requirements or any other condition deemed serious by the City, a first time violation of effluent standards will normally not carry a monetary penalty.

Once the industrial user has been notified of a violation or has knowledge of a condition which is a violation, the industrial user may be allowed up to fifteen (15) calendar days to correct the noncompliance before escalation of the enforcement process occurs. This 15 day period applies only to an initial violation. Any violations occurring after this period will be evaluated according to the plan procedures. (NOTE: a repeat occurrence does not necessarily indicate the same parameters, condition, or procedural requirement were found in violation.) Thereafter, each violation is evaluated for enforcement action. In addition, if a violation occurred during the 15 day correction period, the industry must demonstrate good faith was exercised to prevent or mitigate further violations during that period.

For each violation, point values will be assigned as described in the VIOLATIONS MATRIX. These values will accumulate until a specific tier level is reached (see TIER LEVEL PENALTIES TABLE). Each new level will trigger additional penalties or a separate enforcement action with assessment of the appropriate penalty for each violation. If an action is pending for prior violations, the new violations may be included, if possible, in the existing action with assessment of additional penalties, at the City's discretion.

The matrix assigns point values to those violations most easily identified and evaluated. These are violations of effluent standards, late reporting, and missing major compliance schedule milestones. Other violations of procedural requirements, deadlines, Enforcement Response Guide noncompliance, or other violations not specifically identified below will be reviewed and evaluated by the City on a case-by-case basis.

Multiple violations occurring on a single day and attributable to a single noncompliance event will normally be considered one occurrence. Each parameter in a violation may be evaluated separately and the single maximum point value will be assigned. However, under special circumstances, point values of each parameter in violation can be additive, resulting in a higher tier level and increased penalties. Violations of monthly averages (categorical industries) constitute a violation for each day the industrial user operated during the given month unless actual daily analyses are demonstrated to be less than the applicable monthly average limitation.

VIOLATIONS MATRIX

The following point values will be assigned to each day's violation when calculating the tier level status and calculation of the appropriate penalty:

Metals, Toxics, and Other Regulated Nonconventional Pollutants

Value greater than the limitation and < TRC (1.2 x limitation)	= 0
Value > TRC and <2 x limitation or <1.0 mg/l	= 0.50
Value > 2 x and < 3 x limitation	= 0.75
Value > 3 x and <5 x limitation	= 1.00
Value greater than 5 x limitation	= 2.00
33% or more of all measurements taken during a six month period exceed the TRC, if not addressed above	= 1.00
66% or more of all of the measurements taken during a six month period exceed, by any magnitude, the daily maximum or monthly average limit for the same pollutant parameter, if not addressed above	= 1.00

Total Petroleum Hydrocarbons

Value greater than the limitation and < TRC (1.4 x limitation)	= 0
Value > TRC and < 2.5 x limitation	= 0.25
Value > 2.5 x and < 5.0 x limitation	= 0.50
Value > 5.0 x and < 7.5 x limitation	= 0.75
Value greater than 7.5 x limitation	= 1.00
66% or more of all oil and grease results taken during a six-month period exceed, by any magnitude, the daily maximum or monthly average limit	= 1.00

pH - Grab Method Results

Value less than 2.0 S.U.	= 0.50
Value > 2.0 and < 4.5 S.U.	= 0.25
Value > 4.5 and < 12.5 S.U.	= 0.00
Value > 12.5 and < 13.5 S.U.	= 0.25
Value > 13.5 S.U.	= 0.50
33% of all measurements outside the range 5.0 - 12.0 S.U. during any given six month period	= 0.50

pH - Continuous Monitoring Results

During a given calendar month, the total time during which the pH values are outside the required range exceeds 7 hours and 26 minutes	= 1.00
An individual continuous excursion exceeds the upper pH range for more than 60 minutes	= 0.50
An individual continuous excursion remains below the lower pH limit for more than 60 minutes	= 1.00

Ammonia

33% or more of all of the measurements taken during a six month period exceed the TRC for the daily maximum or monthly average limit	= 1.00
66% or more of all of the measurements taken during a six month period exceed, by any magnitude, the daily maximum or monthly average limit	= 1.00

Other

Submission of reports later than five days past deadline (per occurrence)	= 0.20
Missed major compliance schedule milestone without reasonable justification	= 0.50

Assessment of Penalties

The table of recommended penalties ranges from the minimum assessed at each level up to the maximum allowed under Indiana law of up to \$2,500.00 per day per violation. Although the minimum penalty is normally applied in routine enforcement actions, the City may assess any violation up to \$2,500.00 per day depending on circumstances of the noncompliance. The initiation of enforcement action and assessment of penalties is triggered at each tier level. This includes each violation or set of new violations remaining uncorrected or occurring fifteen days after receipt of an initial NOV or of knowledge of any violation and are assessed escalating penalties according to the schedule below, up to \$2,500.00 per day per violation.

TIER LEVEL PENALTIES TABLE

	Tier Level (Sum of Matrix Values)	Minimum Penalty Amount (Per Violation)
No Enforceable Violation on Record	0	N/A
Repeat Violations (Cumulative)	2	\$0.00
Repeat Violations (Cumulative)	3	\$250.00
Repeat Violations (Cumulative)	4	\$500.00
Repeat Violations (Cumulative)	5	\$750.00
Repeat Violations (Cumulative)	6	\$1000.00
Repeat Violations (Cumulative)	7	\$1250.00
Repeat Violations (Cumulative)	8	\$1500.00
Repeat Violations (Cumulative)	9	\$1750.00
Repeat Violations (Cumulative)	10	\$2000.00
Repeat Violations (Cumulative)	11	\$2250.00
Repeat Violations (Cumulative)	12	\$2500.00

An ongoing log or cumulative annual file is maintained for each industry with all violations described, action taken, penalties assessed, and current tier level status. Violations remain on the industrial user's compliance record for a rolling twenty-four (24) month period. Any violations more than two (2) years old are removed from the compliance history. When violations are removed from the industrial user's compliance history, the tier level status decreases. A 24 month period without an enforceable violation will return to Level 0 status.

Certain incidents or noncompliance events automatically result in formal enforcement action including assessment of penalties. These include, but are not limited to:

- Violations involving environmental harm:
 - Passes through the POTW without proper treatment;
 - Causes a violation of the City's NPDES permit; or
 - Results in a fish kill in the receiving stream.
- Violations which cause interference of the POTW or its processes;
- Violations which result in physical damage to the sewer system or wastewater treatment plant;
- Fraudulent activities; or
- Tampering with city sampling/monitoring equipment or sampling procedures.

The amount of the civil penalty assessed for the above violations depends on several factors including:

- Actual impact on the treatment plant and its processes.
- The number and magnitude of violations incurred by the City of its NPDES permit.
- Evaluation of the knowing or negligent nature of the violation.

Violations that result in damage to the POTW and/or result in a violation of the City's NPDES permit shall be evaluated for the maximum allowable penalty, regardless of the intent of the discharger. Any incident involving NPDES violations must result in strict enforcement proceedings against the discharger as EPA or IDEM will consider the actions of the City when determining federal or state enforcement options against the municipality.

REFERRAL OF VIOLATIONS TO CITY PROSECUTOR/ADMINISTRATIVE HEARING OFFICER

Repeat violations that trigger the enforcement/penalty procedures must be processed through the City Prosecutor's Office or the administrative hearing officer. Through issuance of a Notice of Violation with a referral to the City Prosecutor or Administrative Hearing Officer, the City will be requesting a penalty as a part of the resolution of the action. The procedures for referral of a Notice of Violation case are outlined below.

- Industrial user is sent a notice of violation by the City with a request to the City Prosecutor to file a complaint of ordinance violation or a request for resolution of the ordinance violation through the administrative hearing officer.
- In the notice of violation, the City requests that the industrial user discuss the violation and the resolution of the action with the City.
- If the industrial user chooses, the industrial user and City representative(s) discuss terms of the enforcement action, corrective measures taken to prevent the problem from recurring, compliance measures that may be included in the resolution, the amount of the penalty, and any supplemental environmental projects (SEP) to be undertaken to mitigate a portion of the

- penalty.
- To resolve the enforcement action, the City's enforcement staff drafts a proposed agreed judgment or compliance agreement and sends it to the industrial user for approval and signature. Simultaneously, the City schedules the matter for a hearing.
- If an agreement is reached between both parties prior to the hearing, no hearing will be necessary. Upon return of the signed document from the industrial user to the City, the City's attorney signs the agreement. The approved document is forwarded to the City Prosecutor through an Agreed Judgment or the administrative hearing officer through a Compliance Agreement for approval and finalization.
- If an agreement cannot be reached between both parties (the industrial user does not agree to the terms of the proposed resolution), a hearing is held before a superior court judge or an administrative hearing officer who will render a judgment as the resolution of the action.

The normal time frame for completion (expressed in workdays) of the agreed judgment process is outlined below:

Action	Action Within
City issues notice of violation to industry user to address noncompliance	60 days of identification of violation
Industry user responds verbally or in writing to notice of violation	15 days of receipt of notice of violation
City representative and industrial user reach agreement on enforcement action through an Agreed Judgment or Compliance Agreement	45 days of issuance of complaint by City Prosecutor/Administrative Hearing Officer
After City provides Agreed Judgment or Compliance Agreement, industrial user signs and returns to City for finalization	30 days of receiving notice of agreement from City representative signed by industrial user; after receipt, City forwards to City's attorney for signature; forwarded to Judge or Administrative Hearing Officer for finalization
City refers case to judge or hearing officer with hearing date	Simultaneously sent with proposed resolution; if resolved, no hearing will take place; if not resolved, hearing will occur and judgment will be rendered

EVALUATION OF MITIGATING CIRCUMSTANCES

Each enforcement action initiated by the City is unique as far as the condition leading to the violation or noncompliance. There are certain circumstances to be considered in each enforcement case. However, the general premise is that each violation is subject to enforcement action by the City. The following discusses areas pertaining to evaluation of minor noncompliance, upset and bypass defenses, and good faith efforts by the industrial user.

Minor Noncompliance

Any violation, regardless of magnitude, is eligible for enforcement action. However, implementation of normal enforcement response procedures takes into account the seriousness of specific violations with respect to the parameter involved and the degree of the violation. This procedure is addressed in the section that details the calculation of penalties and initiation of enforcement proceedings.

Upset

An upset defense can only apply in those cases where violations of technology-based categorical pretreatment standards have occurred. It does not apply to violations of the general prohibitive standards to prevent interference and/or pass-through or to limits in Chapter 671 developed for protection of water quality standards and/or POTW processes. An upset is narrowly defined in Chapter 671 as “an exceptional incident in the user’s industrial facility, in which there is an unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation”.

The burden of proof of Section 671-10(f) is with the industrial user and must be satisfied for an upset defense to be considered. If an alleged upset has occurred, the industrial user must take any extraordinary measures to limit production or control or prevent all discharges until the treatment process is restored.

A successful defense shall not relieve the industrial user of any liability for expense, loss, or damage incurred by the City as a result of the upset including fines or penalties levied against the City for noncompliance with NPDES requirements.

Bypass of Treatment Facilities

Relief from liability as the result of bypass of treatment facilities will be allowed under extremely limited circumstances.

A bypass is the intentional diversion of any or all wastestreams from any portion of an industrial user's treatment facility. The prohibition against bypass of treatment facilities requires that the treatment system or processes must be operated in a manner consistent with known engineering practices and principles.

A bypass may only occur if it does not result in noncompliance with pretreatment standards and if it is essential to periodic maintenance activities for assuring efficient and consistent operation of the treatment facilities.

Any bypass resulting in violation of pretreatment standards can be defended only in cases where:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
2. There were no feasible alternatives to the bypass; and
3. The industrial user complied with all reporting requirements for advance notice to the City.

Advance notice shall consist of written notice at least ten (10) days prior to scheduled bypasses. In the case of unscheduled bypasses, oral notice must be given immediately.

Good Faith Efforts

The pretreatment standards, requirements, and regulations are the product of strict liability statutes. Assertion of good faith is neither an excuse nor a defense for violations of applicable requirements. However, the demonstration of good faith efforts to return to compliance following a noncompliance event is taken into account when determining the amount of a monetary penalty.

Any knowing or negligent violations are considered outside the arena of good faith and will be addressed by accelerated penalties and the potential for criminal proceedings.

Compliance Schedules

Any industry which identifies a potential noncompliance situation where violations are likely to occur or recur may submit a plan for corrective action to the City for review. The plan must include detailed activities to be accomplished, as well as specific time frames for completion.

Upon approval by the City, a compliance schedule is issued with requirements to submit periodic progress reports. Enforcement of violations occurring during the schedule period may be stayed pending completion of the required activities at the City's discretion. However, if in the opinion of the City, an excessive amount of time passes without significant progress or if violations continue after completion of the compliance schedule, all violations which occurred during the schedule period may be subject to appropriate penalties.

In cases where compliance schedules extend to periods greater than two (2) years, violations on the industrial user's record will not necessarily be deleted within the rolling twenty-four (24) month review period.

Compliance schedules may be issued by the City as an administrative order approved by the court through the agreed judgment process or approved by the Administrative Hearing Officer through the compliance agreement process.

ENFORCEMENT OF CATEGORICAL STANDARDS

Industries regulated by Chapter 671 of the Indianapolis and Marion County Code, as well as categorical standards, face additional requirements promulgated in the federal regulations. Because the City of Indianapolis operates an industrial pretreatment program approved by the EPA and IDEM, it is required to enforce categorical pretreatment standards as an agent of the EPA.

Although the majority of categorical standards have been promulgated and final compliance deadlines have passed, there are regulations with pending deadlines and some industrial categories being considered for regulation. Therefore, an explanation of additional reporting requirements and compliance for those affected industries is warranted.

1. **Baseline Monitoring Report (BMR)** - 40 CFR 403.12(b) requires submission of the

process description, statement of current compliance or noncompliance with the standard, and development of a compliance schedule, if necessary.

2. **Periodic Progress Reports** - 40 CFR 403.12(c) requires those industries in current noncompliance with a promulgated standard to complete a compliance schedule and to submit progress reports within fourteen (14) days of each major milestone date.
3. **Compliance Date Report** - 40 CFR 403.12(d) requires all affected industries to submit a report within ninety (90) days following the final compliance deadline in the standard, certifying whether compliance has been achieved.
4. **Periodic Reports on Continued Compliance** - 40 CFR 403.12(e) requires at least semiannual reports from categorical industries indicating continued compliance with applicable standards. The City's program satisfies this requirement by requiring monthly reports from all industries and/or at least twice annual monitoring for all parameters by the industry or the City.

Failure to submit timely reports or submission of inadequate reports is subject to enforcement action under the City's procedures.

If the categorical industry fails to meet a federally mandated compliance date, the following procedures can be implemented:

1. If the industry has failed to demonstrate a good faith effort through prompt and conscientious efforts to meet the compliance date, a formal enforcement action with referral to the City Prosecutor or Administrative Hearing Officer will be initiated. The penalty may be calculated separately from the normal procedures to reflect the seriousness and magnitude of the violations, the relative lack of diligence by the industry, and be sufficient to negate any competitive advantage enjoyed by delaying compliance.
2. If the industry has made what is determined to be a good faith effort but cannot comply within ninety (90) days subsequent to the deadline, an enforcement action may be initiated to include additional corrective measures, as well as assessment of an appropriate penalty.
3. If the industry has made a good faith effort but exceeds the deadline by less than ninety (90) days, a determination can be made on a case-by-case basis as to whether enforcement action should be taken. It shall be at the discretion of the City if increased monitoring and scrutiny of progress is sufficient to guarantee compliance.

In Examples #2 and #3 above, it should be noted that "good faith" has been narrowly construed by Congress and should be judged based on the following:

"The Act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous, and, in many cases, expensive pollution control measures must be initiated and completed as promptly as possible. In assessing the good faith of a discharger, the

discharger is to be judged against these criteria. Moreover, it is an established principle, which applies to this Act, that administrative and judicial review is sought on a discharger's own time.”

Therefore, any good faith effort must prove the industry has gone “above and beyond” and that due to factors out of its control could not achieve compliance. Also, any delay experienced during the compliance period as a result of legal action brought by a facility with respect to applicability of a standard to the given facility is to be counted against the deadline. Awaiting a decision on a legal action, Fundamentally Different Factors Variance (FDFV) request, removal credits applications, or other similar procedure shall not be used as a reasonable excuse in failing to achieve compliance.

REPORTING NONCOMPLIANCE - INDUSTRY'S OBLIGATIONS

Industrial users are required to report noncompliance events to the City within certain time frames. This applies to violation of ordinance provisions, industrial discharge permit standards, categorical pretreatment requirements, spills, accidental discharges, and slug discharges.

Self-Monitoring

Violations identified by an industrial user as a result of its own sampling must be reported to the City within 24 hours of knowledge of the violation. The industrial user must also resample for the parameter in violation within thirty (30) days of knowledge of the violation unless the city samples within the same period. This notification is usually done verbally by telephone. However, notification within 24 hours by FAX transmission, personal delivery or notice, or express mail satisfies the requirement. The initial notification must include:

1. Name of the company;
2. Location of the discharge;
3. Limitation, standard, or requirement in violation; and
4. Corrective action taken or anticipated.

In addition, a written report describing the circumstances of the violation must be submitted within five (5) working days of knowledge of the violation. The written notification must include:

1. Description and cause of the violation;
2. Parameters in violations; and
3. Period of noncompliance and steps taken to prevent recurrence.

Spills, Accidental, and Slug Discharges

Industrial users must immediately report by telephone any spills, accidental or slug discharges, or any release that may cause problems at the POTW. Events occurring after business hours or on weekends must be reported to DPW's Central Dispatch at (317)327-1620.

1. Name of the company;

2. Location of the discharge;
3. Type of waste discharged;
4. Concentration and volume of waste discharged; and
5. Corrective action taken to minimize the impact of the discharge to the POTW and to prevent a recurrence.

A written report must be submitted within five (5) working days of the incident.

STAFF RESPONSIBILITIES

Described below are the responsibilities of various personnel involved in the collection and screening of data, organization of enforcement actions, review of actions taken, and general management of the enforcement response procedures. An attempt has been made to identify all positions involved in the enforcement scheme, albeit some on the list are involved peripherally.

Position(s)	Primary Responsibilities
IPP Sampler	Collects industrial samples, completes chain-of custody information, deliver samples to lab, coordinate with IPP Coordinator special enforcement sampling events. Collect interceptor samples from established designated sites within the Indianapolis sewer system when necessary. Sampling for backtracking and determining source of toxic or problem discharges.
IPP Coordinator	Reviews noncompliance reports to determine industries eligible for enforcement action, issues notices of violation, refers cases to City enforcement staff, conducts annual inspections, generates QNCR and annual report, and manages overall operation of the IPP. Drafts and routes correspondence for enforcement proceedings.
IPP Specialist	Reviews permit applications, develops and issues discharge permits and control mechanisms, conducts onsite inspections. Track and input self-monitoring report data.
Assistant Corporation Counsel	Represents the City at prehearing.
Office of Corporation Counsel	Conferences, advises staff on content of judgments, general legal guidance.
City Prosecutor	Litigates enforcement cases in municipal court, issues complaints, drafts final agreed judgments, coordinates with City representative on amount of penalty, content of judgment.
Administrative Hearing Officer	Finalizes administrative compliance agreements with city enforcement staff. Rules on industrial enforcement actions.
Municipal Judge	Approves agreed judgments, decides cases Environmental Court where terms cannot be agreed upon by City and industry.
Indianapolis Metropolitan Police Department	If needed, can provide assistance with access to industrial premises, provide surveillance expertise.
Enforcement Specialist	Responds to spills, accidental discharges complaints.
Enforcement Manager	Provide oversight on behalf of the city and coordinates the pretreatment program's enforcement activities.

IDEM - Investigations Group	Coordinate with City personnel on cases where FBI potential criminal activities are involved, County Prosecutor's Office provide expertise in gathering of data, collection of witness information, initiate criminal proceedings.
Belmont AWT Laboratory	Receives, handles and analyzes surveillance
Contract Laboratory	Samples, process control samples, interceptor samples, perform inhibition testing of wastewater samples, issues initial noncompliance results to IPP Coordinator.
Collection Operations	Responds to collection system problems, takes photographs of sewer problems for evidence in enforcement proceedings.

TRACKING SYSTEM - DUE DATES

Industrial users are required to submit various reports and information as a result of a number of compliance activities. It is important the City has reliable procedures to ensure industrial users submit whatever information is requested by the required dates. Reports or information required by industry on a regular basis are logged in a computer tracking system. Other reports submitted periodically or at the request of the City, are normally handled by manual tracking procedures.

The following are among the items that may be required from an industrial user by a specific date as required by permit issued by the City or notification from the City:

- Self-monitoring reports;
- Industrial discharge permit application;
- Compliance schedule progress reports;
- Follow-up information subsequent to industrial inspections;
- Written reports following spills, accidental or slug discharges;
- Written reports describing self-monitoring violations;
- Special discharge permit applications;
- Written response to notices of violation;
- Statement of Industrial Waste 2431 forms (surcharge reports);
- Wastewater hauler permit applications;
- Scheduled inspection dates;
- Baseline Monitoring Reports (as applicable);
- Certification Statements.

Computer Tracking System

Each month, self-monitoring reports are submitted to the City by a specific group of permitted industrial users. Each report is date stamped on the day it was received and routed to the IPP Specialist. Self-monitoring reports must be postmarked by the 28th of the month following the monitoring period. A logbook is maintained by the IPP Specialist to identify the industrial users that are delinquent. These industries are contacted by phone or certified mail. The log is then checked weekly until all self-monitoring reports are received.

Submission of surcharge reports are tracked and processed by the City or its sewer billing contractor.

Reports are also generated indicating permit expiration dates and the most recent inspection dates. These reports are used to schedule the issuance of industrial discharge permit applications and inspection visits.

Manual Tracking

A number of reports, forms, and correspondence required by a specific due date are tracked on a manual basis. These documents are submitted periodically and are most easily tracked by noting submission dates on a special calendar, log book, or rolling file system. These sources are reviewed regularly to determine if the appropriate information has been received.

Industries operating under a formal compliance schedule requiring submission of periodic progress reports are organized by separate files containing the specific schedule information. These files are reviewed to determine if a progress report is due. The file remains open until the schedule is complete and all reports are submitted. These documents are maintained by the City's enforcement staff.

The timely submission of other information, including applications for industrial discharge and wastewater hauler permits, is tracked by reviewing a list of facilities needing applications, sending advance notice to the permittee, and regularly checking the list to determine if the information has been submitted.

SCHEDULING INDUSTRIAL INSPECTIONS

Each significant industrial user permitted under the Indianapolis Pretreatment Program must be inspected at least annually in accordance with EPA requirements. However, some facilities may receive more frequent inspections/visits during a given year to track compliance schedule activities, verify changes in discharge or processes, maintain a regulatory presence, or scrutinize facilities with discharges most likely to impact the POTW.

Scheduling regular annual inspections is done on a random basis by reviewing the current industry list and noting a day and time in a monthly planning log for the facilities to be inspected. Depending on the industry, advance notice by letter or telephone may be given of the impending inspection. As an industry is inspected, the date is noted in the computer tracking system to ensure each facility is inspected at least once during each calendar year as dictated by program requirements. The above procedure has proven to account for all industries.

Other inspections or site visits are conducted according to need. Facilities operating under a compliance schedule are given priority for follow-up visits to verify progress and to document that required activities are being accomplished. Inspections of these facilities may take place at regular intervals by noting inspection dates in a planning log in advance.

Some inspections will not be scheduled in advance, but are conducted as a result of a spill, accidental discharge, complaint, or other warranted event. These are often referred to as demand

inspections and are accomplished as the situation dictates.

At the beginning of the fourth quarter of each calendar year, the current industry list is reviewed to determine if all facilities have been inspected or are scheduled for an inspection in the current year. Any industries which have not been addressed are scheduled for an inspection at this time.

ENFORCEMENT OF NONINDUSTRIAL DISCHARGES

The City also enforces ordinance requirements for dischargers of nonindustrial wastewater. These facilities are mainly comprised of wastewater haulers, illegal discharges into the sewer, and commercial restaurant/food preparation establishments. Although the enforcement process used with industrial users can be utilized, there are additional procedures used for these dischargers.

Wastewater Haulers Program

Facilities permitted under the Wastewater Haulers Program are required to furnish specific information on waste hauled to the Belmont AWT plant on forms prescribed by the City and to maintain records of all sources of wastewater.

Enforcement action may be initiated against a wastewater hauler for activities including, but not limited to, the following:

- Furnishing false information on applications, manifests, or other documents;
- Furnishing incomplete information on applications, manifests, or other documents;
- Discharging tank contents prior to approval by AWT headworks personnel;
- Failure to disclose the sources of all wastewater in a discharge;
- Tampering of sample prior to discharge at AWT headworks;
- Discharging at a point other than a designated approved site;
- Failure to maintain current insurance coverage;
- Failure to remain current on payment of disposal charges;
- Failure to maintain accurate business records/transactions;
- Activities resulting in revocation of Indiana State Department of Health (ISDH) or IDEM certification;
- Failure to allow prompt access to premises for inspection, monitoring, or sampling including buildings, equipment, office files, or other relevant areas; or
- Discharging tank contents in violation of any other applicable requirements or limitations contained in Chapter 671.

The City can exercise any of the enforcement responses detailed previously in this plan including:

- Verbal warning;
- Written notice of violation;
- Referral to the City Prosecutor or administrative hearing officer;
- Completion of corrective measures; and

- Revocation of permit and dumping privileges.

GREASE BLOCKAGE ENFORCEMENT RESPONSE

Chapter 671 “Sewers and Sewage Disposal Ordinance” of the Code of the City of Indianapolis and Marion County provides the City of Indianapolis (City) with the authority to require a food preparation facility to install and maintain a grease trap or grease interceptor. The City ordinance also provides the authority to hold a party responsible for the removal of a blockage in the City’s sewer in addition to a penalty for creation of the blockage.

The following sections of Chapter 671 outline the City’s authority to regulate grease blockage problems and take appropriate enforcement actions.

Prohibition of Obstruction

Chapter 671, Section.671-4(c) states, in pertinent part, that “No person shall discharge or cause to be discharged to any City sewer wastewater or pollutants which cause, threaten to cause or are capable of causing, either alone or by interaction with other substances: ...

- (3) Obstruction to the flow in City sewers or other interference with the proper operation of the POTW;”

(“POTW” refers to the Publicly Owned Treatment Works including sewer collection system where the City processes and treats wastewater.)

Prohibition of Solid or Viscous Substances

Chapter 671, Section 671-4(d) states, in pertinent part, that “No person shall discharge or cause to be discharged to any City sewer: ...

Solid or viscous substances and/or other pollutants which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to, grease, improperly shredded garbage, ...”

Requirement for Grease Interceptor

Chapter 671, Section 671-4(g) states, in pertinent part, that: “A grease interceptor shall be installed in the waste line leading from sinks, drains and other fixtures or equipment in restaurants, cafes, lunch counters, cafeterias, bars, and clubs; hotel, hospital, sanitarium, factory or school kitchens; or other establishments where grease may be introduced into the drainage system in quantities that can affect line stoppage or hinder sewage treatment. ...”

Authority for Cost Recovery

Chapter 671, Section 671-11 states, in pertinent part, that: “If any person discharges or causes to be discharged a waste which causes interference, pass through, obstruction, damage or any other impairment to the POTW, the Director may assess a charge against such person for:

- The work required to clean or repair the POTW;
- Any civil penalty, fine or cost of compliance with injunctions or other orders of a court or governmental authority imposed against the City as a result of such interference, obstruction, damage or impairment; and
- All other costs incurred by the City as a result of such interference, pass through, obstruction, damage or impairment including but not limited to expert, consultant and attorneys' fees; and add such charges to such person's regular charge."

Authority for Right to Inspect

Chapter 671, Section 641-14 states, in pertinent part, that "Whenever required to carry out the objectives of this code, the Director or his/her authorized representative, upon presentation of his/her credentials, shall have a right of entry to, upon or through any premises for purposes of reviewing relevant records or inspecting, measuring and sampling of the discharges. This right of entry shall include, but not be limited to, any equipment necessary to conduct such inspections, measuring and sampling. It shall be the duty of the person to provide all necessary clearance before entry and not to unnecessarily delay or hinder the Director in carrying out the review of relevant records, inspection, measuring and sampling. The right of entry shall exist at any time."

Authority for Assessment of Penalty

Chapter 671, Section 671-16(a) states, in pertinent part, that "Notwithstanding any other section, any person who violates any provision or discharge limit of this chapter may be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00). A violation of any permit issued under this chapter or special agreement entered into under the authority of this chapter shall constitute a violation of this chapter. Each day's violation shall constitute a separate offense."

Termination of Service

Chapter 671, Section 671-113 states, in pertinent part, that "Pursuant to IC 36-9-25, the department of public works may order the termination of water service to a sewer service address on account of nonpayment of a delinquent account which is not less than thirty (30) days delinquent. ..."

Enforcement Response Procedures Plan

As a part of the U.S. Environmental Protection Agency's approval of the City's industrial pretreatment program, the City has developed an Enforcement Response Procedures Plan to fairly and equitably identify, address, and correct violations. Currently the Enforcement Response Plan outlines a procedure to address blockages from Restaurant/Food Preparation Facilities. The policy outlines that a facility can be held liable for the payment of cleanup costs in addition to a penalty for creating a grease blockage. This policy is incorporated into the Enforcement Response Procedures Plan for the Industrial Pretreatment Program.

Enforcement Progression

For the first occurrence, a field citation with date for compliance would be issued to the

responsible official on site. The focus of the citation should be education. The cost of removal of the blockage should not be assessed for the first occurrence. However, the facility should be notified of the cost that they may incur.

For the second occurrence within a twelve (12) month period, a Notice of Violation would be issued with a penalty of no less than \$500.00 in addition to the cost of the removal both the first and second blockages to be assessed.

For the third occurrence within a 12-month period, a Notice of Violation would be issued with a penalty of no less than \$2,500.00 per violation in addition to the cost of the removal of the blockage to be assessed. The discharger would be informed that a future occurrence will result in termination of the water service.

For the fourth occurrence within a 12-month period, a Notice of Violation would be issued with a penalty of no less than \$2,500.00 per violation, the cost of the removal of the blockage, and termination of the water service.

The enforcement progression may be accelerated at the discretion of the City if the violation is a habitual problem.



Richard J. Wise
Assistant Administrator
City of Indianapolis
Department of Public Works
Industrial Pretreatment Program

2/7/2011
Date

Attachment 5

Industrial Discharge Permit Application

INDUSTRIAL DISCHARGE PERMIT APPLICATION

This application needs to be completed as accurately as possible. However, certain items will not apply to all industries. Please note such cases by entering "N/A" in the appropriate blank. Water intake and discharge information is very important. Actual metered figures should be used if at all possible. Estimated usage may be substituted where information is not available.

This application must be submitted to the Belmont Avenue address *sixty (60) days prior to the expiration of an existing permit*. New permittees must also allow sixty (60) days for the issuance of their permit. An application review fee of \$150.00, **payable to the CWA Authority, Inc.**, is required for each application submitted.

If you have any questions regarding the completion of this application, please contact:

Mr. Kim Cussen 317-639-7049

Ms. Nancy Williams 317-639-7047

The completed application should be submitted to:

United Water
Belmont AWT
2700 South Belmont Avenue
Indianapolis, Indiana 46221

Attn: Industrial Pretreatment Program

INDUSTRIAL DISCHARGE PERMIT APPLICATION CHECKLIST

The following items must be attached to the permit application (check off below when completed):

_____ Application review fee of \$150.00. **(Payable to the CWA Authority, Inc.)**

_____ Description of the manufacturing process or service activity. See Section II, #1.

_____ **Schematic of process area and wastewater flow.** See Section III, #5.

_____ List all environmental control permits held by or for the facility. See Section VI

_____ All pertinent wastewater quality data. See Section V **(new facilities or permittees only).**

CWA AUTHORITY, INC.

INDUSTRIAL DISCHARGE PERMIT APPLICATION

Unless stated otherwise, all items are to be filled out completely. If an item is not applicable, indicate by noting "NA".

Section I. Applicant and Facility Description

1. Corporation Name (as registered with Secretary of State)

Resident Agent of Corporation and Address

2. Facility Name_____

Mailing Address_____

_____ Zip Code_____

Address of Premises_____

_____ Zip Code_____

3. Chief Executive Officer, Owner, or President

Title

4. Authorized Representative (see page 7)

Name

Title

5. Individual to contact concerning information in this application

Name

Title

Phone Number

Fax Number

E-Mail address

6. Individual to contact in case of emergency (e.g., spill, fire, process upset, etc.)

Name

Title

Facility Phone Number

Home Phone Number

Section II. Plant Operations

1. **IMPORTANT:** On a separate sheet, provide a **detailed** description of the manufacturing process or service activity provided on the premises. Include a description of how each process wastestream is generated. Refer to Process Wastestreams 1, 2, & 3 as completed in Section III, #3.

2. Principal raw materials used and intermediate products:

3. Chemicals and compounds used:

4. Standard Industrial Classification(s) (SIC Code):

5. Solvents used:

6. Describe storage practices for the chemicals and solvents listed above:

7. Description of product(s):

8. Shift Information

a. Shifts normally worked:

	Sun	Mon	Tue	Wed	Thur	Fri	Sat
1 st	___	___	___	___	___	___	___
2 nd	___	___	___	___	___	___	___
3 rd	___	___	___	___	___	___	___

b. Average # of employees/shift:

1 st	_____
2 nd	_____
3 rd	_____

c. Shift start and end times:

1st _____

2nd _____

3rd _____

Section III. Water Usage and Discharge Information

1. List intake water sources and volumes:

<u>Source</u>	<u>Volume</u>	(Check One) <u>Estimated/Measured</u>
Municipal Water System	_____ gal/day	_____ / _____
Private Well	_____ gal/day	_____ / _____
Surface Water	_____ gal/day	_____ / _____
Purchased Steam	_____ gal/day	_____ / _____
Other	_____ gal/day	_____ / _____

2. List average volume of discharge or water loss to: (Total volume in #2 should equal total volume in #1.)

<u>Discharge or Loss</u>	<u>Volume</u>	(Check One) <u>Estimated/Measured</u>
Municipal Sewer System	_____ gal/day	_____ / _____
Natural Outlet (NPDES)	_____ gal/day	_____ / _____
Waste Hauler	_____ gal/day	_____ / _____
Evaporation	_____ gal/day	_____ / _____
Contained in Product	_____ gal/day	_____ / _____
Other (Specify)	_____ gal/day	_____ / _____

3. Break down the water discharged to the sewer system into the following categories: (Total volume in #3 should equal volume of first item in #2.)

<u>Type of Discharge</u>	<u>Volume</u>
Process Wastestream #1	_____ gal/day
Process Wastestream #2	_____ gal/day
Process Wastestream #3	_____ gal/day
Cooling Water	_____ gal/day
Sanitary Water	_____ gal/day
Boiler Blowdown	_____ gal/day
Cooling Blowdown	_____ gal/day
Other (Describe)	_____ gal/day

4. Is the discharge to the sewer: Continuous _____
Batch _____

If batch discharge, give the frequency of occurrence:

What is the average volume in gallons of each batch?

What is the maximum volume in gallons of each batch?

5. **IMPORTANT:** Provide a schematic of the plant flow showing process, sanitary, cooling streams, etc., and their point of entry into the sewer system. Indicate on the schematic where you collect effluent samples.

Section IV. Pretreatment

1. Describe any wastewater treatment equipment or processes in use:

2. Describe any additional pretreatment facilities and/or processes under consideration. Include a specific time schedule for completion:

3. If a treatment system exists, describe the method utilized to dispose of pretreatment sludges/residuals:

4. If a private hauler is used to haul sludges/residuals, provide name and EPA Identification Number.

5. Where is the ultimate disposal site for sludges/residuals?

Section V. Wastewater Characteristics - **New Permittees Only**

1. Attach any sampling data pertaining to the facility discharge to the sewer system. Explain where and when the sampling was accomplished, what type of sample was taken (e.g., grab, composite), and how many were analyzed.
2. A full scan of pollutants believed to be present and contained in Table I will be required for new discharge permits unless exempted by the CWA Authority, Inc.. The sample must be a 24 hour composite taken during normal production activity and/or representing typical wastewater flows. Grab samples shall be collected for pH, oil and grease, TPH, cyanide, total phenols, and volatile organic compounds.
3. Describe the exact procedure used to collect the samples:

Section VI. Other Environmental Control Permit(s) held by OR for facility.

Authorized Representative is:

- (1) A responsible corporate officer if the industrial user is a corporation. A responsible corporate officer shall mean:
 - (a) A president, vice president, treasurer, or secretary of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation;
 - (b) A manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to said manager in accordance with corporate procedures;
 - (c) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively; or
 - (d) An individual duly authorized by the person designated in (1)(a), (1)(b), or (1)(c) above. **(Attach written authorization if one is not already on file with the CWA Authority, Inc.)**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Authorized Representative

Date

Title

TABLE I – Priority Toxic Pollutants**Inorganics**

Antimony
 Arsenic
 Asbestos (fibers/liter)
 Beryllium
 Cadmium

Chromium
 Copper
 Cyanide
 Lead
 Mercury

Nickel
 Selenium
 Silver
 Thallium
 Zinc

Organics

Acenaphthene
 Acrolein
 Acrylonitrile
 Benzene
 Benzidine
 Carbon tetrachloride (tetrachloromethane)
 Chlorobenzene
 1,2,4-trichlorobenzene
 Hexachlorobenzene
 1,1-dichloroethane
 1,2-dichloroethane
 1,1,1-trichloroethane
 Hexachloroethane
 1,1,2-trichloroethane
 1,1,2,2-tetrachloroethane
 Chloroethane
 Bis (2-chloroethyl) ether
 2-chloroethyl vinyl ether (mixed)
 2-chloronaphthalene
 2,4,6-trichlorophenol
 Parachlorometa cresol
 Chloroform (trichloromethane)
 2-chlorophenol
 1,2-dichlorobenzene
 1,3-dichlorobenzene
 1,4-dichlorobenzene
 3,3-dichlorobenzidine
 1,1-dichloroethylene
 1,2-trans-dichloroethylene
 2,4-dichlorophenol
 1,2-dichloropropane
 1,2-dichloropropylene
 2,4-dimethylphenol
 2,4-dinitrotoluene
 2,6-dinitrotoluene
 1,2-diphenylhydrazine
 Ethylbenzene

Fluoranthene
 4-chlorophenyl phenyl ether
 4-bromophenyl phenyl ether
 Bis (2-chloroisopropyl) ether
 Bis (2-chloroethoxy) methane
 Methylene chloride
 Methyl chloride
 Methyl bromide
 Bromoform
 Dichlorobromomethane
 Chlorodibromomethane
 Hexachlorobutadiene
 Hexachlorocyclopentadiene
 Isophorone
 Naphthalene
 Nitrobenzene
 2-nitrophenol
 4-nitrophenol
 2,4-dinitrophenol
 4,6-dinitro-o-cresol
 N-nitrosodimethylamine
 N-nitrosodiphenylamine
 N-nitrosodi-n-propylamine
 Pentachlorophenol
 Phenol
 Bis (2-ethylhexyl) phthalate
 Butyl benzyl phthalate
 Di-n-butyl phthalate
 Di-n-octyl phthalate
 Diethyl phthalate
 Dimethyl phthalate
 1,2-benzanthracene
 Benzo (a) pyrene
 3,4-benzofluoranthene
 11,12-benzofluoranthene
 Chrysene
 Acenaphthylene

Anthracene
 1,12-benzoperylene
 Fluorene
 Penanthrene
 1,2,5,6-dibenzanthracene
 Indeno (1,2,3-cd) pyrene
 Pyrene
 Tetrachloroethylene
 Toluene
 Trichloroethylene
 Vinyl chloride (chloroethylene)
 Aldrin
 Dieldrin
 Chlordane
 4,4-DDT
 4,4-DDE (p,p-DDX)
 4,4-DDD (p,p-TDE)
 Alpha-endosulfan
 Beta-endosulfan
 Endosulfan sulfate
 Endrin
 Endrin aldehyde
 Heptachlor
 Heptachlor epoxide
 Alpha-BHC
 Beta-BHC
 Gamma-BHC (lindane)
 Delta-BHC
 PCB-1242 (Arochlor 1242)
 PCB-1254 (Arochlor 1254)
 PCB-1221 (Arochlor 1221)
 PCB-1232 (Arochlor 1232)
 PCB-1248 (Arochlor 1248)
 PCB-1260 (Arochlor 1260)
 PCB-1016 (Arochlor 1016)
 Toxaphene
 2,3,7,8-tetrachlorodibenzo-p-dioxin)

Other

Ammonia (non-ionized)

Chlorine (total residual)

Attachment 6

Industrial Discharge Permit

CERTIFIED MAIL

November 9, 2012

Mr. Brian Bence, Site Director
Vertellus Agriculture & Nutrition Specialties LLC
1500 South Tibbs Avenue
Indianapolis, IN 46241

Re: Industrial Discharge Permit #285901 modification
Facility location: 1500 South Tibbs Avenue

Dear Mr. Bence:

Industrial Discharge Permit #285901 (permit), issued for the discharge of process wastewater into the CWA Authority, Inc. (Authority) sewer system from your facility, has been modified in accordance with Chapter 671, Article III, of the Municipal Code of Indianapolis and Marion County, Indiana and CWA Authority, Inc. Resolution No. 2-2011 including amendments. This modification replaces your existing permit.

This modification adds nickel as a monitored parameter to Table 1 on page 2.

If you have any questions, please contact Mr. Kim Cussen at (317) 639-7049.

Sincerely,



Ann W. McIver, QEP
Director
Environmental Stewardship

AWM/kwc
12kwc085

Enclosure

cc: file

CWA Authority, Inc.

AUTHORIZATION TO DISCHARGE

INDUSTRIAL WASTEWATER TO THE MUNICIPAL SEWER SYSTEM

In compliance with Section 671-41 of Chapter 671 of the Municipal Code of the City of Indianapolis and Marion County and in accordance with General Ordinance 77, 1984, and CWA Authority, Inc. Resolution No. 2-2011 including amendments.

VERTELLUS AGRICULTURE & NUTRITION SPECIALTIES LLC

is authorized to discharge industrial wastewater to the Indianapolis municipal sewer system from a facility located at

**1500 South Tibbs Avenue
Indianapolis, Indiana 46241**

This permit modification shall become effective on **November 9, 2012**.

This permit and the authorization to discharge wastewater shall expire at midnight, **March 31, 2017**. In order to renew authorization to discharge beyond the date of expiration, the permittee shall submit such information and forms as required by the CWA Authority, Inc. no later than sixty (60) days prior to the date of expiration.

Signed this 9th day of November, 2012 by authority of the Director of Environmental Stewardship, CWA Authority, Inc.



Ann McIver, QEP
Director
Environmental Stewardship

PART I.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. This permittee is a significant industrial user regulated under federal categorical standard 40 CFR 414, Subpart K: Organic Chemicals, Plastics, and Synthetic Fibers, Indirect Discharge Point Source Subcategory.
2. During the period beginning on the effective date of this permit and lasting until the expiration date, the permittee is authorized to discharge wastewater in the CWA Authority, Inc. sewer system.

Such discharge shall be limited and monitored by the permittee as specified below:

DISCHARGE LIMITATIONS: TABLE 1

<u>Effluent Characteristic</u>	<u>Daily Maximum (mg/l)</u>	<u>Monthly Average (mg/l)</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
pH	5.0 – 12.0 s.u.	N/A	5 / Week	Grab
Cyanide, Amenable	0.4	0.193	4 / Month	Grab
Zinc, Total	1.10	0.44	4 / Month	24-Hr. Composite
Benzene	0.120	0.051	2 / Month	Grab
Methylene Chloride	0.152	0.032	2 / Month	Grab
Toluene	0.066	0.025	2 / Month	Grab
Total Petroleum Hydrocarbons	200	N/A	See a. below	Grab
Arsenic, Total	4.0	N/A	See a. below	24-Hr. Composite
Cadmium, Total	1.2	N/A	See a. below	24-Hr. Composite
Chromium, Total	24.0	N/A	See a. below	24-Hr. Composite
Chromium, Hexavalent	3.4	N/A	See a. below	24-Hr. Composite
Copper, Total	2.2	N/A	See a. below	24-Hr. Composite
Mercury, Total	0.025	N/A	See a. below	Grab/ 24-Hr. Composite
Nickel, Total	7.3	N/A	See a. below	24-Hr. Composite
Pentachlorophenol	0.012	N/A	See a. below	24-Hr. Composite
Phenol	46.0	N/A	See a. below	24-Hr. Composite

Polychlorinated biphenyls (PCBs)	Noncompliant, if detected	N/A	See a. below	Grab/ 24-Hr. Composite
Silver, Total	4.2	N/A	See a. below	24-Hr. Composite

- a. These parameters will be analyzed by the Authority at least twice annually to satisfy the requirements of 40CFR403.12(e). Self-monitoring for them is not required.
- b. Samples taken in compliance with the monitoring requirements above shall be representative of the regulated discharge and shall be collected from the interior sampling port in the northwest corner of the Effluent Discharge Room in the wastewater treatment building.
- c. A composite sample shall be a sample representative of a user's discharge within a given twenty-four (24) hour period of operation. Samples may be done either manually or automatically, and continuously or discretely, with not less than four (4) samples to be composited or a sufficient number of individual aliquots to comprise a representative sample as determined by the Authority.

A grab sample shall be taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

- d. *Monthly average* is computed as the arithmetic mean of all daily results during the specific calendar month.
- e. Analytical results for the indicated parameters shall be reported on the Industrial Discharge Permit Self-Monitoring Report each month. See page 4 of the permit for additional reporting details.
- f. Alternative BAT equivalent amenable cyanide limitations have been derived from 40CFR433.15 (b) as directed by the 1989 Settlement Agreement between the Chemical Manufacturers Association and the United States Environmental Protection Agency. The permittee has demonstrated the 40CFR414.111 cyanide limitations are not achievable due to elevated levels of non-amenable cyanide resulting from complexing at the process source. The BAT equivalent amenable cyanide limitations have been adjusted by the factor of 0.603 to account for non-cyanide bearing wastestreams at the sample point.
- g. The Authority has not imposed lead limitations due to the absence of any 40CFR Part 414 Appendix A metal-bearing wastestreams or any additional lead-bearing process wastewater streams.
- h. Zinc limitations are being imposed due to the presence of process wastestreams identified by the Authority as zinc bearing. Pursuant to 40CFR414.11(h), the Authority is incorporating 40CFR414.111 zinc limits into the limitations calculation. A dilution adjustment of 0.419 was incorporated in the limit calculations to account for non-zinc-bearing dilution streams.
- i. Limitations for benzene, methylene chloride, and toluene have been adjusted by the factor 0.896 to account for dilution wastestreams at the sample point.

- j. As allowed in the October 13, 2005 revision of 40CFR403.6 and requested by Vertellus, concentration-based compliance limitations are used instead of mass-based limits. These concentration limits are enforceable. Vertellus shall not use dilution of the process wastewater as a substitute for treatment. Prior to discharge, Vertellus shall report to the Authority any significant long-term changes in the regulated and unregulated wastewater flows at the sampling point.
- k. Samples collected to monitor the discharge temperature shall be taken from the manhole at the southeast corner of the Vertellus property and shall be representative of the combined wastestream to the Authority's sewer.

DISCHARGE LIMITATIONS: TABLE 2

<u>Effluent Characteristic</u>	<u>Daily Maximum (mg/l)</u>	<u>Monthly Average (mg/l)</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Acenaphthene	0.042	0.017	See a. below	Grab/24-Hr. Composite
Anthracene	0.042	0.017	See a. below	Grab/24-Hr. Composite
Bis (2-ethylhexyl) phthalate	0.231	0.085	See a. below	Grab/24-Hr. Composite
Carbon Tetrachloride	0.340	0.127	See a. below	Grab
Chlorobenzene	0.340	0.127	See a. below	Grab
Chloroethane	0.264	0.099	See a. below	Grab
Chloroform	0.291	0.099	See a. below	Grab
Di-n-butyl phthalate	0.039	0.018	See a. below	Grab/24-Hr. Composite
1, 2-Dichlorobenzene	0.711	0.176	See a. below	Grab
1, 3-Dichlorobenzene	0.340	0.127	See a. below	Grab
1, 4-Dichlorobenzene	0.340	0.127	See a. below	Grab
1, 1-Dichloroethane	0.053	0.020	See a. below	Grab
1, 2-Dichloroethane	0.514	0.161	See a. below	Grab
1, 1-Dichloroethylene	0.054	0.020	See a. below	Grab
1, 2-trans-Dichloroethylene	0.059	0.022	See a. below	Grab
1, 2-Dichloropropane	0.711	0.176	See a. below	Grab
1, 3-Dichloropropylene	0.711	0.176	See a. below	Grab

Diethyl phthalate	0.101	0.041	See a. below	Grab/24-Hr. Composite
Dimethyl phthalate	0.042	0.017	See a. below	Grab/24-Hr. Composite
4,6-Dinitro-o-cresol	0.248	0.070	See a. below	Grab/24-Hr. Composite
Ethylbenzene	0.340	0.127	See a. below	Grab
Fluoranthene	0.048	0.020	See a. below	Grab/24-Hr. Composite
Fluorene	0.042	0.017	See a. below	Grab/24-Hr. Composite
Hexachlorobenzene	0.711	0.176	See a. below	Grab/24-Hr. Composite
Hexachlorobutadiene	0.340	0.127	See a. below	Grab/24-Hr. Composite
Hexachloroethane	0.711	0.176	See a. below	Grab
Methyl Chloride	0.264	0.099	See a. below	Grab
Naphthalene	0.042	0.017	See a. below	Grab/24-Hr. Composite
Nitrobenzene	5.733	2.003	See a. below	Grab/24-Hr. Composite
2-Nitrophenol	0.207	0.058	See a. below	Grab/24-Hr. Composite
4-Nitrophenol	0.516	0.145	See a. below	Grab/24-Hr. Composite
Phenanthrene	0.042	0.017	See a. below	Grab/24-Hr. Composite
Pyrene	0.043	0.018	See a. below	Grab/24-Hr. Composite
Tetrachloroethene	0.147	0.047	See a. below	Grab
1,2,4-Trichlorobenzene	0.711	0.176	See a. below	Grab/24-Hr. Composite
1,1,1-Trichloroethane	0.053	0.020	See a. below	Grab
1,1,2-Trichloroethane	0.114	0.029	See a. below	Grab
Trichloroethylene	0.062	0.023	See a. below	Grab
Vinyl Chloride	0.154	0.087	See a. below	Grab

- a. These parameters shall be sampled at least twice annually, every June and December, to satisfy the requirements of 40CFR403.12(e). The results shall be submitted as an attachment to the June and December self-monitoring reports. See page 8 of the permit for additional reporting details.
- b. Minimum semi-annual sampling for the above parameters may be accomplished during months other than June and December when prior notification is provided and approved at the discretion of the Authority.

- c. Samples taken in compliance with the monitoring requirements above shall be representative of the regulated discharge and shall be collected from the interior sampling port in the northwest corner of the Effluent Discharge Room in the wastewater treatment building.
- d. As allowed in the October 13, 2005 revision of 40 CFR 403.6 and requested by Vertellus, concentration-based compliance limitations are used instead of mass-based limits. These concentration limits are enforceable. Vertellus shall not use dilution of the process wastewater, in excess of that reported in the permit application, as a substitute for treatment. Vertellus shall report semi-annually, as attachments to the June and December self-monitoring reports, the calculation of long-term averages in the regulated and unregulated wastewater flows at the sampling point and determine if the changes in flow rates are significant. The reports shall include flow information observed during the prior six-month period. A change in flow volumes that are greater than 20% of the volumes reported during the application process is considered significant. Permit limits may be revised by the Authority based upon the reported flow volumes. The definition of long-term average flow rates was determined from the 1985 EPA *Guidance Manual for the Use of Production-Based Pretreatment Standards and the Combined Wastestream Formula*.
- e. Limitations for the Table 2 organic chemical parameters have been adjusted by a factor 0.896 to account for non-regulated wastestreams at the sample point.
- f. *Monthly average* is computed as the arithmetic mean of all daily results during the specific calendar month.

OTHER MONITORED PARAMETERS

<u>Effluent Characteristic</u>	<u>Daily Maximum (mg/l)</u>	<u>Monitoring Frequency</u>	<u>Sample Type</u>
Flow	N/A	Monthly	Metered
Ammonia-N	Surcharge > 20	See a. below	24-Hr. Composite
Biochemical Oxygen Demand	Surcharge > 250	See a. below	24-Hr. Composite
Total Suspended Solids	Surcharge > 300	See a. below	24-Hr. Composite

- a. Monitoring frequency has been established in the approved sampling and analysis plan.
- b. Flow measurement shall be reported on the monthly Industrial Discharge Permit Self-Monitoring Report.
- c. Results of ammonia-N, biochemical oxygen demand, total suspended solids and monthly flow measurements shall be reported on the "Statement of Industrial Waste" form and submitted no later than the 25th day of the month as specified in the "Sewage Disposal Service Tariff Rates, Terms, and Conditions for Sewage Disposal Services within Marion County, Indiana".

See page 8 of the permit for additional reporting details.

- d. Samples taken in compliance with the monitoring requirements above shall be representative of the regulated discharge and shall be collected from the interior sampling port in the northwest corner of the Effluent Discharge Room in the wastewater treatment building.
- e. A composite sample shall be a sample representative of a user's discharge within a given twenty-four (24) hour period of operation. Samples may be done either manually or automatically, and continuously or discretely, with not less than four (4) samples to be composited or a sufficient number of individual aliquots to comprise a representative sample as determined by the Authority.

PART I.

B. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Reporting

The permittee shall submit self-monitoring reports to the CWA Authority, Inc. containing results obtained during the previous month. These reports shall be postmarked no later than the 28th of the month following each completed monitoring period.

The self-monitoring reports shall be submitted to:

CWA Authority, Inc. – Belmont AWT
2700 South Belmont Avenue
Indianapolis, IN 46221
Attn: Industrial Pretreatment Program (IPP)

The permittee shall submit the “Statement of Industrial Waste” form to Citizens Energy Group containing results obtained for the previous month. The form shall be submitted no later than the 25th day of the month following each completed monitoring period.

3. Test Procedures

Test procedures for analysis of pollutants shall conform to regulations published in Title 40, Part 136 of the Code of Federal Regulations.

4. Additional Monitoring

Any analytical results obtained through additional monitoring of the wastewater discharged to the municipal sewer system must be reported to this office as an attachment to the monthly self-monitoring report or as a separate analytical report if self-monitoring is not required. The permittee may be exempted from reporting additional monitoring results as specified above if written permission has been received by the industrial user from the Authority. As an alternative, the reporting of additional results may be allowed during onsite inspections or at some other previously agreed upon time.

5. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following data:

- a. the exact place, date and time of sampling and the name(s) of the person or persons taking the sample;
- b. the dates the analyses were performed;
- c. the person(s) who performed the analyses;
- d. the analytical techniques or methods used;
- e. the results of all required analyses.

6. Records Retention

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation shall be retained for a minimum of 3 years or longer if requested by the Authority.

7. Payment of Fees

It shall be the responsibility of the permittee to reimburse the Authority and/or its designated contractor(s) for the cost of analytical procedures. The analyses are necessary to quantify pollutants found in the permittee's discharge and to verify compliance with applicable requirements. Fees may include, but not be limited to, reimbursement of costs for developing and operating the pretreatment program, costs associated with monitoring, inspection, and surveillance sampling, and other costs incurred by the Authority to carry out the requirements of Chapter 671 and the "Sewage Disposal Service Tariff Rates, Terms, and Conditions for Sewage Disposal Services within Marion County, Indiana". Failure to reimburse the Authority or its designated contractor in a timely manner shall constitute a violation of this permit.

8. Special Sampling Requirements

If the permittee is required to sample and analyze for total cyanide, amenable cyanide, and/or phenol, the samples may be collected by either the grab or composite method. However, when a composite sample is used, the container must be preserved according to EPA-approved methods prior to the collection of the first sample aliquot. Otherwise, the limitations for total cyanide, amenable cyanide, and phenols shall apply to instantaneous grab samples collected during prevailing discharge conditions and be representative of the facility's discharge in general. Consult Chapter 671-4(f) of the Indianapolis and Marion County Code and CWA Authority, Inc. Resolution No. 2-2011 including amendments for additional information.

9. Authorized Representative

All wastewater discharge applications, reports, and certification statements required to be submitted must be signed by an Authorized Representative of the permittee.

C. SPECIAL CONDITIONS

1. Regulatory Authority

In addition to the aforementioned limitations, the provisions of Section 307 and 308 of the “Federal Water Pollution Control Act Amendments” of 1972, and amendments thereto, the State of Indiana 327 IAC 5-16 through IAC 5-21, Chapter 671 of the Municipal Code of Indianapolis and Marion County, Indiana, CWA Authority, Inc. No. Resolution 2-2011 including amendments, the “Sewage Disposal Service Tariff Rates, Terms, and Conditions for Sewage Disposal Services within Marion County, Indiana”, are incorporated by reference into this permit.

PART II

A. MANAGEMENT REQUIREMENTS

1. Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutants identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of this permit. Any anticipated facility expansions, modifications, production rate changes, discharge volume changes, or process modifications which will result in new, different, decreased, or increased discharges of pollutants must be reported in writing to the director or the permit issuing authority prior to the implementation of any such changes. Following such notice the permit may be modified to specify any changes deemed necessary by the director or the permit issuing authority. The permittee will be informed of any new or increased requirements as a result of the change in discharge.

2. Noncompliance Notification

If, for any reason, the permittee does not comply with or will be unable to comply with any limitations, standards, or requirements specified in this permit, within twenty-four (24) hours of knowledge of the noncompliance, the following information shall be provided to the Authority by phone at 317-639-7048, by Fax at 317-639-7602, or by hand delivery to the Belmont Advanced Wastewater Treatment Facility at 2700 South Belmont Avenue in Indianapolis:

- a. name of the company;
- b. facility location;
- c. limitation, standard, or requirement in noncompliance; and
- d. corrective actions taken to eliminate, prevent, and/or minimize the noncompliance.

The permittee shall submit a written report within five (5) working days (excluding weekends and weekday holidays without mail delivery) subsequent to knowledge of the noncompliance. The Authority may grant an extension in writing to the report deadline in consideration of special circumstances. The report shall contain the following information:

- a. description of the discharge and cause of the noncompliance;
- b. parameters in noncompliance; and
- c. the period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue, and the steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge or violation.

Within thirty (30) days of knowledge of a noncompliance from self-monitoring activities, the industrial user shall sample and analyze for the parameter(s) found in noncompliance to demonstrate that compliance has been achieved. The results shall be submitted to the Authority on the appropriate self-monitoring report.

If the industrial user is notified of a violation of permit limitations and/or requirements based on Authority surveillance sampling and which requires repeat sampling and analysis of the discharge to determine if compliance has been achieved, the Authority may direct the permittee to conduct the repeat sampling. Under these circumstances, the industrial user will receive written direction from the Authority as to the parameter(s) in violation and the deadline to accomplish the resampling and reporting of results (see 40 CFR 403.12(g)(2)).

3. Facilities Operation

The permittee shall at all times maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

4. Best Management Practices (BMPs)

Pursuant to 40 CFR 403.8(f)(1)(iii)(B)(4) of the General Pretreatment Regulations for Existing and New Sources of Pollution, an industrial user may be required to implement best management practices to control, prevent, or reduce the discharge of pollutants to the CWA Authority's sewer system. BMPs may include, but not limited to, schedules of activities, prohibitions of practices, maintenance procedures, treatment requirements, operating procedures, and practices to control plant site runoff, spills or leaks, sludge or waste handling and disposal, or drainage from raw and waste material storage areas. BMPs may be included in a discharge permit as a requirement promulgated in an applicable categorical pretreatment standard or as a condition specific to an individual industrial user.

Any BMP included as part of a discharge permit is an enforceable requirement and must be implemented and adhered to according to the permit provisions.

5. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to the CWA Authority sewer system resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

6. Spills or Slug Discharge

The Authority shall be notified within one hour of the industrial user's knowledge or the discovery of an accidental spill or slug discharge into the sewer system at 639-7048 (263-6332 after 5p.m. Monday-Friday, or weekend and holidays). Within five (5) working days (excluding weekends and weekday holidays without mail delivery) following an accidental discharge or incident of noncompliance, the industrial user shall submit to the Authority a detailed written report describing:

- a. the cause of the accidental discharge or noncompliance;
- b. the period of the accidental discharge or noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- c. steps being taken and/or planned to reduce, eliminate, or prevent recurrence of the accidental discharge or noncompliance.
- d. This report is to be sent to:

CWA Authority, Inc. – Belmont AWT
2700 South Belmont Avenue
Indianapolis, IN 46221
Attn: Industrial Pretreatment Program (IPP)

7. Continuous Monitoring Equipment

The permittee shall adhere to the manufacturer's specifications in the operation, maintenance, and calibration of all equipment used to measure parameters that require continuous monitoring. This includes, but is not limited to, continuous pH and flow measurement. Whenever this equipment is offline, for whatever reason, the permittee shall document the cause and duration of the event. All documentation shall be retained on file for a minimum of three (3) years.

8. Removed Substances

Solids, sludges, filter backwash or other pollutants removed from or resulting from treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering the municipal sewer system and to be in compliance with all Indiana Statutory Provisions and Regulations, relative to refuse, liquid or solid waste disposal.

9. Power Failures

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall, upon the reduction, loss or failure of one or more of the primary sources of power to the facilities utilized by the permittee to maintain compliance with the effluent limitations and conditions of this permit, cease, reduce or otherwise control production or discharge in order to maintain compliance with the effluent limitations and conditions of this permit.

10. Nonassignability

This permit is issued to a specific industrial user for a specific facility and does not constitute a property interest nor shall it be assigned, conveyed, or sold to a new owner, new user, different premises or a new or changed operation, except as follows: Industrial discharge permits may be reassigned or transferred to a new owner and/or operator if the permittee gives at least thirty (30) days advance written notice to the director and the director approves the industrial discharge permit transfer in writing. This notice to the director must include a written certification by the new owner and/or operator which: (1) states that the new owner and/or operator has no immediate intent to change the facility's operations and process; (2) identifies the specific date on which the transfer is to occur; and (3) acknowledges full responsibility for complying with the existing industrial discharge permit and all applicable laws and regulations. Failure to provide advance notice of a transfer renders the industrial discharge permit voidable on the date of facility transfer.

11. Permit Modification, Suspension, or Revocation

After written notice and opportunity for hearing with the Authority, this permit may be suspended or revoked in whole or in part during its term for shown cause including, but not limited to the following:

- a. violation of any terms or conditions of this permit or of any applicable state and/or federal law including regulations;
- b. obtaining this permit by misrepresentation of or failure to disclose fully all relevant facts;
- c. failure to timely file any discharge reports or factually report wastewater characteristics;
- d. refusal of reasonable access to the user's premises for the purpose of review of records, inspection, or monitoring; and
- e. a change in any condition that requires a permit modification or a temporary or permanent reduction or elimination of the authorized discharge.

In addition, with written notice, this permit shall be modified to comply with any applicable State or Federal limitation or standard deemed necessary by the Authority to protect the wastewater treatment facilities, its processes, and the receiving stream against possible impact or interference from the permittee's discharge or to accurately characterize changes in industrial contribution, wastewater constituents or characteristics, ordinance requirements, or any other applicable condition.

12. Emergency Suspension of Service

Wastewater treatment service may be suspended when the permittee's discharge presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, or causes interference to the POTW, or causes the Authority to violate any condition of its NPDES permit.

A detailed written statement must be submitted within five (5) days of the date of occurrence describing the cause(s) of the harmful contribution and the measures taken to prevent any future occurrence.

13. Appeal

An appeal of any condition or requirement of this permit must be filed within fifteen (15) days of its receipt by the permittee. The request for reconsideration or appeal must be made in writing to the Authority and shall set forth in detail the facts and circumstances surrounding the request. Failure to request reconsideration within the required time period will forfeit the permittee's right to appeal any condition of this permit.

14. Permit Renewal

If the permittee wishes to continue discharge of wastewater beyond the term of this permit, an application for renewal must be submitted to the Authority at least sixty (60) days prior to the expiration date of this permit.

In the event the permittee does not receive renewal prior to the expiration date, and inasmuch this is due to circumstances beyond the control of the permittee, the standards and requirements set forth in the expired permit shall remain in full force and effect until such renewal is received.

15. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstances, is held invalid, the application of such provision to other circumstances, and the remainder of the permit, shall not be affected thereby.

16. Penalties

Section 671-16 of the Code provides for the imposition of civil penalties for any industrial user who violates any provision or discharge limit contained in this permit or in Chapter 671 of the Municipal Code of Indianapolis and Marion County. Pursuant to Chapter 671, the user may be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00).

Pursuant to the repeal of Chapter 671 and the authorization for implementation of the Industrial Pretreatment Program by CWA Authority, Inc., the user may be fined an amount not to exceed two thousand five hundred dollars (\$2,500.00) for the first occurrence and seven thousand five hundred dollars (\$7,500.00) for a second or subsequent violation.

A violation of any condition or requirement of any permit issued under Chapter 671, CWA Authority, Inc. Resolution No. 2-2011 including amendments, or special agreement entered into under the authority under Chapter 671 or CWA Authority, Inc. Resolution 2-2011 including amendments, shall constitute a violation of Chapter 671 or CWA Authority, Inc. Resolution No. 2-2011 including amendments. Each day's violation shall constitute a separate offense.

No provision or requirement contained in this permit or in Chapter 671 or CWA Authority, Inc. Resolution No. 2-2011 including amendments shall restrict any right which may be provided by statute or common law to the Authority to bring other actions, at law or at equity, including injunctive relief. Violations of Chapter 671 or CWA Authority, Inc. Resolution No. 2-2011

including amendments may be resolved through administrative adjudication as provided in Article V, Chapter 103, or as provided by a resolution adopted by the board of CWA Authority, Inc.

The application of criminal penalties and sanctions for intentional, negligent, knowing or reckless violations of Chapter 671 requirements, CWA Authority, Inc. Resolution No. 2-2011 including amendments and/or the Clean Water Act shall be the responsibility of an appropriate authority, such as the United States Attorney or the Marion County Prosecutor's Office.

17. Bypass

Bypass means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

An industrial user may allow a bypass to occur which does not cause pretreatment standards or permit limitations or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (a-d) of this section.

- a. If a user knows in advance of the need for a bypass, it shall submit prior written notice to the Authority at least ten days before the date of the bypass.
- b. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Authority within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- c. Bypass is prohibited, and the Authority may take enforcement action against a user for a bypass, unless all of the following conditions exist:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. For the purposes of this section, *severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (3) The Industrial User submitted notices as required under paragraph (a-b) of this section.

- d. The Authority may approve an anticipated bypass, after considering its adverse effects, if the Authority determines that it will meet the three conditions listed in paragraph (c) of this section.
- e. Vertellus has implemented an EPA-approved sewer system upgrade to prevent bypasses during a 10-year storm event. The design was approved as an Applicable or Relevant and Appropriate Requirement (ARAR) under the Superfund program. Based on the company's analysis, the bypasses that may occur due to storm events that exceed the capacity of the EPA-approved system are necessary to prevent severe property damage. In addition, because no feasible alternatives for prevention of a bypass exist under the above conditions and when proper notification is provided, the requirements for a bypass defense specified in paragraph (c) above are met.

18. Hazardous Waste

The industrial user shall not discharge any hazardous waste to the Authority sewer system or the treatment plants that would potentially interfere with plan processes or operations, cause pass through of regulated pollutants, limit the handling or disposal options for sludge or incinerator ash, or that causes noncompliance with the statutory provisions and regulations including the Solid Waste Disposal Act including Title II (commonly known as the Resource Conservations and Recovery Act "RCRA"). All permittees regulated by the Indianapolis pretreatment program receive the necessary documents from the Authority to determine compliance with RCRA regulations, particularly requirements associated with RCRA Subtitles C and D (see 40 CFR 403.8(f)(2)(iii)).

Another requirement concerning the regulation of hazardous waste is the requirement for the industrial user to notify the Authority in writing of any discharge into the sewer system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. The notification must be made only once unless the type or quantity of the waste changes from the initial notice. The notification must also be made to the EPA Regional Waste Management Division Director and the Indiana hazardous waste authorities. Additional information on this requirement can be found in Chapter 671 of the Indianapolis Code at 671-62 **Discharge of Hazardous Wastes**, CWA Authority, Inc. Resolution No. 2-2011 including amendments and 40 CFR 403.12(p).

19. Compliance Schedules

If the permittee is required to complete specific tasks to comply with applicable pretreatment program standards and requirements, the issuance of a compliance schedule may be necessary to obligate the industrial user to meet certain milestone dates for the completion of each task. Compliance schedules may be issued to the industrial user for, but not limited to, the installation of treatment technology to meet applicable standards, the implementation of engineering or best management practices, or any other activities necessary for the permittee to achieve full compliance with program requirements. The industrial user may refer to 40 CFR 403.8(f)(1)(iii)(B)(5), 40 CFR 403.8(f)(1)(iv), and in Sections 671.42(a)(7) and 671.44(8) of the

Indianapolis and Marion County Code for additional requirements to develop and implement compliance schedules. A compliance schedule may be issued as a modification to the industrial discharge permit, contained within an administrative or civil order, or as a written directive from the Authority. The compliance schedule, with milestone dates, is enforceable by the Authority and becomes an addendum to the industrial user's permit.

20. Slug Control Plans

If required by the Authority, the industrial user will be notified and shall implement a slug control plan that meets the requirements of 40 CFR 403.8(f)(2)(vi)(A-D). The slug control plan must be developed by the industrial user and approved by the Authority. For the purposes of this section, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violates the requirements of Chapter 671, the local limits promulgated in 671-4 of the Code, CWA Authority, Inc. Resolution No. 2-2011 including amendments or any other permit conditions. The industrial user is required to notify the Authority immediately of any changes at its facility that affect the potential for a slug discharge.

FACT SHEET

Vertellus Agriculture & Nutrition Specialties LLC
1500 South Tibbs Avenue
Indianapolis, Indiana 46241

REGULATORY AUTHORITY

This industrial user is required to comply with all of the requirements contained in Chapter 671 of the Municipal Code of Indianapolis and Marion County, Indiana, CWA Authority, Inc. No. Resolution 2-2011 including amendments, and the "Sewage Disposal Service Tariff Rates, Terms, and Conditions for Sewage Disposal Services within Marion County, Indiana".

CATEGORIZATION

This is a categorical, significant industrial user regulated by 40 CFR 414, Subpart K: Organic Chemicals, Plastics, and Synthetic Fibers, Indirect Discharge Point Source Subcategory.

PARAMETERS SELECTED, EFFLUENT LIMITATIONS, AND REGULATORY CONTROL (LOCAL, FEDERAL, ETC.)

<u>Parameter</u>	<u>Daily Maximum</u> <u>(mg/l)</u>	<u>Monthly Average</u> <u>(mg/l)</u>	<u>Regulation</u>
pH	5.0 – 12.0 s.u.	N/A	Section 671-4(c)(2)
Ammonia-N	Surcharge > 20	N/A	Sewage Tariff
Biochemical Oxygen Demand	Surcharge > 250	N/A	Sewage Tariff
Total Suspended Solids	Surcharge > 300	N/A	Sewage Tariff
Cyanide, Amenable	0.4	0.19	Daily: Section 671-4(e) Monthly: 40CFR 414.11(g) & 433.15(b)
Total Petroleum Hydrocarbons	200	N/A	Section 671-4(d)(11)
Arsenic, Total	4.0	N/A	Section 671-4(e)
Cadmium, Total	1.2	N/A	Section 671-4(e)
Chromium, Hexavalent	3.4	N/A	Section 671-4(e)
Chromium, Total	24.0	N/A	Section 671-4(e)
Copper, Total	2.2	N/A	Section 671-4(e)
Mercury, Total	0.025	N/A	Section 671-4(e)
Nickel, Total	7.3	N/A	Section 671-4(e)
Pentachlorophenol	0.012	N/A	Section 671-4(e)
Phenol	46.0	N/A	Section 671-4(e)

FACT SHEET: Vertellus – Page 2

Polychlorinated biphenyls (PCBs)	Noncompliant, if detected	N/A	Section 671-4(d)(13)
Silver, Total	4.2	N/A	Section 671-4(e)
Zinc, Total	1.10	0.44	40 CFR 414.111(b)
Acenaphthene	0.042	0.017	40 CFR 414.111(b)
Anthracene	0.042	0.017	40 CFR 414.111(b)
Benzene	0.120	0.051	40 CFR 414.111(b)
Bis (2-ethylhexyl) phthalate	0.231	0.085	40 CFR 414.111(b)
Carbon Tetrachloride	0.340	0.127	40 CFR 414.111(b)
Chlorobenzene	0.340	0.127	40 CFR 414.111(b)
Chloroethane	0.264	0.099	40 CFR 414.111(b)
Chloroform	0.291	0.099	40 CFR 414.111(b)
Di-n-butyl phthalate	0.039	0.018	40 CFR 414.111(b)
1, 2-Dichlorobenzene	0.711	0.176	40 CFR 414.111(b)
1, 3-Dichlorobenzene	0.340	0.127	40 CFR 414.111(b)
1, 4-Dichlorobenzene	0.340	0.127	40 CFR 414.111(b)
1, 1-Dichloroethane	0.053	0.020	40 CFR 414.111(b)
1, 2-Dichloroethane	0.514	0.161	40 CFR 414.111(b)
1, 1-Dichloroethylene	0.054	0.020	40 CFR 414.111(b)
1, 2-trans-Dichloroethylene	0.059	0.022	40 CFR 414.111(b)
1, 2-Dichloropropane	0.711	0.176	40 CFR 414.111(b)
1, 3-Dichloropropylene	0.711	0.176	40 CFR 414.111(b)
Diethyl phthalate	0.101	0.041	40 CFR 414.111(b)
Dimethyl phthalate	0.042	0.017	40 CFR 414.111(b)
4,6-Dinitro-o-cresol	0.248	0.070	40 CFR 414.111(b)
Ethylbenzene	0.340	0.127	40 CFR 414.111(b)

Fluoranthene	0.048	0.020	40 CFR 414.111(b)
Fluorene	0.042	0.017	40 CFR 414.111(b)
Hexachlorobenzene	0.711	0.176	40 CFR 414.111(b)
Hexachlorobutadiene	0.340	0.127	40 CFR 414.111(b)
Hexachloroethane	0.711	0.176	40 CFR 414.111(b)
Methyl Chloride	0.264	0.099	40 CFR 414.111(b)
Methylene Chloride	0.152	0.032	40 CFR 414.111(b)
Naphthalene	0.042	0.017	40 CFR 414.111(b)
Nitrobenzene	5.733	2.003	40 CFR 414.111(b)
2-Nitrophenol	0.207	0.058	40 CFR 414.111(b)
4-Nitrophenol	0.516	0.145	40 CFR 414.111(b)
Phenanthrene	0.042	0.017	40 CFR 414.111(b)
Pyrene	0.043	0.018	40 CFR 414.111(b)
Tetrachloroethene	0.147	0.047	40 CFR 414.111(b)
Toluene	0.066	0.025	40 CFR 414.111(b)
1,2,4-Trichlorobenzene	0.711	0.176	40 CFR 414.111(b)
1,1,1-Trichloroethane	0.053	0.020	40 CFR 414.111(b)
1,1,2-Trichloroethane	0.114	0.029	40 CFR 414.111(b)
Trichloroethylene	0.062	0.023	40 CFR 414.111(b)
Vinyl Chloride	0.154	0.087	40 CFR 414.111(b)

LIMITATIONS CALCULATION AND RATIONALE

Vertellus Agriculture & Nutrition Specialties LLC (Vertellus) is a synthetic organic chemical manufacturing facility that specializes in pyridines, picolines and related compounds. Regulated process wastewaters include those from raffinates (the substances that remain after chemical products have been extracted from them), exhaust gas scrubbers, ammonia recovery, layer separations, condensates and column discharges. All federally-regulated wastestreams are pretreated and discharged to the Belmont AWT. Treatment incorporates equalization, settling, pH neutralization, filtration, steam stripping and cooling. Settling tank sludge is dewatered in a plate-and-frame press.

Several unregulated wastestreams, such as boiler and cooling tower blowdowns, softener regeneration, and sanitary waste, are separately routed to the Southport AWT and are not specifically regulated by this permit. These discharges are continuously monitored for pH and neutralized as needed. Also, there are similar streams that

commingle with the regulated process wastewater upstream of treatment and the permit monitoring point. Permit limits have been adjusted to account for these dilution streams.

New 2,3-DCP and 3AP Processes: The permit renewal, issued just prior to this modification, was extended so the new 2,3-DCP (2,3-dichloropyridine) manufacturing process could be adequately evaluated for average flow rate and pollutant characterization. 3AP (3-aminopyridine), another new manufacturing process, used as a precursor to the 2,3-DCP process, subsequently began operation and was similarly evaluated for flow and pollutants. Vertellus reported the results of these measurements to the IPP in a letter dated September 10, 2012. After reviewing this information, it has been determined that the 3AP process wastewater is federally-regulated and the 2,3-DCP is not. The 3AP wastewater contains levels of categorical pollutants that will require treatment to be compliant. Additionally, two unregulated pollutants in the 3AP wastewater, 3-aminopyridine and methyl isobutyl carbinol will also require treatment because inhibition testing has revealed that they are inhibitory to the nitrifying bacteria at the POTW. The pollutant levels in the 2,3-DCP wastewater were not high enough to require treatment, therefore it is considered to be an unregulated “dilution” stream.

Another process, the B3 Spray Column, was initially projected for start-up in 2012. It was to have been evaluated in the same manner as the 2,3-DCP and 3AP process wastestreams. However, the B3 Spray Column project has been put on indefinite hold and is not being considered in this permit.

In 40CFR414.111(a), EPA states that facilities regulated under 40CFR414, Subpart K, Organic Chemical, Plastics, and Synthetic Fibers (OCPSF), must meet mass-based (poundage) limits calculated from the regulated process wastewater flow and the concentration standards listed in the regulation. However, the 2005 streamlining changes to 40 CFR 403 allow for the option of using enforceable concentration limits as an alternative to mass limits. These streamlining changes have been added to the local ordinance with approval by EPA. Therefore, the IPP has the necessary authority to use alternative limits when appropriate. Because of the consistency of flow at Vertellus, the Authority believes that the use of alternative concentration limits is appropriate in regulating this facility. This flow consistency is evidenced by the fact that Vertellus must run its steam stripper column at a consistent flow rate in order to maximize its treatment efficiency and effectiveness. Additionally, whenever product inventory builds to a point necessitating a decrease in production, and therefore a decrease in process wastewater flow, the process wastewater that is generated is stored in equalization tanks until there is enough volume to sustain the desired flow rate through the stripper column (phone call, Jim Gross, 9/14/2012, 2:25 PM).

An Excel spreadsheet titled *2012 Vertellus Permit Limit Calculations.xlsx* was used to calculate all federal limits, taking dilution into account. This spreadsheet documents flow breakdown, dilution adjustments for OCPSF organics, cyanide and zinc, the federal standards, mass allowances and the permit’s alternate concentration limits.

Pursuant to 40CFR414.11(g), and confirmed in a November 19, 2007 letter from Vertellus’s Jim Gross, the alternative *amenable* cyanide (CN-A) limit is still the proper cyanide parameter with which to regulate this discharge. The use of the *total* cyanide parameter is not effective because the “non-amenable” cyanide in Vertellus’s process wastewater is unavoidably complexed at the process source and cannot be treated to dilution-adjusted federal compliance limits. As Vertellus has confirmed, the manufacturing process chemistry has not changed since the initial cyanide treatability study was performed. To establish appropriate CN-A limits, BAT amenable cyanide limits from the Metal Finishing Category, PSES, 40CFR433.15(b), have been substituted for the cyanide concentrations in the OCPSF regulation. The daily maximum permit limit calculated from the 433.15(b) standard is 0.519 mg/l. This daily maximum value is superseded by the more protective local ordinance limit of 0.4 mg/l, however. Therefore, the local limit is used for the daily maximum compliance limit in the permit.

Total zinc is regulated due to the presence of zinc-bearing process wastewaters at the sample point. These wastestreams do not originate from the zinc-bearing process identified in Appendix A of the OCPSF regulation, however. Vertellus’s source is a zinc catalyst used in their Unit 27 process. 40CFR414.11(h) allows the control authority to make poundage allowances for zinc found in wastestreams that are not listed in Appendix A and are not otherwise determined to be “metal-bearing” as long as the zinc contamination is due to background levels *not reasonably avoidable*. The use of a zinc catalyst in the reactions used to produce Unit 27’s end product is not avoidable. When this is the case, the authority is allowed by the categorical regulation to determine standards that

are between the lowest level attainable, determined using best professional judgment, and the concentration actually found in the wastestream. Furthermore, the compliance limits determined for the permit cannot exceed the standards in 414.111 (which are the same as those listed in 40CFR414.101, the applicable limits referenced in 414.11(h) *Allowances for non-metal-bearing wastestreams*). Because Vertellus reports zinc levels greater than the 414.111 limits, those same standards were used as the basis for calculating the final permit compliance limits. Since the two new processes, 2,3-DCP and 3AP, do not originate from the Unit 27 operation, they are not being given zinc allocations and are considered as dilution streams in the calculation of the permit's zinc limits.

Many of the local limits listed in Chapter 671, Section 671-4 of the sewer ordinance have been added as monitored parameters to this permit. Because of the complex chemistry used in Vertellus's processes, it has been determined that these new parameters should be monitored in order to determine whether or not they are present in significant concentrations in this discharge.

It has been determined that a slug plan is required for this facility. Slugs could potentially occur due to operational problems with their pretreatment process or from spills to surface drains. Their latest slug plan revision, submitted May, 2011, has been evaluated and approved. Vertellus was sent a copy of the signed approval form. Their slug plan is enforceable. Also, the permittee has been informed of the requirement to notify the POTW of hazardous waste discharges from their facility. The permittee has submitted notification of the hazardous wastes that they discharge.

COMBINED SEWER OVERFLOW INFORMATION

Discharges from this facility flow to the Belmont Interceptor. The potentially affected CSO is #145. The Belmont AWT raw sewage bypass (008) could potentially discharge wastewater from this facility during overflow events.

SAMPLING LOCATION(S)

All compliance samples will be collected from the interior sampling port in the northwest corner of the Effluent Discharge Room in the wastewater treatment building.

POLLUTANTS EXCLUDED FROM PERMIT

The following pollutants regulated by Chapter 671, Section 671-4 of the Indianapolis and Marion County Code and CWA Authority, Inc. Resolution No. 2-2011 including amendments have been excluded from permit coverage as determined by the permit writer to not be present or present at concentrations too minimal to require regulation under this permit. The exclusion has been determined to be warranted based on the best professional judgment (BPJ) of the permit writer and following a comprehensive review of historical sampling data, the evaluation of available MSDS information, analysis of the permit application, and observations made during onsite industrial compliance inspections.

Lead

Attachment 7

Hauled Waste SOP

White River Environmental Partnership / Belmont AWT

PROCEDURE FOR RECEIVING HAULED WASTEWATER

1. Obtain the following information from the driver:
 - a. Company name of the hauler (must be permitted, see LIST)
 - b. Type of wastewater to be discharged
 - i. Residential (domestic) septage
 - ii. Non-domestic septage – requires a copy of a current approved **Non-Domestic Wastewater Discharge Application**
 - iii. Restaurant grease trap waste
 - iv. Special Waste – requires a copy of a current approved **Special Discharge Application**
2. As required, obtain job documentation (invoices, service receipts, etc.) and any required approvals (see ii and iv above) for the wastewater to be discharged. Check to make sure all approvals are current and correct for the source and hauler.
3. Begin recording load information on the septage ticket. At this time, the company name, address, date, truck number (IDEM #), and time can be completed. Write the sample bottle number at the top of the form. Refer to the *List of Permitted Liquid Waste Haulers* for the correct name and address. If their company does not appear on the list, contact Kim Cussen (7049), Nancy Williams (7047), or Tim Heider (7048).
4. Record the following information into the appropriate spaces on the septage ticket:
 - a. Type of waste
 - b. Source(s) of component loads (name, address, county, state)
 - c. In or out of county origin indication
 - d. Volume from each source
 - e. Total (billable) volume (see 8 below)
5. Give the driver the sample bottle with the number corresponding to that written at the top of the septage ticket.

Note: For their safety, the liquid waste hauler personnel are required to wear appropriate clothing at the Belmont AWT. They are to wear shirts with sleeves (short sleeves okay), long pants, and shoes that cover the tops of their feet. If the driver is not wearing the appropriate clothing, they are not allowed to discharge.

6. If necessary, accompany the driver to the vehicle to verify the load volume and the truck number.

7. Sample Collection: A sample is to be collected from every load, regardless of whether multiple loads from the same source are expected or have been received.

NOTE: Samples are to be collected at the discharge trough, not on the roadway. For just a couple of seconds, the driver should open the discharge valve to clear any liquid from previous loads. The driver should then collect the sample from this valve until the sample bottle is filled to the top line. The bottle should be capped and rinsed off. The IPP Attendant is to witness the collection of the sample.

If the sample has an unusual or suspicious appearance or odor, discuss this with the driver. If you suspect the load to be toxic, oily, or otherwise suspicious, DO NOT allow discharge until contacting Kim, Nancy, or Tim.

!WARNING!: Any hauled liquid waste should be considered hazardous and should be handled in a safe manner. Avoid contact with any part of your body. If liquid waste gets on hands, etc. - wash thoroughly and follow up with hand sanitizer.

8. Volume measurements: Belmont only accepts calibrated sightglasses (bubbles) or sight tubes as valid measuring devices. Be sure that the vehicle is on a level surface before taking a reading. Whenever the level of liquid is between two sightglasses or two sight tube markings, record the value associated with the higher of the two. If the vehicle is not outfitted with these measuring devices, record the volume as the entire capacity of the tank. This value can be obtained from the *List of Permitted Liquid Waste Haulers*. If the vehicle is not on the list, contact Kim, Nancy, or Tim.

If the volume is different than what was reported by the driver, write your measurement on the “Total Volume of Load” line and write the word ‘gauge’ or ‘total capacity’ next to it. This volume will be used for billing.

NOTE: If the total volume billed is different than the reported volume, **AND** the loads are IN and OUT of county **OR** Septage and Special, the “Mixed Load Calculation” spreadsheet must be used to determine billable volumes. There is a direct link on the desktop computer to this spreadsheet. If you have any questions, please contact Kim or Nancy.

9. Check the sample pH with the indicator test strips. Match the colors on the box to the test strip to determine the pH. Record the pH value on the septage ticket. The pH must be within the 5.0 to 12.0 S.U. range for all loads.

Whenever the pH is either between 5 and 6 S.U., or between 11 and 12 S.U. or if it is otherwise difficult to determine the pH with the strip, use a calibrated pH meter to measure the sample.

If the pH is out of limits, **DO NOT** allow the wastewater to be discharged. Notify Kim, Nancy, or Tim. Remind the hauler that they must provide documentation as to the final disposal site for the liquid if it is not neutralized and returned to Belmont AWT. This documentation must be provided prior to disposal of future loads.

10. On the septage ticket, mark whether the sample had an oily odor or not. If it does have an oily odor, **DO NOT** allow the load to be discharged. If you are not sure, call Kim, Nancy or Tim. Again, remind the hauler that they must provide documentation as to the final disposal site for the liquid if it is not accepted at the Belmont AWT.
11. If the load documentation, odor, and pH are all recorded and acceptable, have the driver sign the form. They are to print their name as well as sign it on the septage ticket.
12. Sign the form on the “United Water Personnel on Duty” line. Once you sign the form, you give your approval for discharge. They are **NOT** to discharge before you sign.
13. If, for any reason, you suspect a load to be questionable, observe the disposal of the load. At any point during the discharge, if anything looks suspicious or unusual, have the driver stop the flow and call Kim, Nancy, or Tim. Be sure the vehicle is positioned to allow other haulers adequate access to the trough.

NOTE: If the headworks attendant suspects a septage load is mixed (grease and septage), observe discharge. The attendant has the authority to declare the load as grease, marking the ticket as such, and the hauler will be charged the grease rate. If the hauler has any objections, tell them to contact Kim, Nancy, or Tim.

14. The disposal area must be cleaned and hosed off by the hauler after discharge.

NOTE: The discharge bay is only wide enough to allow three straight trucks to discharge. Because of their size and maneuvering requirements, only two semi-trailers can be allowed to enter the bay at the same time. Drivers are allowed adequate space around their vehicles for cleaning, sampling, etc. Entry into the discharge trough is prohibited at all times.

15. **PAPERWORK:** Separate the three copies of the form and give the driver the yellow copy. If the driver presents a Non-Domestic form, it is attached to the pink copy. If the driver presents a Special Discharge form, make an extra copy of the form and attach a copy to the pink AND white copy of the ticket. White ticket copies are entered on the “Daily Hauler Volume Log” (see 19 below) and stored in the drawer until the end of the day. Pink ticket copies are kept in a separate location until entered on the Monthly spreadsheet.

The white ticket copies are brought to the Industrial Pretreatment Program (IPP) office for delivery to the CWA Authority.

Wastewater Hauler Program SOP for Wet Weather Conditions

16. Wastewater haulers with a tank capacity of 5000 gallons or greater are required to call the Belmont AWT Console Room at 639-7120 during rainfall events.
17. If the Belmont primary effluent (PE) bypass structure is active, the hauler must discharge at the Belmont wet weather pump station (WWPS).
18. If the influent capacity at Southport is at such a level resulting in the shutdown of the WWPS, all trucks with a capacity of 5000 gallons or greater will not be allowed to discharge at any location.
19. All other wastewater haulers with tank capacities less than 5000 gallons will continue to be allowed to discharge regardless of bypass conditions.
20. Once bypass conditions are identified, affected haulers may subsequently contact the console room for PE bypass status before returning to Belmont.

SAMPLE HANDLING

21. Store the sample bottles in the white refrigerator in the Headworks office. **These samples must be held in the refrigerator overnight.** There are scheduled days when hauled waste samples (excluding grease trap waste) are composited into one sample for laboratory testing.

Note: The reason for holding the individual sample bottles, is to have them available for analysis should there be a problem develop at the Belmont AWT that could be attributed to hauled liquid waste disposal.

22. **Compositing the hauled waste samples:** From each individual **well-shaken** septage and special waste load sample, pour the liquid waste into the septage sample container so that the level remaining is at the bottom line on the bottle. Remember that grease trap samples are not included in this composite.

If the scheduled sample day is Monday, Tuesday, Wednesday, or Thursday – the composite is made the following morning and delivered to the laboratory by 9:30 AM.

If the scheduled sample day is Friday, the composite is made at the end of the shift (4:15 PM) and delivered to the laboratory when finished.

The bottles containing the remaining samples from the individual septage and special discharge loads must be held in the laboratory walk-in cooler until all of the lab tests results have been reviewed. Place these bottles in a plastic tote. Label the tote with the date the samples were collected from the trucks. The laboratory

will discard the sample bottles from the tote, once the data has been cleared. The tote will be returned to IPP.

The composite sample and tote shall be transported to the laboratory in a company vehicle. The Headworks Attendant is responsible for ensuring that the laboratory receives the samples.

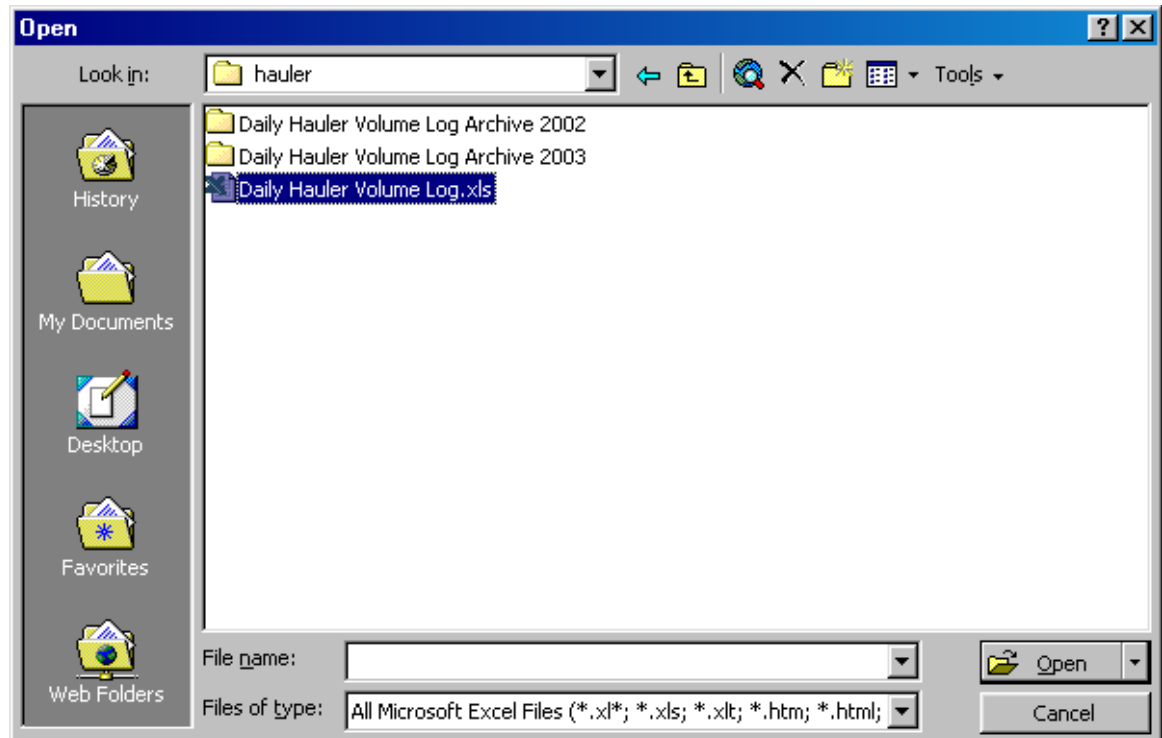
23. Cleaning the sample bottles (the ones not taken to the lab): The bottles should be thoroughly cleaned with warm water and a bottlebrush. If soap is used to remove any oily residue or film, be sure to rinse the bottle with copious amounts of water. Allow the bottles to dry by placing them upside down on a towel.
24. **Daily Hauler Volume Log** – see next pages for step-by-step instructions on entering the septage ticket information onto the daily log. The daily log is emailed to the CWA Authority and Kim Cussen at kim.cussen@unitedwater.com).

DAILY HAULER VOLUME LOG

Instructions

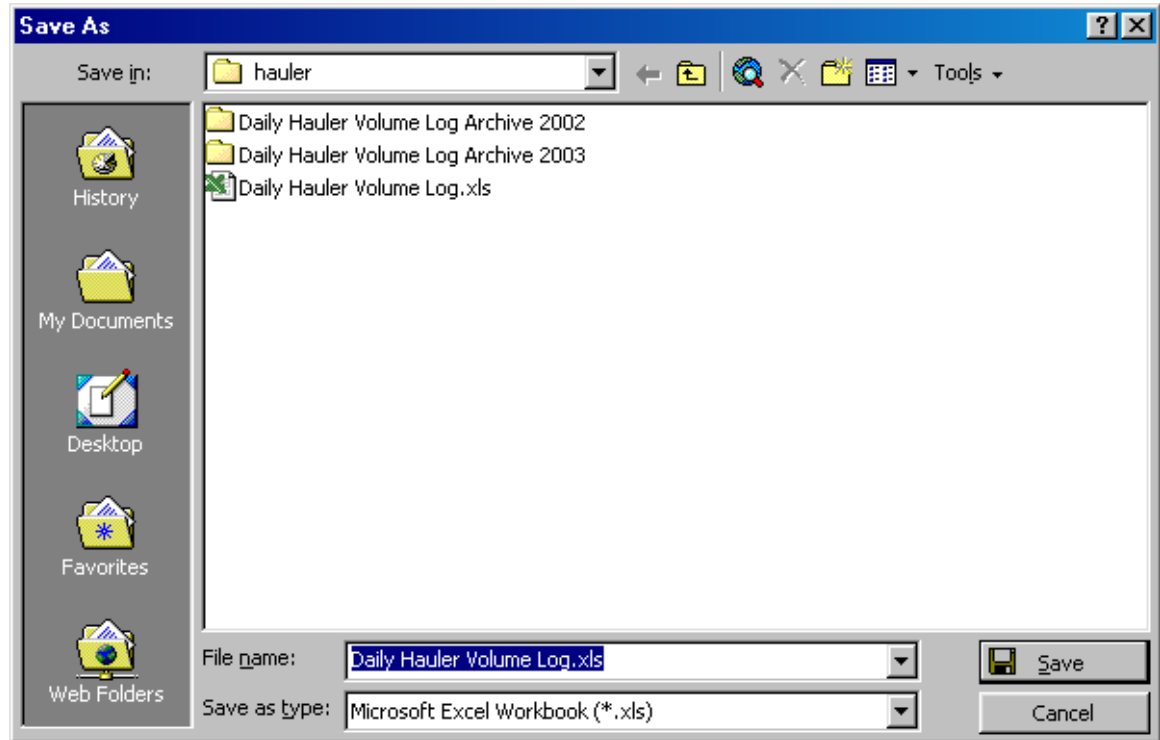
1. Turn on computer and monitor.
2. “Power On” password is requested. Type in password and hit ‘enter’.
3. Window opens asking to “Enter Network Password”. Click on the “cancel” button. After the computer boots up, the desktop screen will appear.
4. Open the Excel program – go to “Start” on taskbar, then to “Programs”, then to “Microsoft Excel” and click on Excel. A blank worksheet will open.
5. Go to “File” then “Open” **OR** click “OPEN icon on toolbar (looks like a file folder, second icon from the left)

The following window will open. There will be other files listed than those shown below.



6. Select and open “Daily Hauler Volume Log.xls”
7. Go to “File” then “Save As”.

The following window will open up:



8. Double click on “Daily Hauler Volume Log Archive (current year, eg. 2009)”. Above window will then change showing the “Archive (current year)” folder in the white title bar near top of window.
9. Place cursor in the “File name:” title bar near bottom of window. Be sure cursor is between ‘Log’ and the ‘dot’ or ‘period’ after log.
 - a. Hit spacebar once, and then enter date.
 - b. Date should be entered as i.e. **052203**, (for May 22, 2003).
 - c. Click on the “Save” button near bottom right corner of window

A new daily log opens that is now saved in the appropriate archive folder.

10. Enter date on log sheet (Cell G1). Enter first ticket number on line one (Cell C6). (Subsequent ticket numbers will enter automatically, as you enter the hauler company names.)

Note: Be sure ticket numbers are continuous from the previous day.

11. To enter the hauler company, click in the hauler company cell (in column E). An alphabetical “drop-down list” appears. Use the scroll bar next to the list, as needed, to navigate to the company name on the list. Right-click on the name. The

name will automatically enter in the cell. For entries after the first load, the ticket numbers will automatically enter, too.

Note: Entries for 'voided' tickets and 'tickets not printed' are available on the list.

12. Enter the declared (not *as billed*) load volume in the adjacent cell in the load volume column (G). This completes the entry procedure for the load. Repeat steps 11 and 12 for the next load, on the next line down.

Be sure and **SAVE YOUR WORK** often!

13. Daily logs are emailed to Wanda Williams and Kim Cussen. See Kim (ext. 7049) for more information.

ADDITIONAL INFORMATION

Disposal Hours: Monday through Friday – 8:30 AM until 4:15 PM

IPP Office Hours: Monday through Friday – 7:00 AM until 7:00 PM

IPP Contacts: Candace Wineinger- 639-7054
Kim Cussen – 639-7049
Nancy Williams – 639-7047
Tim Heider – 639-7048
Fax – 639-7602

Disposal Fees:	In County Septage	\$ 83.52/1000 gallons
	Out of County Septage	\$ 125.13/1000 gallons
	In County Grease	\$ 422.08/1000 gallons
	Out of County Grease	\$ 463.89/1000 gallons
	Special Wastes	Dependent on load

Misc. Fees: Special Discharge Application: \$150.00
Non Domestic Application: no charge

Attachment 8

Surcharge Revenue Verification Plan

Surcharge Revenue Verification Plan

Section 4.14 of Exhibit 4 in the Agreement for the Operation and Maintenance of the Advanced Wastewater Treatment Facilities requires the development of a plan to verify the accuracy of information submitted by individual dischargers and wholesale customers as it relates to BOD, TSS, and ammonia surcharges regulated under Chapter 671 of the Indianapolis and Marion County Code.

The requirement states:

The Company shall provide a proposed Surcharge Revenue Verification Plan for CWA Authority approval sixty (60) days prior to the end of each Contract Year. The plan shall include an evaluation of the representativeness of sampling for the individual dischargers per their activity levels, co-locating of sampling, and independent verification of self-reporters and identification of current and future companies that should pay sewer surcharges. At a minimum, the plan shall include sampling at the top twenty (20) revenue generating facilities on an annual basis and all self-reporting facilities at least once per three year period. Sampling shall be done at times that cannot be reasonably anticipated by the facility. The CWA shall act on the proposed plan within thirty (30) days of receipt and CWA's approval shall not be unreasonably withheld.

The following plan describes the activities that United Water will accomplish during 2013 to meet the objectives of the surcharge program. By November 1, 2013, an updated Surcharge Revenue Verification Plan will be submitted to CWA for approval.

2013 Plan

1. United Water will conduct sampling at the top twenty (20) revenue generating facilities that are regulated for surcharge parameters. The list, provided by CWA in January of each contract year, shall include the facility name, address, and the regulated parameters. Those facilities reporting only volume information will not be included in the sampling plan. The parameters of concern will be sampled at the individual facilities at least once during 2013. All top twenty facilities will be sampled by December 31, 2013. In addition, a portion of the other self-reporting surcharge industries may be sampled in 2013.
2. All industries subject to the surcharge sampling program should be required to submit actual sampling results with their monthly Statement of Industrial Waste form. Currently, industries provide only the calculated mass of BOD, TSS, and/or ammonia on the report. An annual evaluation of BOD, TSS, and ammonia analytical results generated from self-monitoring and surveillance sampling activities will be completed following the end of each contract year. The CWA will provide actual concentration data to the IPP from self-monitoring results used on the Statement of Industrial Waste form. A report summarizing the results of audit activities performed during the first six months of 2012 will be completed and provided to CWA on or before October 1, 2013. Likewise, a summary report of audit findings identified during the last six months of 2013 will be completed and submitted to CWA on or before April 1, 2014. The written report will be

submitted to CWA a minimum of twice per year or more often as necessary to address specific surcharge issues. The report will include all information learned during each audit as well as any minor adjustments resolved with a discharger. The report shall identify any recommendations made to CWA related to the surcharge program.

3. The results of independent surveillance sampling will be submitted periodically to CWA in a spreadsheet format for comparison with results included on the industry's Statement of Industrial Waste form. Sampling may be conducted either by United Water or an independent contractor.
4. The proper location of surveillance sampling and self-monitoring activities will be verified as sampling continues in 2013. United Water has previously provided a report for CWA review containing a description of all sampling locations as well as photographic evidence of the site. Any discrepancies will be reported to CWA with recommendations to resolve the deficiencies.
5. All surveillance sampling activities conducted by United Water or the independent contractor will be on an unscheduled basis with no prior notification to the regulated facility.
6. United Water will continue to conduct its established program activities to identify potential new facilities that may be subject to the surcharge program. Facilities will be identified and evaluated by the procedures detailed in the Potential Industries section of the IPP plan. Information gathered on any suspected new facility will be provided to CWA for review. Upon CWA approval, United Water will sample and analyze the facility's discharge for the surcharge pollutants of concern.
7. At the request of the CWA Authority, the results of wastewater sampling by the satellite communities will be reviewed and evaluated by United Water for compliance with Chapter 671 requirements. Results found to be in excess of BOD, TSS, and/or ammonia levels contained in Chapter 671 will be reported to CWA. CWA will develop the procedures necessary to ensure results are provided to United Water staff for review. Currently, the satellites are regulated by interjurisdictional agreements that are unique to each community.
8. Upon agreement with CWA, United Water may modify the sampling protocol to sample more than once annually at the top twenty surcharge reporters and less than once every three years at the other self-reporters. For example, United Water must provide a minimum of one sample at the top twenty facilities and one sample every three years at the other facilities which results in approximately 40 samples per year. The forty samples may be redistributed among the 80 self-reporters to conduct multiple samples at a single facility and the elimination of annual samples at other facilities.

Attachment 9

IWS Procedures

Industrial Waste Survey Procedures

The General Pretreatment Standards, specifically 40 CFR 403.8(f)(2), require a POTW to identify and locate all possible industrial users that may be subject to the requirements of the pretreatment program and to identify the volume and characteristics of the industry's wastewater discharge to the sewer system.

The specific requirement promulgated in the General Pretreatment Standards is:

403.8 Pretreatment Program Requirements: Development and Implementation by POTW.

*(f) **POTW pretreatment requirements.** A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.*

*(2) **Procedures.** The POTW shall develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program. At a minimum, these procedures shall enable the POTW to:*

*(i) **Identify and locate all possible Industrial Users which might be subject to the POTW Pretreatment Program. Any compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the Regional Administrator or Director upon request.***

The information gathered for the Industrial Waste Survey (IWS) is used to compile an industrial user database that is the basis for program planning, the evaluation of local limits, determination of sampling and analytical requirements, and estimating staffing and equipment needs. This information is evaluated to assemble a list of industrial users that must be regulated by the city's approved Industrial Pretreatment Program. The IWS consists of four major activities:

- The compilation of a master list of potential industrial users within the POTW's service area;
- Collection of survey information from potential industrial users;
- Receipt, evaluation, and verification of information provided by the industrial user; and
- Management of the information to determine program activities.

Master List- The primary activity of the IWS is to develop a master list of all industries located within the Indianapolis sewer system service area. This includes industries located within the connected jurisdictions of Beech Grove, Ben Davis, and Lawrence. The City of Greenwood is also connected to the Indianapolis system but conducts its own approved pretreatment program and is therefore required to maintain a separate IWS.

The original IWS was conducted by the City of Indianapolis in 1983. Task 1-**Industrial Survey** and Task 3- **Wastewater Characterization** summarize the procedures used during program development and describes the results of the survey activities. Subsequent to the original IWS, the city has regularly updated the inventory to maintain a current list of all potential industrial users. Updates to the

inventory are conducted through the mailing of a survey form to potential sewer users and to dischargers previously surveyed but categorized as nonsignificant users. Industries are resurveyed as part of a renewal cycle to obtain up to date information. The IWS is also maintained through routine inspections, reporting, and review of periodic permit applications from permitted facilities.

The IWS requires a continuous, ongoing identification program. The following sources are used to keep the IWS current:

- On-site inspections of industrial parks and/or selected facilities;
- Review of industrial park tenant lists;
- Sewer rate customer list provided by DPW billing department;
- Information from sampling/surveillance/field personnel;
- Information from other industrial users;
- Review of sewer connection permits;
- Review of business licenses issued by the city, county, or state;
- Telephone listings (Yellow Pages);
- Yellowbook.com and related business web sites;
- Industrial Directory;
- Information from consultants and/or industries;
- Previous survey information;
- Indiana Business Journal;
- INside Edge- Inside Indiana Business- twice daily e-mail notification;
- IJB Daily- twice daily business news e-mail;
- IJB Real Estate- weekly e-mail notifications of business real estate transactions;
- Dun & Bradstreet Selectory- 2010 updated SIC code files for Indianapolis;
- Indiana Secretary of State New Business Entity listing- monthly update; and
- IDEM referrals/findings/citizen complaints.

Survey Potential Industrial Users- Any potential industries that are identified are visited and/or contacted by the IPP. A survey form with a cover letter explaining the requirements of the pretreatment program will be sent to each user. The industry will generally be allowed up to thirty (30) days to return the completed form.

The survey form requires the following information:

- Name and address of facility;
- Contact name and telephone number;
- Product or service;
- Process description;
- Days and hours of operation;
- Number of employees;
- Description of wastewater generated and where it is discharged ;
- Incoming water sources;
- Frequency and volume of wastewater discharge;
- Potential pollutants contained in the discharge;
- Signature of company representative.

Conduct Follow-Up Activities- After a review of the completed questionnaire and findings from a site visit (if necessary), a determination will be made as to whether the facility is an SIU and warrants the issuance of an industrial discharge permit. The determination will be based on the definition of an SIU as described in Chapter 671 of the Indianapolis Code. If a permit is not warranted, an exemption letter will be mailed to the facility describing any requirements that apply to the industry.

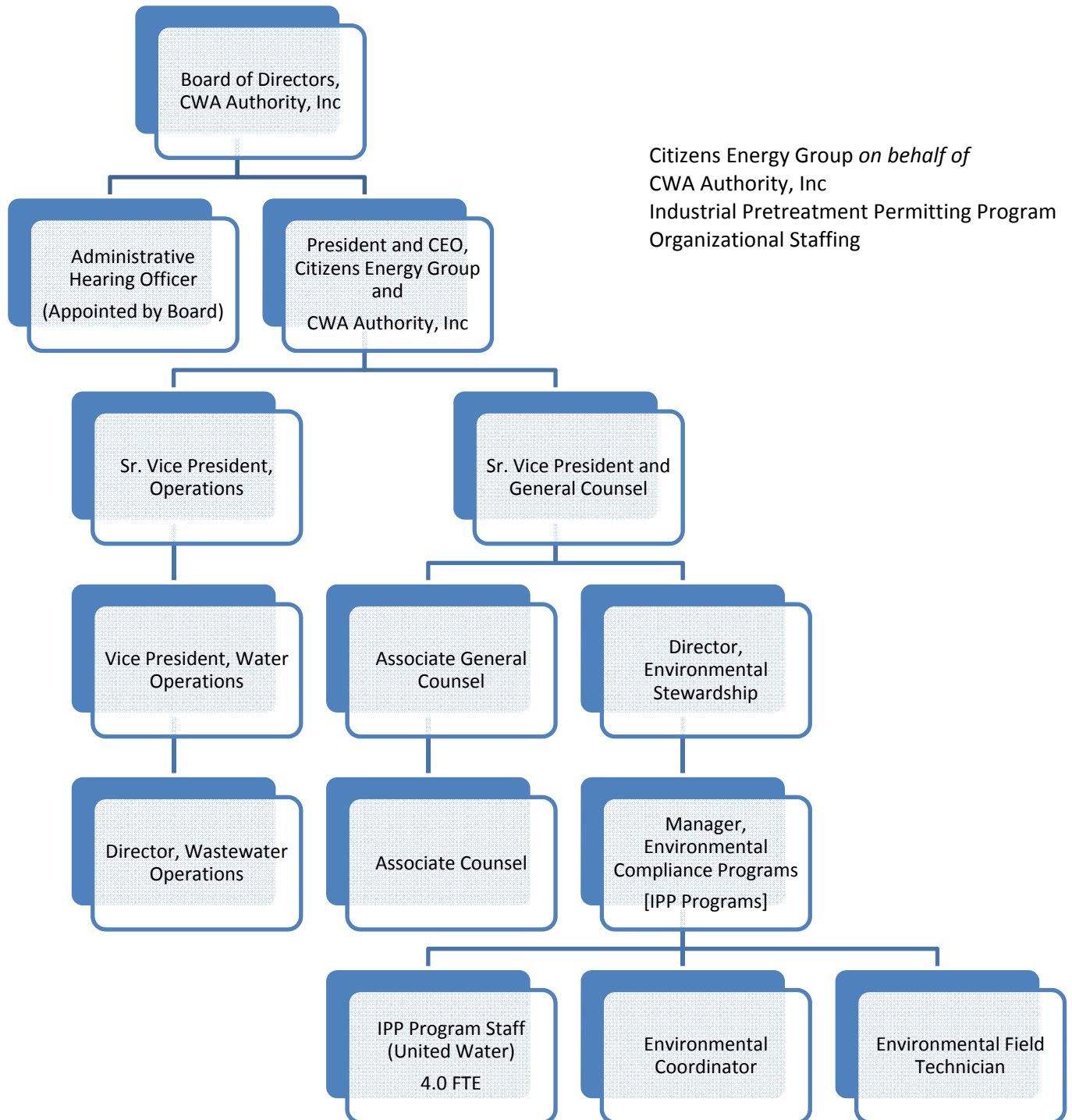
Industries that fail to respond or provide survey forms that are incomplete or require additional information will be contacted by phone or e-mail.

Summarize Survey Results- A list of all facilities receiving a survey form is maintained and updated to determine if forms have been sent, received, or require follow-up. All survey forms are stored in a separate file folder with the company's name and stored in a file drawer maintained in the IPP file room. In addition, the master list, updated with spreadsheets for individual calendar years, is part of the IPP database.

Industries that are determined to be SIUs are sent an Industrial Discharge Permit Application and subsequently issued an industrial discharge permit. IWS information for these facilities is routinely updated through permit applications, onsite inspections, and notifications from the industry. Also, Excel spreadsheets and the city's Linko database maintain current IWS information for each permitted industrial user.

Appendix L: CWA Authority's IPP Program Staffing

Industrial Pretreatment Permitting Program Staffing



EPA Request: Please provide the number of staff implementing the pretreatment program, including titles and education/experience qualifications.

Citizens Energy Group on behalf of CWA Authority, Inc.

Sr. Vice President and General Counsel

Mr. John R. Whitaker

- Juris Doctorate, Indiana University, 1982
- M.A. Biology, Ball State University, 1978
- B.S. Biology, Ball State University, 1976
- John Whitaker has been Senior Vice President and General Counsel for Citizens Energy Group since 2002. John is responsible for the company's Rates and Regulatory, Legal, Environmental, and Corporate Affairs functions. John joined Citizens in 1989 as Director of Governmental Affairs after serving four years as Special Counsel to Gov. Robert Orr. Prior to his current position, John has served in positions of increasing responsibility including Executive Director, External Affairs, and Vice President, Corporate Affairs.

Associate General Counsel

Mr. Michael E. Allen

- Juris Doctorate magna cum laude, Indiana University—Indianapolis, 1998
- B.S. Computer Technology, Purdue University, 1994
- Michael Allen joined Citizens Energy Group as Associate Counsel in 1995. Prior to joining Citizens, Michael practiced law with the Chicago office of the international law firm Skadden, Arps, Slate, Meagher & Flom and the law firm Baker & Daniels in Indianapolis. Michael also previously served as Assistant General Counsel for the Midwest ISO and Senior Counsel for Cinergy Corp. (now Duke Energy Corporation).

Associate Counsel

Mr. Ryan A. Cook

- Juris Doctorate, Indiana University - Indianapolis, 2006
- B.S. Pharmacy, Butler University, 1997
- Ryan Cook practiced pharmacy for several years as a registered pharmacist before joining Citizens Energy Group as a certified legal intern in January 2005 while attending law school part-time. Ryan was promoted to Counsel in Citizens' Legal Department upon passing the bar exam and being sworn-in as a member of the Indiana bar on May 21, 2007. Ryan's primary area of responsibility is labor and employment law, but he also handles general litigation, contract drafting and negotiation, and provides general legal counsel to management.

Vice President, Water Operations

Mr. Lindsay Lindgren

- MBA, University of Indianapolis, 1985
- B.S. Mechanical Engineering, Purdue University, 1981
- Professional Engineer Certification
- Lindsay Lindgren has been Vice President, Energy Operations for Citizens Energy Group since 2007. Lindsay is currently responsible for the company's gas distribution system serving more than 265,000 customers and the steam and chilled water distribution systems serving the downtown Indianapolis area. Lindsay joined Citizens in 1981 serving in positions of increasing responsibility including Manager, Field Operations; Director, Engineering; and Vice President, Gas Operations. At the time of closing of the asset transfer, Lindsay will be named Vice President, Water Operations, with responsibility for the strategic direction and operation of the drinking water and wastewater utilities.

Director, Environmental Stewardship

Ms. Ann W. McIver, QEP

- Master of Public Affairs, Indiana University, 2007
- B.A. Mathematics and Criminal Justice, Indiana University, 1991
- Certified as a Qualified Environmental Professional in 2004
- Ann started her career with the Indiana Department of Environmental Management's Office of Air Quality focusing on permit compliance and monitoring in 1992 and joined Indianapolis Power & Light's Environmental Affairs department in 1999. Ann joined Citizens Energy Group following the acquisition of the thermal division

assets in 2000 as an Environmental Coordinator and was promoted to her current role in 2008 when the consolidated environmental department was formed.

Manager, Environmental Compliance Programs

Ms. Cheryl L. Carlson

- B.S. Public Affairs (Environmental Science concentration), Indiana University, 1987
- Certified Hazardous Materials Technician
- Ms. Carlson started her career in 1987 with the City of Indianapolis Office of Environmental Services as an Air Pollution Inspector. In 1989, she became the manager of the Enforcement (inspection) staff responsible for complaint investigation, compliance inspections, and civil enforcement process. In 1995, enforcement for the Industrial Pretreatment Program was added as a responsibility. Ms. Carlson joined Citizens Energy Group following the acquisition of the wastewater system in 2011.

Environmental Coordinator

Ms. Sarah Page

- B.S. Public Affairs, Indiana University, 2004
- Certified Hazardous Materials Technician
- Sarah started her career with State of Indiana Military Department as an Environmental Manager II responsible for Muscatatuck Urban Training Center. Her responsibilities included environmental compliance for the facility that operated a surface water drinking plant and wastewater plant. Ms. Page joined Citizens Energy Group in 2009 with a focus on water regulatory and compliance requirements.

Environmental Field Technician

Mr. David Foster

- B.S. Environmental Science Management, Indiana University at Indianapolis, 1995
- Certified Hazardous Materials Technician
- Mr. Foster started his career with the City of Indianapolis Office of Environmental Services as an inspector in 1982. He responded to complaints, conducted compliance inspections, and initiated civil enforcement actions. Mr. Foster documented field activities through written complaint and inspection reports including any evidence needed as a part of the enforcement action.

United Water on behalf of CWA Authority, Inc.

Manager, Industrial Pretreatment Program

Position Minimum Qualifications

- Bachelor's Degree in chemistry, biology, or related field.
- Quality Assurance/Control –Sixth Sigma preferred.
- IDEM Municipal Wastewater Operator Class I license or the ability to obtain within 12 month of employment.
- IDEM Industrial Wastewater Operator Class A license, or the ability to obtain within 12 months of employment

Incumbent: Mr. Timothy Heider, United Water

- B.S. in Biology and Chemistry, Bowling Green State University
- CERTIFICATIONS & PROFESSIONAL AFFILIATIONS
 - CHMM Masters Level, Institute of Hazardous Materials
 - Class D Industrial License, Indiana Department of Environmental Management
 - Registered Professional Sanitarian, Indiana
- Mr. Heider has more than 30 years of experience in the wastewater treatment field, including pretreatment program development, drafting National Pollutant Discharge Elimination System (NPDES) and pretreatment permits, conducting industrial site inspections and coordinating civil and criminal environmental investigations. Mr. Heider developed the State of Indiana's Industrial Pretreatment Program for industrial sources in minor municipalities and participated in the development of the State's Pretreatment Program. He has also created permitting, sampling and inspection guidance documents for the State of Indiana's Pretreatment Program and for the City of Indianapolis Industrial Pretreatment Program.

IPP Specialist (x2)

Position Minimum Qualifications

- College degree in Environmental Engineering, Science or related field required.
- Knowledge of water pollution control technologies and their proper operation is required.

- Ability to obtain Industrial Pretreatment Certification within one year is required.
- Ability to perform mathematical calculations to the algebraic level.
- Valid Indiana driver's license and maintain acceptable driving record required.
- Strong written and verbal communications skills required.
- Extensive knowledge of 40 CFR 403 and related federal standards is preferred.
- Five years related work experience (or approved combination of education and experience) and comprehensive understanding of industrial process operations is required.
- Experience with automatic sampling, flow measuring equipment, detectors and pH meters is required.

Incumbent: Mr. Kim Cussen, United Water

- B.A. Biology, Manchester College (IN), 1976
- Mr. Cussen has over 25 years experience in the wastewater treatment industry, including experience as a treatment plant operator, laboratory chemist, and process control systems analyst. Produce new and renewal Industrial Discharge Permits. Mr. Cussen performs industrial compliance site inspections, reviews and manages industrial monitoring data, tracks treatment plant influent and residuals metals loading, and manages the Indianapolis Liquid Waste Hauler Program.

Incumbent: Ms. Nancy Williams, United Water

- Associate of Science in Public Affairs/Environmental Affairs, Indiana University, 2004
- B.S. Public Affairs/Management, Indiana University, 2008
- Ms. Williams has over 20 years experience with the Indianapolis wastewater treatment plant, including achieving her Municipal Operator Certification – Class IV; Industrial Operator Certification – Class D in 1999. Ms. Williams has served as an IPP Specialist since 2004.

IPP Attendant

Position Minimum Qualifications

- High School Diploma or equivalent
- Some college with course work in Environmental Engineering, Science or related field.
- A valid State of Indiana driver's license is required.
- Ability to obtain Industrial Pretreatment Certification.

Incumbent: Ms. Candace Wineinger

- Ms. Wineinger has worked with the Industrial Pretreatment Program since 1995, serving as the IPP Attendant for the wastewater hauler program. Prior to joining the program, Ms. Wineinger worked in plant maintenance at the wastewater treatment plant.

EPA Request: Please identify responsibilities and duties of each staff position (and any other assigned duties related to the WWTP) associated with the IPP Program.

Senior Vice President and General Counsel (Administrative, Legal):

- General Administration and Oversight:
 - o Policy Decisions
 - o Strategic Oversight
 - o Legal Assistance/Interpretation
 - o Public Outreach
 - o Enforcement Assistance

Associate General Counsel and Associate Counsel (Administrative, Legal):

- Legal Assistance
- Regulatory Interpretation
- Enforcement Program Implementation

Vice President, Water Operations (Administrative, Technical):

- Strategic Direction and Operation of the Wastewater Utility
- Permit Signature Authority for permits issued to industrial users
- Financial Responsibility for the Wastewater Utility

Director, Wastewater Operations (Administrative, Technical):

- Day to Day Operation of the Wastewater Utility
- Oversight of Contract Operator United Water
- Coordination with Environmental Stewardship on IPP Program Matters

Director, Environmental Stewardship (Administrative, Technical, Regulatory):

- Administration and Oversight of IPP Program (Administrative and Regulatory)
- Strategic Direction of IPP Program
- Coordination with Wastewater Operations on IPP Program Matters
- Policy Recommendations
- Public Outreach
- Technical Support
- Enforcement Support
- NPDES Permit Compliance Responsibility

Manager, Environmental Compliance Programs (Technical, Regulatory, Monitoring, Inspection):

- IPP Oversight (Technical and Regulatory Compliance)
- Public Outreach and Communication
- Regulatory Interpretations
- Enforcement Case Manager
- Oversight of Staff Implementing IPP Program
- IPP compliance Reporting and Recordkeeping
- NPDES Permit Compliance Reporting and Recordkeeping

Environmental Coordinator (Technical, Regulatory):

- Technical Support to IPP Programs
- NPDES permit compliance

Environmental Field Technician (Technical):

- Technical Support to IPP Program Staff
- Field Sampling and Support
- NPDES permit support

IPP Program Manager (Administrative, Technical, Regulatory, Monitoring, Inspection):

- Day to Day Oversight of the IPP and Septic Hauler Programs
- Administrative Management of Program Staff
- Permit Review and Approval for Signature by VP, Water Operations
- Public Outreach and Communication
- Highlighting and Coordinating Discussions of Policy Issues and Questions
- Regulatory Interpretations
- Coordinate Enforcement Response with CWA Authority
- Oversight of Contract Laboratory Services

IPP Specialists (Technical, Regulatory, Monitoring, Inspections):

- Review of Permit Applications from Industrial Users and Special Discharge Permits
- Draft Permits for Review by IPP Program Manager
- Conduct Inspections of Permitted Facilities to Determine Permit Compliance
- Review Compliance Monitoring Data and Permit Reports to Determine Permit Compliance
- Initiate Appropriate Enforcement Response Based on Review of Applicable Data and Inspections
- Public Outreach and Communication

IPP Field Attendant (Technical, Monitoring, Inspection):

- Implementation of the Septic Hauler Program
- Sampling of Incoming Waste
- Approval to Discharge into POTW Based on Results of Sampling
- Recordkeeping to Support Accurate Billing of Septic Haulers

Contract Laboratory -- Astbury Group / ESG (Monitoring, Laboratory):

- Field Sampling of Industrial Users Following Schedule Provided by IPP Program
- Laboratory Analysis of Samples Collected
- Timely Reporting of Data
- Resample of Industrial Users as Required by IPP Program
- Coordination and Communication with IPP Program Staff

EPA Request: Identify staff positions (i.e. technical assistance, monitoring, inspection, laboratory, administration, etc.) needed to fully meet pretreatment program regulations and responsibilities and provide a quantitative estimate of the level of work effort for each staff position (i.e. this can be in the form of labor hours/year, person years, % involvement of the staff in program activities, # of FTE, etc.).

EPA Request: Provide a comparison of the amount of work required to perform pretreatment program tasks to the proposed staffing levels.

	Frequency of Activity per POTW or IU		Number of Activities		Hours per Activity		Total Work Hours	Notes
Program Development & Support								
Administrative IPP Program Oversight Requirements	As Needed		4		8 to 40		96	Used 24 Hours as the Average
Program Operations								
Review IU Compliance Schedule Reports	As Needed		5		8 to 24		80	Used 16 Hours as the Average
Review IU Self-Monitoring Reports	Monthly		50		2 to 8		2400	Used 4 Hours as the Average
Sample/Inspect IUs	At Least Once per Year		80		8 to 40		1920	Used 24 Hours as the Average
Permit Actions (New, Renewal, Special Discharge Permits)	As Needed		50		8 to 40		1200	Used 24 Hours as the Average
Investigate IU non-compliance	As Needed		30		8 to 24		480	Used 16 Hours as the Average
Administrative Enforcement Actions	As Needed		15		24 to 80		780	Used 52 Hours as the Average
Complex Enforcement Actions that Require Adjudication	As Needed		3		80 to 168		372	Used 124 Hours as the Average
Comply with PN Requirements	Once per Year		1		24		24	
Sample POTW Influent, Effluent, and Sludge	Once per Year		1		40		40	Activity performed by WWTP Operations
Prepare Self-monitoring report for Approval Authority	Twice per Year		2		80		160	
Review Lab Analysis and Field Data of IPP Sampling of IUs	At Least Once per Year		50		8 to 16		800	
Septic Hauler Program Implementation	Daily (Mon - Fri)						1784	

Estimated Staffing Needs (Hours per Year) 10,136

FTE Needed to Implement Program 5.68 Calculated as Staffing Needs divided by FTE Hours Per Employee

Estimation of Available FTE Hours (Per Employee)	
Base Year	2080
(Personal Time Off)	-168
(Training)	-40
(Staff and Safety Meetings)	-24
(Conferences and Seminars)	-40
(Other Administrative Functions)	-24
Hours Available	1784

Available Resources to Implement IPP	
Citizens Senior Executive and Legal	0.30
Citizens Env. Stewardship Dept	1.85
WWTP Ops	0.25
United Water IPP Staff and Operations	4.00
Astbury / ESG (Contract Sampling)	0.50
FTE Staff Available for IPP Program Implementation	6.90

Appendix M: Resolutions and Ordinances of the Board of Directors of CWA Authority, Inc

Appendix M-1: Resolution and Ordinance CWA 1-2011 (Rulemaking Process)

Appendix M-2: Resolution and Ordinance CWA 2-2011 (IPP)

Appendix M-3: Resolution and Ordinance CWA 3-2011 (Enforcement & Appeals)

Appendix M-1: Resolution and Ordinance CWA 1-2011 (Rulemaking Process)

BOARD OF DIRECTORS FOR CWA AUTHORITY, INC.

RESOLUTION NO. CWA 01-2011

**RESOLUTION ESTABLISHING PROCEDURES FOR PROMULGATION OF
REGULATIONS**

WHEREAS, the Department of Public Utilities of the City of Indianapolis ("City"), acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities) is vested by Indiana Code 8-1-11.1 with the power to own and operate utility properties of any kind within the City or outside the City within the limits authorized by law, and to own all utility property related or belonging thereto;

WHEREAS, pursuant to Special Ordinance No. 4-2010 and Special Ordinance No. 7-2010 (collectively, the "Ordinances"), the City and Citizens Energy Group ("Citizens") have entered into an Asset Purchase Agreement pursuant to which the transfer and delegation to, and vesting in and exercising by Citizens, of all of the powers, duties, functions and obligations of the Sanitary District ("District"), the Department of Public Works and the Board of Public Works with respect to the wastewater system will be transferred to Citizens;

WHEREAS, CWA Authority, Inc. (the "Authority"), is an Indiana nonprofit corporation established pursuant to an "Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater)" (the "Interlocal Agreement") entered into among the Department of Public Utilities for the City of Indianapolis d/b/a Citizens Energy Group ("Citizens"), acting by and through the Board of Directors for Utilities, and the City of Indianapolis (the "City") and the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District");

WHEREAS, pursuant to the Interlocal Agreement Authority possesses all the powers that are necessary, useful or appropriate to acquiring, owning and operating the wastewater system and/or having jurisdiction over disposal of sewage, including industrial wastes or other wastes; and

WHEREAS, such powers include the power to enact resolutions that have the force and effect of law and to enforce such and resolutions; now; therefore:

BE IT RESOLVED AND ORDAINED BY THE BOARD OF DIRECTORS OF CWA AUTHORITY, INC., AS FOLLOWS:

Promulgation of Administrative Regulations.

Sec. 101. Definitions.

As used in this resolution, the following terms shall have the meanings ascribed to them in this section.

- (a) "Board" means the Board of Directors for CWA Authority, Inc.
- (b) "Authority" means CWA Authority, Inc.

- (c) "Regulation" means the whole or any part of a statement by the Authority of general applicability that:
- (1) has or is intended to have the effect of law; and
 - (2) implements, interprets or prescribes laws or policy of the Authority.

Sec. 102. Application.

The Board may adopt regulations only by complying with the procedures of this resolution unless a statute specifically provides otherwise.

Sec. 103. Notice of promulgation of regulations.

Before the Board adopts any regulation notice shall be published in a newspaper of general circulation in Marion County and contiguous counties one (1) time, at least ten (10) days prior to the date set for the hearing. The notice shall include a statement: (i) of the time and place of the hearing; (ii) a general description of the subject matter of the proposed regulation; (iii) reference to the fact that a copy of the proposed regulation is on file in the office of the Authority where it may be examined; and (iv) name the date by which the board must receive any written comments to the proposed regulation. No regulation shall be invalid solely because the reference to the subject matter thereof in such notice is inadequate or insufficient.

Sec. 104. Filing of proposal.

At least five (5) copies of a proposed regulation shall be on file in the office of the Authority from the date of publication of the notice required by section 103 continuously to the time of the hearing. Any interested persons shall be given an adequate opportunity to inspect and obtain a copy of the proposed regulation in accordance with IC 5-14-3.

Sec. 105. Submission of written comments.

Any person desiring to submit written comments to a proposed regulation shall file such comments with the Authority no later than three (3) days prior to the date set for the hearing.

Sec. 106. Hearing.

On the date set for a hearing on a proposed regulation, any interested party shall be afforded an adequate opportunity to participate in the formulation of the proposed regulation through the presentation of facts or arguments or the submission of written data or facts. All relevant matters presented shall be given full consideration by the Board. All hearings conducted by the Board shall be open to the public.

Sec. 107. Adoption or continuance.

At the conclusion of a public hearing held pursuant to this section, the Board may adopt such regulations or may provide for the continuation of the hearing as the board may deem appropriate, which further hearings may be held without the requirement of publication notice if

the date and time of next consideration is announced concurrently with the decision to continue the hearing.

Sec. 108. Written transcript of hearing;

The Authority shall provide a written transcript of the audio tape recording of the hearing upon request. Persons requesting a written transcript shall pay the reasonable cost of preparing the written transcript.

Sec. 109. Publication.

After adoption of such regulations, the Board shall publish notice two (2) times, at least seven days apart, after regulations are adopted, that the Board has adopted certain regulations, giving the general title thereof and stating that copies are available for inspection and copying in the office of the Authority.

Sec. 110. Effective date.

Regulations are effective and enforceable thirty (30) days after the date of first publication as provided in Section 109.

Sec. 111. Alteration of existing rules or regulations.

The Board shall comply with the procedures required for initial promulgation of regulations whenever the Board desires to repeal, rescind or amend any regulation.

Sec. 112. Enforcement of regulations.

A violation of any regulation promulgated in accordance with this resolution may be subject to enforcement by the Authority in accordance with the applicable resolution of the Board.

Sec. 113. Collection of rules and regulations; collection of resolutions.

The Board shall be responsible for maintaining and making available to the public the collection of all:

- (1) regulations promulgated by the Board; and
- (2) resolutions adopted by the Board.

Sec. 114. Temporary regulations.

The Board may in case of emergencies or temporary circumstances adopt a regulation which by its terms will expire not more than thirty (30) days after its adoption provided notice of the adoption of the same is promptly published in accordance with Sec. 109.

Sec. 115. Effective date.

This resolution shall be effective upon passage by the Board and thirty (30) days after publication of this resolution in accordance with IC 5-3-1.

Adopted this 9th day of February, 2011, by a vote of
6 ayes and 0 nays.

BOARD OF DIRECTORS
CWA AUTHORITY, INC.

/Original Signed/

President

Attest:

Secretary

Appendix M-2: Resolution and Ordinance CWA 2-2011 (IPP)

BOARD OF DIRECTORS FOR CWA AUTHORITY, INC.

RESOLUTION NO. CWA 2-2011

A RESOLUTION ESTABLISHING UNIFORM REQUIREMENTS FOR DISCHARGES INTO, THE CONSTRUCTION OF, AND ADDITIONS TO WASTEWATER COLLECTION AND TREATMENT SYSTEM OWNED AND OPERATED BY CWA AUTHORITY, INC.

WHEREAS, the Department of Public Utilities for the City of Indianapolis ("City"), acting by and through the Board of Directors for Utilities is vested by Indiana Code 8-1-11.1 with the power to own and operate utility properties of any kind within the City or outside the City within the limits authorized by law, and to own all utility property related or belonging thereto;

WHEREAS, pursuant to Special Ordinance No. 4-2010 and Special Ordinance No. 7-2010 (collectively, the "Ordinances"), the City and Citizens have entered into an Asset Purchase Agreement pursuant to which the transfer and delegation to, and vesting in and exercising by Citizens, of all of the powers, duties, functions and obligations of the District, the Department of Public Works and the Board of Public Works with respect to the wastewater system will be transferred to Citizens;

WHEREAS, CWA Authority, Inc. (the "CWA Authority"), is an Indiana nonprofit corporation established pursuant to an "Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater)" (the "Interlocal Agreement") entered into among the Department of Public Utilities of the City of Indianapolis d/b/a Citizens Energy Group (Citizens"), acting by and through the Board of Directors for Utilities for the City of Indianapolis (the "City") and the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District"); and

WHEREAS, pursuant to the Interlocal Agreement, the Authority possesses all the powers that are necessary, useful or appropriate to acquiring, owning and operating the wastewater system and/or having jurisdiction over disposal of sewage, including industrial wastes or other wastes; now; therefore:

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF CWA AUTHORITY, INC., as follows:

CHAPTER 1. Purpose and policy; definitions; general requirements.

Sec. 1.1. Purpose and policy.

(a) This resolution sets forth uniform requirements for discharges into, the construction of, and additions to the wastewater collection and treatment system owned and operated by the department of public utilities of the city of Indianapolis or CWA Authority, Inc.. These requirements enable the board of directors for CWA Authority, Inc. to protect public health, ensure a sound sewer infrastructure system in the future, and comply with all applicable local, state and federal laws relating thereto.

(b) The objectives of this resolution are:

- (1) To prevent the introduction of pollutants into the wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;
- (2) To prevent the introduction of pollutants into the wastewater system which do not receive adequate treatment in the POTW and which will pass through the system into receiving waters or the atmosphere;

(3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system; and

(4) To prevent the introduction of infiltration and inflow into the wastewater collection system which will occupy capacity reserved for community growth;

(c) This resolution provides for the regulation of discharges into the wastewater system through the issuance of industrial discharge permits, the execution of special agreements, and the enforcement of administrative regulations.

(d) In furtherance of these objectives, this resolution details the general regulation of discharges to public sewers and the issuance of discharge permits for industrial users of the wastewater system.

Sec. 1.2. Definitions.

As used in this resolution, the following terms shall have the meanings ascribed to them in this section unless the context specifically indicates otherwise.

ASTM means the American Society for Testing and Materials.

Act means the Federal Water Pollution Control Act, as amended as of January 1, 1995, 33 USC 1251 et seq., also known as the Clean Water Act or CWA.

Administrator means the Regional Administrator of Region V, U.S. Environmental Protection Agency or Commissioner of the Indiana Department of Environmental Management or its successor, provided such state agency has a pretreatment program approved by the EPA.

Applicable pretreatment standard means, for any specified pollutant, the board's prohibitive discharge standards, the board's specific limitations on discharges, the State of Indiana pretreatment standards, or the federal general or categorical pretreatment standards (when effective), whichever standard is most stringent.

Approval authority means the administrator.

Authorized representative of industrial user means:

(1) A responsible corporate officer if the industrial user is a corporation. A responsible corporate officer means:

a. A president, vice-president, treasurer or secretary of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

b. A manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to such manager in accordance with corporate procedures.

(2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively.

- (3) For a municipality, state, federal or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- (4) An individual duly authorized by the person designated in subsection (1), (2) or (3) above, provided:
 - a. The authorization is made in writing by the individual described in subsection (1), (2) or (3) above;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, plant engineer, superintendent, or a position of equivalent responsibility or having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the CWA Authority.

Best management practices or BMP means any or all of the following:

- (1) Schedules of activities;
- (2) Prohibitions of practices;
- (3) Maintenance procedures and other management practices to implement the prohibitions listed in 30 CFR 403.5(a)(1) and 40 CFR 403.5 (b);
- (4) Treatment requirements;
- (5) Operating procedures; and/or
- (6) Practices to control any of the following:
 - a. Plant site runoff;
 - b. Spillages or leaks;
 - c. Sludge or waste disposal; and/or
 - d. Drainage for raw materials storage.

Board means the board of directors of CWA Authority.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

Categorical pretreatment standard means any regulation containing pollutant discharge limits or alternative best management practices promulgated by the EPA in accordance with section

307(b) and (c) of the Act that apply to a specific category of industrial user.

City sewer means a sewer owned and operated by CWA Authority.

Combined sewer means a sewer that has been designed or intended to receive both surface runoff and sewage.

Commercial wastewater means the liquid or liquid-borne wastes from commercial establishments including, but not limited to, restaurants, dry cleaners, service stations or auto repair facilities and retail establishments or public or private nonresidential buildings; and shall include any grease, oil, solvents, sludge or other material removed from any sewage disposal system or wastewater treatment plant.

Composite sample means a sample representative of a user's discharge within a given twenty-four (24) hour period of operation. Samples may be done either manually or automatically, and continuously or discretely, with not less than four (4) samples to be composited or a sufficient number of individual aliquots to comprise a representative sample as determined by the director.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

CWA Authority means CWA Authority, Inc., an Indiana nonprofit corporation established pursuant to an interlocal cooperation agreement, dated as of August 9, 2010, by and among the City of Indianapolis, the Sanitary District of the City of Indianapolis, acting by and through the board of public works, and the Department of Public Utilities of the City of Indianapolis, acting by and through the board of directors for utilities.

Daily maximum means the analytical value representative of either a composite or grab sample collected from a user's discharge.

Department means the CWA Authority.

Direct discharge means the discharge of treated or untreated wastewater directly to the surface waters of the state.

Director means the vice-president of water operations for Citizens Energy Group.

Discharge report means any report required of an industrial user by section B.2. of the industrial discharge permit.

Domestic wastewater means wastewater of the type commonly introduced into a POTW by residential users, including the liquid-borne wastes resulting from normal residential water-consuming activities including, but not limited to, disposal.

EDU's means equivalent dwelling unit, and shall be determined in accordance with industry standards and shall reflect the greater of the actual daily flow requirements (per 327 IAC 3), the area ratio of the water meter size serving a particular user, or such means of determination deemed appropriate by the director. One (1) EDU shall be estimated as equal to equal three hundred ten (310) gallons per day.

EPA means the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Existing Source means any source that is not a new source.

General pretreatment regulations means "General Pretreatment Regulations for Existing and New Sources of Pollution," 40 CFR Part 403.

Grab sample means a sample that is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

IDEM means the Indiana Department of Environmental Management.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC § 1317) into the POTW (including holding tank waste discharged into the system).

Industrial surveillance section means the industrial surveillance section of CWA Authority [.

Industrial user means any user of the POTW who discharges, causes or permits the discharge of nondomestic wastewater into the POTW.

Industrial wastewater means a combination of liquid and water-carried waste discharged from any industrial user's establishment and resulting from any trade or process carried on in that establishment, including the wastewater from pretreatment facilities and polluted cooling water. The term includes the liquid or liquid-borne waste from industrial manufacturing process, trades or businesses.

Infiltration means the groundwater entering the public sewer system from the ground through such means as, but not limited to, defective or poorly constructed pipes, pipe joints, connections and manholes or from drainage pipes constructed to remove groundwater from areas such as building foundations and farm fields.

Inflow means the stormwater and surface water entering directly into city sewers from such sources as, but not limited to, manhole covers, roof drains, basement drains, land drains, foundation drains, cooling/heating water discharges, catch basins or stormwater inlets.

Instantaneous limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composted sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means any discharge that, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Land application means the process of disposing of wastewater by burial or incorporation into the soil.

Lift station means any arrangement of pumps, valves and controls that lifts wastewater to a

higher elevation.

Monthly average limitation means the highest allowable average of "daily discharges" over a calendar month calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

NH₃-N (denoting ammonia nitrogen) means all of the nitrogen in water, sewage or other liquid waste present in the form of ammonia, ammonia ion or in the equilibrium $\text{NH}_4^+ \rightleftharpoons \text{NH}_3 + \text{H}^+$.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
- (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (3) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a new source has commenced if the owner or operator has:

- (1) Begun or caused to begin as part of a continuous on-site construction program:
 - a. Any placement, assembly or installation of facilities or equipment; or
 - b. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities that is necessary for the placement, assembly or installation of new source facilities or equipment; or
- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Nonindustrial user means all users of the POTW not included in the definition of "industrial user."

Pass-through means a discharge that exits the POTW into waters of the state in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in

the magnitude or duration of a violation.)

Person means any individual, partnership, trust, firm, company, association, society, corporation, group, governmental agency including, but not limited to, the United States of America, the State of Indiana and all political subdivisions, authorities, districts, departments, agencies, bureaus and instrumentalities thereof, or any other legal entity or any combination of such.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant means, but is not limited to, any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical materials, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

Pollution means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

POTW means all publicly owned facilities for collecting, pumping, treating and disposing of wastewater, including sewers, lift stations, manhole stations and the wastewater treatment plants.

POTW Treatment Plant means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except as prohibited by 40 CFR section 403.6(d).

Pretreatment standard or regulation means any substantive or procedural requirement related to pretreatment contained in this resolution.

Process wastewater means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (one and twenty-seven one-hundredths (1.27) centimeters) in any dimension.

Public entity means the state of Indiana, any city, town, county, political subdivision (as defined by IC 36-1-2-13), and any department, commission, board, bureau or agency thereof.

Public sewer means any combined or sanitary sewer or lift station located within the public right-of-way or a dedicated easement and that is controlled by a public entity.

Radioactive material means any material (solid, liquid or gas) that spontaneously emits ionizing radiation and that is regulated by the Nuclear Regulatory Commission (NRC) or the Indiana State Board of Health. This may include naturally occurring radioactive material, by-product material, accelerator produced material, source material or special nuclear material.

Sanitary district means that area incorporated into the sanitary district established pursuant to IC 36-9-25.

Sanitary sewer means a sewer that carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sewage disposal system means and includes septic tanks, wastewater holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units and other equipment, facilities or other devices used to store, treat, render inoffensive or dispose of human excrement or liquid-borne wastewater.

Sewage normally discharged by a residence means the liquid waste contributed by a residential living unit and shall not exceed a volume of ten thousand five hundred (10,500) gallons per month, thirty (30) pounds of BOD per month, and thirty-five (35) pounds of suspended solids per month.

Sewer means a pipe or conduit for carrying sewage.

Sewer work means the connecting of any building sewer to a city sewer, the making of a significant alteration to or significant repair of a building sewer, the connecting of a building sewer to a building drain or the altering or repairing of a city sewer.

Shall is mandatory; *may* is permissive.

Significant industrial user (SIU) means any industrial user that is:

- (1) A facility regulated by a national categorical pretreatment standard and generates a process discharge;
- (2) A noncategorical facility with a process wastewater discharge equal to or greater than an average of twenty-five thousand (25,000) gallons per day;
- (3) Any industrial user with a reasonable potential to adversely affect the POTW, its treatment processes or operations, or its sludge use or disposal, or to violate any pretreatment standard or requirement;
- (4) Any other industrial user deemed to be significant by the director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or
- (5) Any other industrial user that contributes process wastewater that makes up five (5) percent or more of the dry weather average hydraulic or organic capacity of the POTW treatment plant.

Upon a finding that an industrial user meeting the criteria of paragraphs (2), (3), (4) and (5) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the director may at any time, on the director's own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR § 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Slug means any discharge of a non-routine, episodic nature, including but not limited to an accidental discharge or a non-customary batch discharge, which has reasonable potential to cause interference or pass through, or in any other way violate any requirement of this resolution or the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Storm drain or storm sewer means a sewer that carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended solids (SS) means solids that either float on the surface of or are in suspension in water, sewage or other liquids and that are removable by laboratory filtering.

Tank means any container when placed on a vehicle to transport wastewater.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of CWA §§ 307(a) or 405(d) or other acts.

Upset means an exceptional incident in an industrial user's facility, in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

User means any person who contributes, causes or permits the contribution of wastewater into the POTW.

Vehicle means a device used to transport a tank.

Wastewater means a combination of the liquid and water-carried pollutants from residences, commercial businesses, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Wastewater hauler means any person who engages in the activity, service, business or leasing of vehicles for the purpose of transporting domestic wastewater to another location for disposal.

Wastewater treatment plant means any arrangement of devices and structures used for treating wastewater.

Wastewater works means all facilities for collecting, pumping, treating and disposing of wastewater.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Abbreviations. The following abbreviations shall have the designated meanings:

BOD or BOD5:	Biochemical oxygen demand
CFR:	Code of Federal Regulations (July 1, 1994 edition)
COD:	Chemical oxygen demand
CWA:	Clean Water Act
IC:	Indiana Code
IAC:	Indiana Administrative Code (as amended as of December 1, 1994)
IDEM:	Indiana Department of Environmental Management
ISBH:	Indiana State Board of Health
l:	Liter
mg:	Milligrams
mg/l:	Milligrams per liter
NPDES:	National Pollutant Discharge Elimination System
SIC:	Standard industrial classification
SS:	Suspended solids
SWDA:	Solid Waste Disposal Act, 42 USC § 6901 et seq.
TSS:	Total suspended solids
40 CFR 136:	"Guidelines Establishing Test Procedures for the Analyses of Pollutants"

Sec. 1.3. Required connection to wastewater system.

Except where a valid NPDES permit exists, the owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the jurisdiction of the CWA Authority and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a city sewer, is hereby required at the owner's expense to connect such facilities directly with the proper city sewer in accordance with the provisions of this resolution within ninety (90) days after the day of official notice to do so, provided that such city sewer is within one hundred (100) feet (30.5 meters) of the property line, notwithstanding whether or not the facilities are served by any private sewage disposal system and within conditions as hereinafter provided.

Sec. 1.4. Regulation of discharges to public sewers.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage into any sanitary sewer.

(b) Stormwater and all other unpolluted drainage may be discharged through existing structures to such sewers as are specifically designated as combined sewers or storm sewers. No additional flow shall be introduced. Industrial cooling waters or unpolluted process waters may be discharged, on approval of application as provided in section 2.8 of this resolution

(c) No person shall discharge or cause to be discharged to any city sewer wastewater or pollutants which cause, threaten to cause or are capable of causing, either alone or by interaction with other substances:

- (1) Fire or explosion hazard;

- (2) Corrosive structural damage to the POTW but in no case water with a pH lower than 5.0 or higher than 12.0;
 - (3) Obstruction to the flow in city sewers or other interference with the proper operation of the POTW;
 - (4) An interference;
 - (5) A pass-through.
- (d) No person shall discharge or cause to be discharged to any city sewer:
- (1) A slug or a flow rate and/or pollutant discharge rate which is excessive over a relatively short time period so that there is a treatment process upset and subsequent loss of treatment efficiency;
 - (2) Heat in amounts which will inhibit biological activity at the wastewater treatment plant but in no case greater than sixty (60) degrees centigrade (one hundred forty (140) degrees Fahrenheit) or heat in such quantities that the temperature at the wastewater treatment plant exceeds forty (40) degrees centigrade (one hundred four (104) degrees Fahrenheit);
 - (3) Any wastewater containing toxic pollutants or any discharge which could result in toxic gases, fumes or vapors in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed applicable categorical pretreatment standards;
 - (4) Any wastewater with a closed cup flash point of less than one hundred forty (140) degrees Fahrenheit or any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious or hazardous in any other way to the POTW or to the operation of the wastewater treatment plant. At no time shall a discharge cause a reading on a meter capable of reading L.E.L. (lower explosive limit) to be greater than ten (10) percent at the point of discharge to the POTW or at any point in the POTW;
 - (5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;
 - (6) Solid or viscous substances and/or other pollutants which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to, grease, improperly shredded garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones;
 - (7) Any substance which may cause the POTW's effluent or any other product of the wastewater works such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with

sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act;

- (8) Any substance which will cause the POTW to violate its NPDES permit or the receiving stream's water quality standards;
 - (9) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes, inks and vegetable tanning solutions;
 - (10) Any wastewater containing radioactive material above limits contained in regulations, licenses or orders issued by the appropriate authority having control over their use. The disposal of any licensed radioactive material must meet applicable local, state or federal requirements;
 - (11) Any wastewater containing a total petroleum hydrocarbons concentration as determined by a procedure deemed appropriate by the director in excess of two hundred (200) mg/l. This limitation shall apply at the point of discharge to the city sewer system and is the maximum concentration allowed in any single grab sample collected from the waste stream;
 - (12) Any gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, carbides, hydrides, stoddard solvents, sulfides, epoxides, esters, amines, polynuclear aromatic hydrocarbons, pyridines, new and used motor oil, or antifreeze, except at concentrations which do not exceed levels of such substances which are routinely present in the normal wastewater discharge and do not otherwise violate any section of this resolution or the conditions of an industrial discharge permit or a special agreement; and
 - (13) Polychlorinated biphenyls (PCBs) in any detectable concentrations.
 - (14) Any pollutant, including oxygen demanding pollutants, released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
 - (15) Any trucked or hauled pollutants, except at discharge points designated by the POTW.
- (e) No person shall discharge or cause to be discharged a wastewater which has a value in excess of the values shown on table 1.

TABLE 1
NONCATEGORICAL DISCHARGE LIMITS

Pollutant	Daily Maximum Allowable Concentration Value (mg/l)
Arsenic	4.0
Cadmium	1.2
Chromium (total)	24.0
Chromium (hex)	3.4
Copper	2.2
Cyanide (amenable)	0.4
Lead	4.7
Nickel	7.3
Phenol	46.0
Pentachlorophenol	0.012
Zinc	38.0
Mercury	0.025
Silver	4.2

(f) The limitations set forth in table 1 above apply at the point of discharge to the city sewer system. The limitations for amenable cyanide, total cyanide and phenols apply to twenty-four-hour composite samples only in those cases where the composite sample is preserved according to EPA approved methods prior to collection. Otherwise, the values set forth for amenable cyanide, total cyanide and phenols or, with the approval of the director, any other listed pollutants shall apply to an instantaneous grab sample taken during prevailing discharge conditions and representative of the facility's discharge in general. The limitations and requirements imposed in subsections (c) and (d) of this section shall apply at the point of discharge to the city sewer unless specified otherwise.

(g) A grease interceptor shall be installed in the waste line leading from sinks, drains and other fixtures or equipment in restaurants, cafes, lunch counters, cafeterias, bars and clubs; hotel, hospital, sanitarium, factory or school kitchens; or other establishments where grease may be introduced into the drainage or sewage system in quantities that can affect line stoppage or hinder sewage treatment. The characteristics, size and method of installation of the grease interceptor shall meet the requirements imposed by the Indiana department of fire prevention and building services and shall be reviewed and approved by the director prior to the commencement of installation. Approval of proposed facilities or equipment does not relieve the person of the responsibility of enlarging or otherwise modifying such facilities to accomplish the intended purpose. On a showing of good cause, the director may waive this requirement. A grease interceptor is not required for individual dwelling units or for any private living quarters.

(h) No user shall introduce new constituents or change substantially the character or volume of pollutants discharged to the POTW without prior written notification to and approval by the director. Such prior notification shall include hazardous wastes for which an industrial user has submitted notification to the director pursuant to section 3.15.

Sec. 1.5. Removal Credits.

When the CWA Authority demonstrates consistent removal of pollutants limited by federal

categorical pretreatment standards, as required by 40 CFR 403.7, CWA Authority may apply to the administrator of EPA, or the state if it has an approved pretreatment program, for authorization to give a removal credit to industrial users to reflect removal of toxic or other regulated pollutants by the wastewater treatment system.

Sec. 1.6. State and federal requirements.

Federal categorical pretreatment standards or state requirements and limitations on discharges shall apply in any case where they are more stringent than those in this resolution. To the extent the federal regulations contain stricter standards, the categorical pretreatment standards found in 40 CFR Chapter I, Subchapter N, Parts 405--471, are hereby incorporated by reference into this resolution. To the extent the state regulations contain stricter standards, the pretreatment standards found in 327 IAC 5-12-6 are hereby incorporated by reference into this resolution.

Sec. 1.7. Right of revision.

CWA Authority reserves the right to establish by resolution more stringent limitations or requirements on discharges to the wastewater system than those in this resolution that may be deemed necessary to comply with the objectives presented in section 1 of this resolution or to comply with federal or state laws, regulations, or permits issued by such authorities.

Sec. 1.8. Excessive discharge.

No industrial user shall ever increase the use of process water or other flows to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards or in any other pollutant-specific limitation developed by the board or the state.

Sec. 1.9. Accidental discharge.

(a) Each industrial user shall provide protection from accidental discharge of substances regulated by this resolution. Facilities to prevent accidental discharge shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be available to the CWA Authority for review. All existing industrial users shall complete such a plan within six (6) months after the effective date of this resolution. No industrial user who commences contribution to the POTW after the effective date of this resolution shall be permitted to introduce pollutants into the system until accidental discharge procedures are available. Such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of this resolution.

(b) In the case of an accidental discharge, it is the responsibility of the industrial user to immediately telephone and notify the CWA Authority of the incident. The notification shall include:

- (1) Name of company;
- (2) Location of discharge;
- (3) Type of waste discharged;
- (4) Concentration and volume of waste discharged; and

(5) Corrective actions taken to minimize the impact of the discharge to the POTW.

(c) The industrial user shall notify the CWA Authority if it is unable to comply with any requirement of this resolution because of a breakdown of its treatment equipment, accidents caused by human error, or upsets. The notification should include the information required in subsection (b) above.

(d) Within five (5) working days, unless extended by the CWA Authority in writing, the industrial user shall submit to the CWA Authority a detailed written report describing the accidental discharge, including:

- (1) The cause of the accidental discharge;
- (2) The period of the accidental discharge, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
- (3) Steps being taken and/or planned to reduce, eliminate or prevent recurrence of the accidental discharge.

(e) Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the wastewater works or aquatic life, fish kills, or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this resolution or other applicable law.

(f) An affirmative defense of upset may be available to an industrial user in an enforcement proceeding. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof. An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

- (1) An upset occurred and the industrial user can identify the specific cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
- (3) The industrial user has submitted to the CWA Authority the information required in subsections (c) and (d) above;
- (4) The industrial user complied with any reasonable remedial measures to minimize or prevent any discharge or sludge use or disposal in violation of this resolution which has a reasonable likelihood of adversely affecting human health or the environment.

Any upset defense is only available for violations of categorical pretreatment standards or technology-based permit effluent limitations.

(g) A notice shall be permanently posted on the user's bulletin board or other prominent place advising affected employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

Sec. 1.10. Plan to control slug discharges.

(a) The CWA Authority shall evaluate and document whether each significant user needs a plan or other action to control slug discharges. For industrial users identified as significant prior

to November 14, 2005, this evaluation shall have been conducted at least once by October 14, 2006. Additional significant industrial users shall be evaluated within one (1) year of being designated as an industrial user.

(b) Significant industrial users shall notify the CWA Authority immediately of any changes at a facility affecting potential for a slug discharge.

(c) Slug control plans shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the CWA Authority of slug discharges, including any discharge that would violate a prohibition under section 4 of this resolution with procedures for follow-up written notification within five (5) days; and
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.

Sec. 1.11. Liability for damage.

If any person discharges or causes to be discharged a waste which causes interference, pass-through, obstruction, damage or any other impairment to the POTW, the CWA Authority may assess a charge against such person for:

- (1) The work required to clean or repair the POTW;
- (2) Any civil penalty, fine or cost of compliance with injunctions or other orders of a court or governmental authority imposed against the CWA Authority as a result of such interference, obstruction, damage or impairment; and
- (3) All other costs incurred by the CWA Authority as a result of such interference, pass through, obstruction, damage or impairment including but not limited to expert, consultant and attorneys' fees;

and add such charges to such person's regular charge.

A person shall have an affirmative defense to any charge assessed against it under this section where the person can demonstrate that it did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference, and:

- (1) A local limit designed to prevent pass through or interference, as the case may be, has been developed for each pollutant in the person's discharge that caused pass through or interference, and the person was in compliance with such local limit directly prior to and during the pass through or interference; or

- (2) If a local limit designed to prevent pass through or interference, as the case may be, has not been developed for the pollutant(s) that caused the pass through or interference, the person's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the person's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

Sec. 1.12. Special agreements.

Special agreements and arrangements between the CWA Authority and any person may be established when the director determines that, unusual or extraordinary circumstances compel special terms and conditions. The director shall consider the total cost of application of technology in relation to the pollutant reduction benefits to be achieved from such application, the quality of pollutants that will be included in the discharge, the impact of those pollutants on the POTW and the receiving stream, and such other factors as the director determines to be appropriate. A violation of a term of a special agreement shall be considered a violation of this resolution. There cannot be special agreements and arrangements where federal categorical pretreatment standards and requirements apply.

Sec. 1.13. Monitoring devices; metering equipment.

(a) Installation and maintenance at industrial user's expense. The director may require, as is necessary to carry out the requirements of this resolution, any industrial user to construct at the industrial user's expense monitoring facilities to allow inspection, sampling and flow measurement of the building drain or sewer and may also require sampling or metering equipment to be provided, installed and operated at the industrial user's expense. The monitoring facility should normally be situated on the industrial user's premises, but the director may, when such a location would be impractical or cause undue hardship, upon approval allow the facility to be constructed in the public right-of-way; provided, however, the department of public works of the city of Indianapolis shall determine the locations on the public right-of-way on or below which the monitoring device and facility shall be placed.

(b) Temporary right-of-way use permit. The owner of the property abutting the public right-of-way to be used for the installation of the monitoring device shall submit to the appropriate city agency a temporary right-of-way use request and site plan prior to proceeding with the installation of the monitoring device.

(c) Industrial users. Industrial users subject to categorical pretreatment standards shall have the option to designate a sampling location at a point containing only regulated process wastewaters or at a point containing the combined waste stream to demonstrate compliance with the applicable standard. The industrial user shall prove to the satisfaction of the CWA Authority that the selected self-monitoring location contains all regulated waste streams. This option does not relieve the industrial user of the requirements specified in subsection (a) of this section.

(d) An industrial user shall obtain written approval of the CWA Authority prior to changing the point of self-monitoring activities.

Sec. 1.14. Right to inspect.

Whenever required to carry out the objectives of this resolution, the director or his/her authorized representative shall have a right of entry to, upon or through any premises for purposes of reviewing and copying relevant records or inspecting, measuring and sampling of the discharges. If requested, the director or his/her authorized representative shall present

appropriate credentials. This right of entry shall include, but not be limited to, any equipment necessary to conduct such inspections, measuring and sampling. It shall be the duty of the person to provide all necessary clearance before entry and not to unnecessarily delay or hinder the authorized representative in carrying out the review of relevant records, inspection, measuring and sampling. The right of entry shall exist at any time.

Sec. 1.15. Rules and regulations.

After the adoption of this resolution, and from time to time thereafter as may be needed, the board may by resolution promulgate rules and regulations necessary to implement and carry out the provisions of this resolution and not inconsistent therewith.

Sec. 1.16. Penalties.

(a) Notwithstanding any other section, any person who violates any provision or discharge limit of this resolution may be fined an amount not to exceed:

- (1) two thousand five hundred dollars (\$2,500.00) for the first occurrence; and
- (2) seven thousand five hundred dollars (\$7,500) for a second or subsequent violation.

A violation of any condition or requirement of any permit issued under this resolution or special agreement entered into under the authority of this resolution shall constitute a violation of this resolution. Each day's violation shall constitute a separate offense.

(b) Nothing in this resolution shall restrict any right which may be provided by statute or common law to the board or CWA Authority to bring other actions, at law or equity, including injunctive relief. Violations of this resolution may be resolved through administrative adjudication as provided in a resolution adopted by the board.

Sec. 1.17. Recordkeeping requirement.

(a) Any industrial user subject to the reporting requirements established in this resolution shall maintain records of all information resulting from any monitoring activities required by this resolution, including documentation required by best management practices. Such records shall include for all samples:

- (1) The date, exact place, method and time of sampling and the name(s) of the person or persons taking the samples;
- (2) The dates analyses were performed;
- (3) The name, title and address of the person or persons who performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

(b) Any industrial user subject to the reporting requirements established in this resolution shall be required to retain for a minimum of three (3) years any records of monitoring activities and results and shall make such records available for inspection and copying by the CWA Authority, the EPA and the IDEM. The CWA Authority may extend the recordkeeping retention requirement beyond three (3) years during periods of litigation, in anticipation of litigation, or as requested by the approval authority. Records maintained pursuant to this section are deemed to

be public records subject to the provisions of IC 5-14-3-1 et seq.

Sec. 1.18. Baseline report.

(a) Within one hundred eighty (180) days after the effective date of a federal categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made on a category, whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW will be required to submit to the department a report containing the information in subsections (1) through (6) as required by 40 CFR 403.12(b). At least ninety (90) days prior to the commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard will be required to submit to the department a report which contains the information listed in subsections (1) through (5) of this section. New sources also will be required to include in this report information on the method of pretreatment the source intends to use to meet the applicable pretreatment standards. New sources shall give estimates of the information requested in subsection (6).

(1) *Identifying information.* The user shall submit the name and address of the facility, including the name of the operator and owners.

(2) *Permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* User shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the wastewater works from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

a. Regulated process streams; and

b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).

(b) The director may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(1) *Measurement of pollutants.* The pretreatment standards applicable to each regulated process and concentration and nature (or mass) shall be measured according to 40 CFR 403.12(b)(5).

(2) *Report of compliance.* The report shall state whether the applicable pretreatment standards or regulations are being met on a consistent basis. If not, then the report shall state what operation and maintenance or pretreatment is necessary to bring the user into compliance and the shortest schedule by which the user will provide such additional operation and maintenance or pretreatment, provided that the completion date shall not be later than the compliance date established for the applicable categorical pretreatment standard. This statement shall be signed by an authorized representative of the industrial user and certified by a professional engineer licensed in the State of Indiana. If the industrial user's categorical pretreatment standard has been modified by a removal allowance pursuant to 40 CFR 403.7, the combined wastestream formula pursuant to 40 CFR 403.6(e) or a fundamentally different

factors variance pursuant to 40 CFR 403.13, the industrial user shall report to the department within the time frames specified in 40 CFR 403.12(b).

CHAPTER 2. Permits; registration

Sec. 2.1. Permit required.

(a) All industrial users proposing to connect to or discharge into a city sewer must complete an application for an industrial discharge permit before connecting to or discharging into a city sewer. All industrial users connected to or discharging into a city sewer, who do not currently have an industrial discharge permit, must complete an application for an industrial discharge permit within ninety (90) days after the effective date of this resolution. All significant industrial users (SIU's), including those users subject to federal standards, users not subject to federal standards but deemed significant by the CWA Authority, or which otherwise meet the criteria of a significant industrial user shall obtain a permit from the CWA Authority before connecting to or discharging into a city sewer.

(b) No person shall knowingly make any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this resolution or the industrial discharge permit. Nor shall any person falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this resolution.

Sec. 2.2. Application.

(a) The CWA Authority shall have the authority to prescribe an industrial discharge permit application form. The application form may require the following information:

- (1) Name, address and standard industrial classification number.
- (2) Volume of wastewater to be discharged.
- (3) The wastewater characteristics including, but not limited to, BOD, suspended solids, ammonia and pH.
- (4) Description of daily, weekly and seasonal variations in discharges.
- (5) Location of building drain or building sewer.
- (6) Pretreatment standards applicable to the discharge.
- (7) If additional pretreatment and/or operation and maintenance are required to meet the pretreatment standards, the user shall provide it by the shortest possible compliance schedules. The completion date in the schedule shall not be later than the compliance date established for any applicable federal pretreatment standard. The following conditions shall apply to this schedule:
 - a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - b. No increment referred to in paragraph a. shall exceed nine (9) months.

c. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the director.

(8) Any other information as may be deemed by the board to be necessary to evaluate the industrial discharge permit application.

(b) The industrial discharge permit application shall be signed and sworn to by an authorized representative of the industrial user.

Sec. 2.3. Term.

The industrial discharge permit shall be for a term of no more than five (5) years. Any person wishing to continue to discharge to a city sewer beyond the term of the industrial discharge permit shall apply for renewal of the industrial discharge permit at least sixty (60) days prior to the expiration of such permit using forms prescribed by the board, which forms may require the information set forth in section 1.18 of this resolution.

In the event the permittee does not receive permit renewal prior to the expiration date due to circumstances beyond the control of the permittee, the standards and requirements set forth in the expired permit shall remain in full force and effect until such renewal is received by the permittee.

Sec. 2.4. Conditions.

The CWA Authority may prescribe conditions to the industrial discharge permit that shall or may, as applicable, include the following:

(1) Applicable federal, state and/or local laws, resolutions, regulations or orders, including national categorical pretreatment standards for new and existing sources promulgated in 40 CFR parts 401 through 471.

(2) Limits or prohibitions on the wastewater characteristics other than those in section 4 of this resolution including, but not limited to, polychlorinated biphenyls and polybrominated biphenyls for the protection of public health or the POTW. The director shall apply applicable federal categorical pretreatment standards, or, in the absence of such standards, limits may be based on the best practical technology.

(3) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a city sewer, as approved by the Indiana utility regulatory commission.

(4) Limits on the average and maximum wastewater constituents and characteristics.

(5) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.

(6) Requirements for installation and maintenance of inspection and sampling facilities.

(7) Specifications for monitoring programs, which may include sampling locations, frequency of

sampling, number, types and standards for tests, and reporting schedule.

(8) Compliance schedules which may not extend the compliance date beyond applicable federal deadlines.

(9) Best management practices.

(10) Requirements for submission of technical reports or discharge reports.

(11) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the board, and affording the CWA Authority access thereto.

(12) Requirements for prior notification of the CWA Authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW, including any hazardous wastes for which the industrial user has submitted notification to the city pursuant to section 3.15.

(13) Requirements for notification of slug discharges and the submittal and implementation of a slug control plan as described in section 1.10.

(14) Mandatory statement of duration as provided in section 2.2.

(15) Mandatory statement of non-transferability as provided in section 2.7.

(16) Mandatory effluent limits based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits and state and local law.

(17) Mandatory self-monitoring, sampling, reporting notification and recordkeeping requirements, as provided in this Resolution, including an identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits and state and local law.

(18) Mandatory statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(19) Other conditions as deemed appropriate by the board to ensure compliance with this resolution.

Sec. 2.5. Permit modifications.

(a) Within nine (9) months of the promulgation of a categorical pretreatment standard, the industrial discharge permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. In addition, the user with an existing industrial discharge permit shall submit to the CWA Authority, within one hundred eighty (180) days after the promulgation of an applicable categorical pretreatment standard, the information required by section 19 of this resolution. Industrial discharge permits of users who must comply with federal categorical pretreatment standards prior to the effective date of this resolution shall be revised immediately upon the effective date of this resolution to reflect applicable pretreatment standards.

(b) Modification of an industrial discharge permit may also be accomplished at any time during the term of the permit when the CWA Authority determines a modification is necessary to accurately characterize changes in industrial contribution, wastewater constituents or characteristics, ordinance requirements or any other applicable condition. An industrial user shall

be given a thirty-day notice of the impending modification. Compliance deadlines with the modified requirements shall be determined on a case-specific basis.

Sec. 2.6. Application Fee.

There shall be an application fee of one hundred fifty dollars (\$150.00) for an individual discharge permit. This fee shall apply to original and renewal permit applications and modifications of existing permits initiated by the permittee. Payment of the fee shall accompany submission of the completed application. The board may revise the amount of such fee from time to time, but not more than once each year.

Sec. 2.7. Nonassignability.

The industrial discharge permits are issued to a specific person for a specific facility and do not constitute a property interest nor shall the industrial discharge permit be assigned, conveyed or sold to a new owner, new user, different premises or a new or changed operation, except as follows: Industrial discharge permits may be reassigned or transferred to a new owner and/or operator if the permittee gives at least thirty (30) days advance written notice to the board and the board approves the industrial discharge permit transfer in writing. The notice to the board must include a written certification by the new owner and/or operator which: (1) states that the new owner and/or operator has no immediate intent to change the facility's operations and process; (2) identifies the specific date on which the transfer is to occur; and (3) acknowledges full responsibility for complying with the existing industrial discharge permit and all applicable laws and regulations. Failure to provide advance notice of a transfer renders the industrial discharge permit voidable on the date of facility transfer.

Sec. 2.8. Registration.

(a) An industrial user that is not otherwise required to apply for a discharge permit under this resolution shall annually register with the department. The following information must be registered annually with the department:

- (1) Name, address and standard industrial classification number.
- (2) Volume of wastewater to be discharged.
- (3) The wastewater characteristics including, but not limited to, BOD, suspended solids, ammonia and pH.
- (4) Description of daily, weekly and seasonal variations in discharges.
- (5) Location of building drain and/or building sewer.
- (6) Pretreatment standards applicable to the discharge.
- (7) Any other information as may be required by the department.

CHAPTER 3. Pretreatment requirements.

Sec. 3.1. Pretreatment.

Industrial users shall provide necessary wastewater treatment as required to comply with this resolution and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to

pretreat wastewater to a level acceptable to the CWA Authority shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the CWA Authority for review and shall be acceptable to the CWA Authority before final review and approval of such plans by the IDEM and construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the CWA Authority under the provisions of this resolution. Any subsequent significant modifications in the pretreatment facilities or method of operation affecting its discharge shall be reported to and be acceptable to the CWA Authority prior to the user's initiation of the changes.

Sec. 3.2. Compliance date report.

Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the system, any user subject to pretreatment standards or regulations shall submit to the board a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards or regulations and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or regulations. The report shall state whether the applicable pretreatment standards or regulations are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment are necessary to bring the user into compliance with the applicable pretreatment standards or regulations. This statement shall be signed by an authorized representative of the industrial user and certified by a professional engineer licensed in the State of Indiana.

Sec. 3.3. Periodic compliance reports.

(a) Any user subject to a pretreatment standard set forth in this resolution, after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the CWA Authority, during the months of June and December (or alternative months specified by the director), unless required more frequently in the pretreatment standard or by the board, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in section 3.2 of this resolution. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the industrial user will submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the director may agree to alter the months during which the above reports are to be submitted.

(b) Reports of permittees shall contain the results of sampling and analyses of the discharge, including the flow and the nature and concentration, or production and mass where requested by the board, of pollutants contained therein that are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with 40 CFR Part 136 or with any other test procedures approved by the board. Sampling shall be performed in accordance with the techniques approved by the board. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the director determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or other sampling and analytical procedures approved by the director.

Section 3.4. Reporting and sampling requirements.

(a) The reports required by sections 1.18 (baseline reports), 3.2 (compliance date reports) and 3.3 (periodic compliance reports) shall be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of the conditions occurring during the reporting period. The director shall require a frequency of monitoring that is necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the director, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols, including appropriate preservation, as specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to analysis as follows:

- (1) For cyanide, total phenols and sulfides, the samples may be composited in the laboratory or the field;
- (2) For volatile organics and oil and grease, with the approval of the director, the samples may be composited in the laboratory;
- (3) Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the director, as appropriate.

(b) For sampling required by section 1.18 (baseline reports) and section 3.2 (compliance date reports), a minimum of four (4) grab samples must be used for:

- (1) pH;
- (2) Cyanide;
- (3) Total phenols;
- (4) Oil and grease;
- (5) Sulfide; and
- (6) Volatile organic compounds; for facilities for which historical sampling data do not exist. For facilities for which historical sampling data are available, the director may authorize a lower minimum.

(c) For periodic reports required by section 3.3 (periodic compliance reports), the director shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

(d) If an industrial user subject to section 3.3 (periodic compliance reports) monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director using the procedures described in section 3.3, the results of this monitoring shall be included in the report.

Sec. 3.5. Confidential information.

(a) The CWA Authority shall protect any information (other than effluent data) contained in the application forms or other records, reports or plans as confidential upon showing by any person that such information, if made public, would divulge methods or processes entitled to protection as trade secrets of such persons.

(b) Information accepted by the CWA Authority with a claim for confidentiality shall be safeguarded by the CWA Authority and shall not be transmitted to the public until and unless a

fifteen-day notification is given to the user. During the fifteen-day period, the user shall submit a justification of confidentiality to the CWA Authority. A determination of confidentiality shall be made by the director pursuant to regulations used by the EPA for acquisition of and public access to agency information, 40 CFR § 403.14.

Sec. 3.6. Emergency suspension of service and industrial discharge permit.

- (a) Notwithstanding any other provisions of this resolution, the director may:
- (1) After informal notice to the user, suspend the wastewater treatment service and/or an industrial discharge permit when such suspension is necessary, in the determination of the director, in order to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the health or welfare of persons, and/or
 - (2) After notice and an opportunity to respond, suspend the wastewater treatment service and/or an industrial discharge permit when such suspension is necessary, in the opinion of the director, in order to stop an actual or threatened discharge that presents or may present an endangerment to the environment or causes interference to the POTW, or causes the CWA Authority to violate any condition of its NPDES permit.

(b) Any user notified of a suspension of the wastewater treatment service and/or the industrial discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to any individuals. The director shall reinstate the industrial discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. The user shall pay all costs associated with disconnecting from and reconnecting to the city sewer. A detailed written statement submitted by the user describing the cause(s) of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the CWA Authority within five (5) days of the date of occurrence.

Sec. 3.7. Revocation.

The director may revoke the industrial discharge permit of any person for any of the following:

- (1) Violation of any provisions of this resolution or of any applicable state and/or federal law including regulations;
- (2) Failure to timely file any discharge reports;
- (3) Failure to factually report wastewater characteristics;
- (4) Refusal of reasonable access to the user's premises for the purpose of review of records, inspection or monitoring; or
- (5) Violation of any condition of the industrial discharge permit.

Sec. 3.8. Notice of revocation.

Except in cases of willfulness or those in which public health interest or safety require otherwise, the revocation, withdrawal or suspension of an industrial discharge permit is lawful only if, before the institution of proceedings thereof, the permittee has been given:

- (1) Notice by the director, in writing, of the facts or conduct which may warrant the action.
- (2) Opportunity to demonstrate or achieve compliance with all lawful requirements.

Sec. 3.9. Notification of violation.

Whenever the director determines that any user has violated or is violating this article or any conditions of its industrial discharge permit, the director may serve upon such person a written notice stating the nature of the violation. Within fifteen (15) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the CWA Authority by the user.

Sec. 3.10. Show-cause hearing.

The director may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause at a hearing why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held before the director or an appointed hearing officer, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail at least ten (10) days before the hearing.

Sec. 3.11 Appeals.

A user may file with the director a written request for reconsideration within fifteen (15) days of any action, decision or determination taken as part of the CWA Authority's administrative enforcement program. The request shall set forth in detail the facts surrounding the request. The director shall respond within ten (10) days of receipt of the request and shall make a final determination within thirty (30) days of receipt of the request.

The user may appeal to the Marion circuit or superior courts within fifteen (15) days of any final decision of the director.

Sec. 3.12. Publication of significant noncompliance.

(a) By April 30 of each year, the CWA Authority shall publish in the newspaper of general circulation that provides meaningful notice in the Central Indiana area a list of the users that at any time during the previous calendar year were in significant noncompliance with applicable pretreatment requirements. The list shall be published by April 30 of each year summarizing the noncompliance of the previous calendar year.

(b) For purposes of this section, a significant industrial user (or any industrial user that violates subsections (3), (4), or (8) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of discharge limitations in which sixty-six (66) percent or more of all measurements taken for the same pollutant parameter during a six-month period exceed by any magnitude parameter numeric pretreatment standard or requirement, including instantaneous limits, as defined in 40 CFR 403.3(l);
- (2) Violations of technical review criteria (TRC) defined as those in which thirty-three (33) percent or more of all measurements for the same pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);

- (3) Any other violations of an effluent limit or a pretreatment standard or requirement as defined in 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit or narrative standard) that the director has determined have caused, alone or in combination with other discharges, interference or pass-through at the POTW or endangerment to POTW personnel or the public;
- (4) Any discharge of a pollutant causing imminent endangerment to human health, welfare or the environment or resulting in the director's exercise of emergency authority under section 3.5 to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after a scheduled date, a compliance schedule milestone contained in a compliance schedule or order;
- (6) Failure to provide a required report within forty-five (45) days after the due date;
- (7) Failure to accurately report noncompliance; or,
- (8) Any violation or group of violations, that may include violations of best management practices that the director determines will adversely affect the operation or implementation of the CWA's or CWA's pretreatment program.

Sec. 3.13. Submission of self-monitoring reports.

Any industrial user required to complete self-monitoring reports as a condition of an industrial discharge permit shall submit the required reports to the CWA Authority. The reports shall be postmarked no later than the date specified in the permit. The reports shall be signed by an authorized representative of the industrial user as defined in section 1.2 of this resolution.

Sec. 3.14. Signatory requirements.

Reports and sworn statements required by this resolution shall be made by an authorized representative as defined in section 1.2 of this resolution. The reports and sworn statements which relate to the actual operation of or discharge from a pretreatment facility shall be prepared by or under the direction of a wastewater treatment plant operator certified under the provisions of 327 IAC 8, if the industrial user is required to have such a certified wastewater treatment plant operator.

If an authorization allowed under this section is no longer accurate due to changes in the person or position designated, a new authorization satisfying the requirements of this section shall be submitted to the CWA Authority prior to or together with any applicable report.

Such reports and sworn statements shall be made as follows: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Sec. 3.15. Violation of permit requirements.

(a) In the case of noncompliance with industrial discharge permit limitations, standards or requirements, the industrial user shall contact the director within twenty-four (24) hours of knowledge of the noncompliance. The person representing the industrial user shall provide the following information:

- (1) Name of the company;

- (2) Facility location;
- (3) Limitation, standard or requirement in violation; and
- (4) Corrective actions taken to eliminate, prevent and/or minimize the violation.

(b) The industrial user shall provide a detailed written report describing the violation to the industrial surveillance section. The report shall be submitted within five (5) working days subsequent to knowledge of the noncompliance incident. The director may grant an extension in writing to the report deadline in consideration of special circumstances. The report shall contain the following information:

- (1) Description of the discharge and cause of the violation;
- (2) Parameters in violation; and
- (3) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue and the steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge or violation.

(c) Within thirty (30) days of knowledge of a violation from self-monitoring activities, the industrial user shall sample and analyze for the parameter(s) found in violation to demonstrate that compliance has been achieved. The results shall be submitted to the CWA Authority on the appropriate self-monitoring report. Where the director has performed the sampling and analysis in lieu of the industrial user, the director must perform the repeat sampling and analysis unless he/she notifies the user of the violation and requires the user to perform the repeat analysis.

(d) A violation of a monthly average limitation that is derived from federal categorical pretreatment standards shall constitute a separate violation for each day the facility operates during a given month unless actual daily analyses are demonstrated to be less than the applicable monthly average limitation.

Sec. 3.16. Discharge of hazardous wastes.

Any industrial user which discharges a substance, which if disposed of otherwise would be a hazardous waste under 40 CFR Part 261, shall give prior written notification to the director, the Indiana Department of Environmental Management, and U.S. EPA Region V of such discharge, in accordance with the requirements of 40 CFR Part 261 and 40 CFR § 403.12(p).

Chapter 4. Wastewater hauling.

Sec. 4.1. Wastewater hauler criteria.

Any wastewater hauler who engages in business in Marion County must comply with all of the following provisions of this resolution.

Sec. 4.2. Registration.

(a) Any wastewater hauler must be registered with and receive a permit from the CWA Authority and must display a valid decal issued by the CWA Authority in the lower corner of the driver's side windshield of each vehicle. The charge for the permit and decal for each vehicle shall be established by rule or regulation of the board. Such charge shall be due and payable at the time of filing. Such charges may be revised by the board no more than once each calendar year.

(b) Each wastewater hauler shall update the hauler's permit application as required by the board and shall include the following information:

- (1) Proof of ownership of each vehicle, including owner's name and legal address.
- (2) Proof of a valid permit from IDEM issued pursuant to IC 13-18-12.
- (3) Proof of insurance as specified in subsection (d) of this section.
- (4) The wastewater hauler's legal address and legal business address, type of business, i.e., domestic and/or industrial wastewater hauler.
- (5) The number of wastewater hauling vehicles, tank capacity in gallons of each vehicle, and license and vehicle identification numbers of all vehicles.
- (6) Any other information as may be deemed by the director to be necessary to evaluate the wastewater hauler's permit.

(c) Each vehicle shall be equipped with an entry port, which allows sampling of the contents of the tank from top to bottom by CWA Authority personnel. This port shall have a minimum diameter of six (6) inches and shall be tightly secured to prevent leakage. Each vehicle must have the company name, address, telephone number, capacity in gallons, displayed in a manner similar to that required by IDEM.

(d) After the application has been received and reviewed by the director, and has been determined to satisfy the conditions above, a permit and decal for each vehicle shall be issued for a period not to exceed five (5) years from date of issuance. The board may prescribe additional permit conditions, including but not limited to:

- (1) Approved charges and fees;
- (2) Limits on the wastewater characteristics;
- (3) Restrictions on the times and days of discharge;
- (4) Requirements for the completion, submittal and retention of customer receipts and other documents and reports related to wastewater hauling;
- (5) Type of wastewater allowed to be hauled and disposed of at POTW;
- (6) Location of approved discharge sites;
- (7) Any other condition as deemed appropriate by the board to assure compliance with this resolution.

(f) A wastewater hauler's permit is issued to a specific person at a specific location and does not constitute a property interest nor shall the permit be assigned, conveyed or sold to a new owner, different premises or new or changed operation.

Sec. 4.3. Insurance required.

Each wastewater hauler shall be furnish the department with a certificate of insurance from companies satisfactory to the department, evidencing coverage of not less than the following limits of liability and listing the department as an additional insured on a primary and non-contributory basis:

Comprehensive Automobile Liability (including coverage for liability arising out of owned, non-owned and hired autos and for bodily injury and property damage):

Each Accident

\$1,000,000

The above insurance policy shall be endorsed to provide a thirty (30)-day written notice of cancellation to the department. The insurance coverage shall cover all work performed by the wastewater hauler while transporting and discharging wastewater and shall include, but not be limited to, liability arising out of disposal of any hazardous waste, spilled material on public property, and fines or any other costs incurred by the CWA Authority as a result of the wastewater hauler's activities. The CWA Authority shall be named as an additional insured. A certificate of such policies shall be delivered to the CWA Authority prior to commencement of hauling. The insurance carrier shall give notice to the CWA Authority at least thirty (30) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation. Wastewater haulers permitted at the time of the effective date of this provision shall submit proof of adequate insurance coverage with the next permit application or upon expiration of their bond, whichever is sooner. Potential wastewater haulers applying for a permit subsequent to the effective date of this provision shall secure the proper insurance coverage at the time of filing.

Sec. 4.4. Discharging procedures.

(a) All discharging of wastewater from the wastewater hauler's vehicle tanks must be done at designated sites approved by the CWA Authority. The CWA Authority shall have the right to limit the hours of the day and the days of the week during which discharging shall be allowed.

(b) Any unpermitted discharging of wastewater into the POTW at any location under the jurisdiction of the CWA Authority is prohibited unless approved by the CWA Authority prior to discharging.

(c) Any disposal of wastewater by land application must be approved by the board. Written permission of the owner of the property used for disposal and written approval by IDEM must be submitted to the board before any approval may be granted and prior to discharging any wastewater.

(d) The wastewater hauler shall be responsible for the cleanup to the satisfaction of the director for any and all spills on public streets, rights-of-way and property.

(e) The board may require any wastewater hauler to correct any defective equipment including hoses, valves, tanks, piping and permanent or flexible connections which may result in the leakage or spilling of wastewater from the vehicle. Defective equipment shall be repaired before the wastewater hauler is allowed to discharge at the site designated by the CWA Authority.

(f) Any disposal of wastewater into the POTW must be performed by a wastewater hauler having the permit described in section 41. Disposal of domestic wastewater or restaurant grease trap waste requires no further approval. A wastewater hauler disposing of industrial or commercial wastewater generated inside or outside Marion County must obtain special approval from the director.

Sec. 4.5. Testing requirements.

(a) The contents of all wastewater haulers' vehicles are subject to preliminary sampling and testing by the board before discharging into the approved site at the CWA Authority's wastewater treatment facility. The test results on any sample must be within a specified range for the specific test parameters established by the board in order not to inhibit the performance of the wastewater treatment plant into which the wastewater is discharged.

(b) The contents of any wastewater hauler's tank that do not pass the preliminary testing procedures will be subject to additional specific testing to determine the nature of the contents. If the contents of the tank are deemed by the board to be an inhibitory substance, and unsatisfactory for discharging into the wastewater treatment plant, the wastewater hauler must arrange for proper disposal of the tank contents and submit to the board proof, by affidavit and receipt, of proper disposal. Until the director has determined that the conditions of proof have been satisfied, the wastewater hauler is prohibited from using all designated disposal sites approved by the CWA Authority.

(c) The board shall notify IDEM of the status of any wastewater hauler whose tank contents are determined to be unsatisfactory for discharging into a designated disposal site approved by the board.

(d) The board may refuse to accept any wastewater if, after testing, it is deemed unsatisfactory for discharge into the wastewater treatment plant.

(e) The wastewater hauler shall reimburse the board for all costs associated with the treatment, testing and disposal of any prohibited wastes.

Sec. 4.6. Administration procedures.

(a) All wastewater haulers shall maintain accurate business records pertaining to wastewater hauling, available to the director, EPA, and IDEM upon request, including names, addresses, and telephone numbers of the generators of all wastewater being transported and/or disposed of, county of origin, type of waste, volume of waste, and disposal site, customer receipts required under subsection (b) of this section, and approvals, permits and certifications issued by federal, state and local authorities. All records required to be retained under this article shall be retained for a minimum of three (3) years.

(b) The driver of each vehicle delivered to the wastewater treatment plant for discharging shall have dated customer receipts for each source of wastewater showing the names and addresses of the customers, the nature of the wastewater, amount of wastewater in gallons, wastewater hauler's name and legal business address and telephone number, and vehicle driver's name.

(c) All wastewater haulers shall compensate the board for the full cost of all sampling, laboratory analysis and treatment costs. Fees shall reflect the costs associated with sampling and testing, treatment and administering the program and shall be based on a fee schedule published by the board.

(d) Whenever required to carry out the objectives of this resolution relating to the control of the discharging of wastewater or the collection of dump fees, the board shall have a right of entry to, upon or through any premises for purposes of inspection, measuring and sampling. This right of entry shall include, but not be limited to, any equipment necessary to conduct such inspections, measuring and sampling. It shall be the duty of the wastewater hauler to provide all necessary clearance before entry and not to unnecessarily delay or hinder the director in carrying out the inspection, measuring and sampling. The right of entry shall exist at any time.

Sec. 4.7. Enforcement.

(a) Any person who fails to comply with any provision of this article may be fined not more than:

(1) two thousand five hundred dollars (\$2,500) for the first violation; and

(2) seven thousand five hundred dollars (\$7,500) for the second and subsequent violations.

A violation of a permit issued under this resolution or a special agreement entered into in accordance with the resolution shall constitute a violation of this resolution and ordinance. Each violation of this resolution shall constitute a separate offense. In addition, the department shall be entitled to all reasonable expenses including court costs and attorney fees.

(b) Nothing in this resolution shall restrict any right which may be provided by statute or common law to the board to bring other actions, at law or in equity, including injunctive relief.

Sec. 4.8. Permit revocation.

(a) The department may revoke, suspend or modify the permit for any of the following reasons:

(1) A violation of any provision of this resolution or of any applicable state or federal statute or regulation related to wastewater hauling;

(2) Failure to report the characteristics of any load, including the furnishing of false information or misrepresentation of any material fact related to wastewater hauling;

(3) Refusal of reasonable access to the wastewater hauler's premises for the purpose of inspecting records, inspection, sampling or monitoring;

(4) Noncompliance with any condition of the permit or special agreement entered into pursuant to the resolution.

(b) The department shall send written notice of facts underlying the proposed revocation, suspension or modification to the wastewater hauler.

(c) The department shall grant a hearing upon the receipt of the wastewater hauler's written request made within fifteen (15) days of the notice of revocation. A hearing officer appointed by the director shall hold the hearing within ten (10) days of the receipt of the written request. If the wastewater hauler does not request a hearing as provided by this article, the revocation, suspension or modification shall be effective upon the date of the notice.

(d) At the hearing, the wastewater hauler may present any evidence which the hearing officer finds relevant and material to the issues underlying the proposed revocation, suspension or modification. Based on the evidence presented at the hearing, the hearing officer shall make a written determination revoking, suspending, modifying or reinstating the permit.

(e) If the wastewater hauler objects to the decision made by the hearing officer, the wastewater hauler shall be entitled to a hearing before the board upon such objection. The wastewater hauler shall file a written statement of his objections with the hearing officer, who shall call the same to the attention of the board. The appeal shall be scheduled before the board within thirty (30) days after such objections are filed with the hearing officer. Notice shall be given to the wastewater hauler identifying the time, place and date of the appeal hearing at least ten (10) days prior to the scheduled date. The board may hear any evidence it finds relevant. After the hearing, the board may confirm, reverse or modify the decision of the director. The order of the board shall be final. Such order shall be made within ten (10) days after the hearing and shall be in writing and sent to the wastewater hauler.

Chapter 5. Effective date; formalities.
Sec. 5.1. Effective date.

This resolution shall be effective:

(1) upon passage by the board and thirty (30) days after publication of this resolution in accordance with IC 5-3-1; and

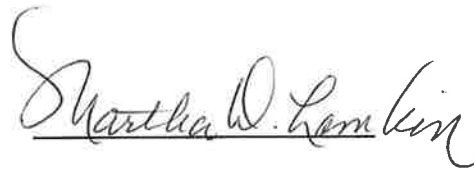
(2) not earlier than the closing date on which the sale of the wastewater system to Citizens is effective.

CWA Resolution 2-2011

Adopted this 13th day of April, 2011 by a vote of 6 ayes and 0 nays.

CWA AUTHORITY, INC.

BOARD OF DIRECTORS

A handwritten signature in cursive script, reading "Martha D. Lemkin", written over a horizontal line.

President

Attest:

A handwritten signature in cursive script, reading "Dorothy J. Jones", written over a horizontal line.

Secretary

Appendix M-3: Resolution and Ordinance CWA 3-2011 (Enforcement & Appeals)

BOARD OF DIRECTORS FOR CWA AUTHORITY, INC.

RESOLUTION NO. CWA 3-2011

**A RESOLUTION AUTHORIZING ENFORCEMENT OF VIOLATIONS AND
ESTABLISHING AN ADMINISTRATIVE ADJUDICATION PROCESS FOR
VIOLATIONS**

WHEREAS, the Department of Public Utilities of the City of Indianapolis ("City"), acting by and through the Board of Directors for Utilities (and on behalf of the utility special taxing district by the Board of Directors for Utilities) is vested by Indiana Code 8-1-11.1 with the power to own and operate utility properties of any kind within the City or outside the City within the limits authorized by law, and to own all utility property related or belonging thereto;

WHEREAS, pursuant to Special Ordinance No. 4-2010 and Special Ordinance No. 7-2010 (collectively, the "Ordinances"), the City and Citizens Energy Group ("Citizens") have entered into an Asset Purchase Agreement pursuant to which the transfer and delegation to, and vesting in and exercising by Citizens, of all of the powers, duties, functions and obligations of the District, the Department of Public Works and the Board of Public Works with respect to the wastewater system will be transferred to Citizens;

WHEREAS, CWA Authority, Inc. (the "Authority"), is an Indiana nonprofit corporation established pursuant to an "Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater)" (the "Interlocal Agreement") entered into among the Department of Public Utilities of the City of Indianapolis d/b/a Citizens Energy Group (Citizens"), acting by and through the Board of Directors for Utilities of the City of Indianapolis (the "City") and the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District");

WHEREAS, pursuant to the Interlocal Agreement, the Authority possesses all the powers that are necessary, useful or appropriate to acquiring, owning and operating the wastewater system and/or having jurisdiction over disposal of sewage, including industrial wastes or other wastes; and

WHEREAS, such powers include the power to enact resolutions that have the force and effect of law and to enforce such resolutions;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS FOR CWA AUTHORITY, INC. AS FOLLOWS:

Sec. 1. Definitions.

As used in this resolution, the following terms shall have the meanings ascribed to them in this section.

- (a) "Board" means the board of directors of CWA Authority, Inc.
- (b) "Department" means CWA Authority, Inc.

(c) "Violation" means and includes a violation of one (1) or more of the resolutions of the board concerning:

- (1) unauthorized discharges;
- (2) industrial discharge permits; and
- (3) wastewater hauling.

(d) "Party" and "parties" means and includes the department and respondents.

(e) "Respondent" means a person to whom a notice of hearing is issued pursuant to section 4 of this resolution.

Sec. 2. General penalties for violations of resolutions.

(a) Whenever in any resolution of this Board:

- (1) the doing of any act, or the omission to do any act or to perform any duty, is declared to be a violation of a resolution or resolutions adopted by the Board, or of any provision thereof, or is declared to be unlawful;
- (2) if there shall be no fine or penalty otherwise specifically prescribed or declared for any such violation, or for doing or for omitting to do any such act or to perform any such duty;

any person found to have committed any such violation shall be fined, by way of a penalty therefore, an amount not exceeding:

- (A) two thousand five hundred dollars (\$2,500) for the first violation, act or omission; and
- (B) seven thousand five hundred dollars ((\$7,500) for a second or subsequent violation;

in accordance with IC 36-1-3-8(a)(10)(B).

(b) In addition to the foregoing penalty, the Board may enjoin or abate any violation of a resolution by appropriate action.

Sec. 3. Prosecution; election by counsel for the department.

In all cases where the same offense is made punishable or is created by different clauses or sections of a resolution, or of any additions thereto, counsel for the department may elect under which to proceed; but not more than one (1) prosecution and recovery shall be had against the same person for the same violation of any provision of a resolution actually constituting the same offense.

Sec. 4. Administrative adjudication provided.

It is hereby declared to be the policy of the Board that violations may be subject to enforcement in administrative proceedings as provided in this resolution.

Sec. 5. Hearing officers; appointment and term; compensation; qualifications; conduct.

(a) The administrative adjudication of a violation under this resolution shall be presided over by a hearing officer appointed by the Board. The Board may appoint more than one (1) hearing officer as necessary to address in an expeditious manner all violations pursuant to this a resolution. Nothing in this section shall automatically prohibit an individual who is an employee

of the department or the Board or an independent contractor associated with the department or the Board from being appointed or serving as a hearing officer.

(b) A person must have a minimum of two (2) years of legal and/or environmental experience to be appointed as a hearing officer.

(c) A hearing officer shall not preside over a hearing or approve a compliance agreement if the hearing officer believes he or she is subject to disqualification, or if by motion of any party it appears that the hearing officer is subject to disqualification, for:

- (1) Bias, prejudice, or personal interest in the outcome of a hearing;
- (2) Knowledge of a disputed evidentiary fact which might influence the decision;
- (3) Failure to dispose of any motion or hearing in an orderly and reasonably prompt manner after written request by a party; or
- (4) Any cause for which a judge of a court may be disqualified.

(d) Except as to the subjects of hearing schedules and procedures, a hearing officer who:

- (1) Comments publicly on a hearing over which the hearing officer presides; or
- (2) Communicates directly or indirectly with a party or other individual who has an interest in the outcome of a hearing, without notice and opportunity for all parties to participate in the communication;

is subject to disqualification under this section.

Sec. 6 Notice of administrative hearing.

(a) Whenever the department issues a notice of violation for an environmental violation under the rules of the board, the department shall issue a notice of administrative hearing as provided in this resolution.

(b) Service of notice of administrative hearing shall be by United States mail to the respondent's last known address, or by personal service. Service on an artificial person or a person incompetent to receive service shall be made on a person allowed to receive service under the rules governing civil actions in the courts. The department shall keep a record of the time, date and manner of service.

(c) The department shall cause a copy of each notice issued pursuant to this section to be delivered to the hearing officer who will preside over the hearing.

(d) Each notice of administrative hearing shall include the following information:

- (1) A caption for the hearing, which shall include the name of each party expected to participate in the hearing, and an official file or other reference number;
- (2) A statement of the date, time and place of the hearing;
- (3) A statement of the nature of the hearing, including the legal authority under which the hearing is to be held, and a summary of the parties' procedural rights at the hearing;
- (4) A statement of the date, time, place, and nature of each alleged violation, and the maximum penalty that can be imposed thereupon;
- (5) The official title and mailing address of the hearing officer and a telephone number through which information concerning the hearing may be obtained;

(6) The official title, mailing address and telephone number of the person who has been designated to appear on behalf of the department; and

(7) A statement that a party who fails to respond to the notice of the hearing, or to participate in the hearing, may be held in default.

(e) Notice of administrative hearing shall be issued at least twenty (20) days prior to the date of the hearing.

Sec. 7. Prehearing procedures.

(a) Prior to the hearing, the hearing officer shall give the parties an opportunity to file documents or motions regarding matters such as continuances, discovery, and any other preliminary matters. At the time of filing, a party shall serve a copy of all filed items on each other party.

(b) Motions for continuance shall be filed no later than seven (7) days before the date assigned for the hearing, unless the reason therefor is shown by affidavit to have occurred within the seven-day period.

(c) The hearing officer, upon request by any party or upon the hearing officer's own initiative, may issue subpoenas and discovery orders in accordance with the rules of procedure governing subpoenas and discovery in judicial proceedings. The party seeking the subpoena or order shall cause them to be served in accordance with these rules of procedure.

(d) The hearing officer, upon request by any party or upon the hearing officer's own initiative, may direct the parties to negotiate a compliance agreement in accordance with section 8 in lieu of conducting a hearing. If the parties are unable to reach a mutually acceptable compliance agreement within a reasonable period of time, the hearing officer may proceed with hearing procedures.

Sec. 8. Compliance agreements.

The parties may elect to negotiate a compliance agreement which establishes a program and schedule to attain and maintain compliance, penalties and other provisions necessary to ensure compliance. The compliance agreement shall take effect upon approval by the hearing officer.

Sec. 9. Hearing procedures.

(a) The hearing officer shall afford all parties the opportunity to participate in the hearing to the extent necessary for full consideration of all relevant facts and issues. A party may present evidence in the form of testimony, affidavits and documentation, engage in argument, and conduct cross-examination. A party may participate in person or by counsel at the party's own expense; if the party is not an individual or is incompetent to participate, then the party shall participate by a duly authorized representative.

(b) The department shall have the burden of proving the environmental violation and the burden may be sustained by a preponderance of the evidence.

(c) The hearing officer shall conduct the hearing in an informal manner and without strict adherence to the technical rules of evidence and procedure which govern judicial proceedings. The hearing officer shall rule on the admissibility of any offer of proof, and on other motions, and shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds. The testimony of each party and witness shall be made under oath or affirmation.

(d) The hearing officer may take official notice of any resolution of the board, and any law or fact that could be judicially noticed in the courts.

(e) The hearing officer shall cause an audio recording of the hearing to be made at the expense of the department.

Sec. 10. Stipulated penalties.

(a) The decision of the hearing officer or the compliance agreement approved by the hearing officer may require the payment of stipulated penalties if the terms of the decision or compliance agreement are violated.

(b) The stipulated penalties for each violation shall not exceed:

- (1) two thousand five hundred dollars (\$2,500) for the first violation; and
- (2) seven thousand five hundred dollars (\$7,500) for a second and subsequent violations; in accordance with IC 36-1-3-8(a)(10)(B).

Sec. 11. Decision.

(a) Upon the conclusion of each hearing or within a maximum of forty-five (45) days after conclusion of each hearing, the hearing officer shall render a decision which shall include a determination whether the respondent violated the resolution as alleged, the amount of civil penalty that must be paid for each violation with instructions on when and how payment shall be made, and a statement of the parties' right to petition for review of the decision.

(b) The hearing officer's decision may include an order affirming, modifying or revoking any order issued by the board with the notice of violation or directing the abatement or cessation of the action described in the notice of violation.

(c) The hearing officer's decision may include a compliance order, establishing a program and schedule to attain and maintain compliance, stipulated penalties, and other provisions necessary to ensure compliance.

(d) The decision shall be based exclusively upon the evidence of record in the hearing and on matters officially noticed therein. The hearing officer's experience and specialized knowledge may be used in the evaluation of the evidence.

(e) The hearing officer shall cause each decision rendered pursuant to this section to be memorialized on a minute sheet or similar written entry into the record. A copy of the minute sheet or similar written entry shall be served upon the parties by United States mail or personal service.

(f) A decision rendered pursuant to this section may be modified by the hearing officer who rendered it, upon the hearing officer's own initiative or by motion of any party. Any motion to modify a decision shall be filed by a party within thirty (30) days after the date of the decision.

Sec. 12. Record of the hearing.

The record of each hearing under this article consists of the following:

- (1) The notice of hearing;
- (2) The notice of violation, if any;
- (3) Any documents, motions, or exhibits filed or entered into evidence;
- (4) Any written orders, subpoenas, and decision of the hearing officer;
- (5) Any compliance agreement negotiated by the parties and approved by the hearing officer or issued by the hearing officer as part of the decision; and
- (6) The audio recording of the hearing and a written transcript of same;
- (7) and shall constitute the complete and exclusive record for review of a hearing officer's decision.

Sec. 13. Written transcript of hearing; preparation and cost.

At the written request of respondent, the department shall provide a written transcript of the audio tape recording of the hearing. Respondent shall pay the reasonable cost of preparing the written transcript, unless respondent files with the hearing officer under oath and in writing, a statement of indigency as described in IC 33-37-3-2. Respondent may cause to be prepared, at his own expense, a written transcript which the department shall review and certify as to accuracy.

Sec. 14. Petition for review of decision

A party may petition for judicial review of the final determination of the department under this section. The petition must be filed in the Marion circuit or superior court not more than thirty (30) days after the department issues its determination.

Sec. 15. Effective date

This resolution shall be effective:

- (1) upon passage by the Board and in accordance with the procedures outlined in CWA Resolution 1-2011; and
- (2) not earlier than the closing date on which the sale of the wastewater system to CWA Authority is effective.

CWA Resolution 3-2011

Adopted this 13th day of April, 2011, by a vote of 7 ayes and 0 nays.

CWA AUTHORITY, INC.
BOARD OF DIRECTORS


President

Attest:


Secretary

Appendix N: Proposed Amendments to Resolutions and Ordinances of the Board of Directors of CWA Authority, Inc

Appendix N-1: Resolution and Ordinance CWA 2-2011 (IPP)

Appendix N-2: Resolution and Ordinance CWA 3-2011 (Enforcement & Appeals)

Appendix N-1: Resolution and Ordinance CWA 2-2011 (IPP)

BOARD OF DIRECTORS FOR CWA AUTHORITY, INC.

RESOLUTION NO. CWA 2-2011

A RESOLUTION ESTABLISHING UNIFORM REQUIREMENTS FOR DISCHARGES INTO, THE CONSTRUCTION OF, AND ADDITIONS TO WASTEWATER COLLECTION AND TREATMENT SYSTEM OWNED AND OPERATED BY CWA AUTHORITY, INC.

WHEREAS, CWA Authority, Inc. (the "CWA Authority"), is a political subdivision in the State of Indiana organized as an Indiana nonprofit corporation and established pursuant to an "Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater)" (the "Interlocal Agreement") entered into among the Department of Public Utilities of the City of Indianapolis d/b/a Citizens Energy Group ("Citizens"), acting by and through the Board of Directors for Utilities for the City of Indianapolis (the "City") and the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District");

WHEREAS, pursuant to Special Ordinance No. 4-2010 and Special Ordinance No. 7-2010 (collectively, the "Ordinances") passed by the City-County Council of Indianapolis and Marion County, Indiana and signed by the Mayor of Indianapolis on July 6, 2010, the City-County Council and the Mayor approved the transfer and delegation to, and vesting in and exercising by CWA Authority, all of the powers, duties, functions and obligations of the District (except the City's taxing power and taxing authority) with respect to the wastewater system; and

WHEREAS, the wastewater system assets were transferred and assigned to CWA Authority on August 26, 2011 and the Authority possesses all the powers that are necessary, useful or appropriate to own and operate the wastewater system and/or assert jurisdiction over disposal of sewage, including industrial wastes or other wastes; now; therefore:

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF CWA AUTHORITY, INC., as follows:

CHAPTER 1. Purpose and policy; definitions; general requirements.

Sec. 1.1. Purpose and policy.

(a) This resolution sets forth uniform requirements for discharges into, the construction of, and additions to the wastewater collection and treatment system owned and operated by the department of public utilities of the city of Indianapolis or CWA Authority, Inc.. These requirements enable the board of directors for CWA Authority, Inc. to protect public health, ensure a sound sewer infrastructure system in the future, and comply with all applicable local, state and federal laws relating thereto.

(b) The objectives of this resolution are:

- (1) To prevent the introduction of pollutants into the wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;
- (2) To prevent the introduction of pollutants into the wastewater system which do not receive adequate treatment in the POTW and which will pass through the system into receiving waters or the atmosphere;
- (3) To promote reuse and improve the opportunity to recycle and reclaim wastewater and

sludge from the system; and

- (4) To prevent the introduction of infiltration and inflow into the wastewater collection system which will occupy capacity reserved for community growth;

(c) This resolution provides for the regulation of discharges into the wastewater system through the issuance of industrial discharge permits, the execution of special agreements, and the enforcement of administrative regulations.

(d) In furtherance of these objectives, this resolution details the general regulation of discharges to public sewers and the issuance of discharge permits for industrial users of the wastewater system.

Sec. 1.2. Definitions.

As used in this resolution, the following terms shall have the meanings ascribed to them in this section unless the context specifically indicates otherwise.

ASTM means the American Society for Testing and Materials.

Accidental Discharge means An unintentional release of a material that could potentially violate the requirements of Section 1.4 of this Resolution.

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Act means the Federal Water Pollution Control Act, as amended as of January 1, 1995, 33 USC 1251 et seq., also known as the Clean Water Act or CWA.

Administrator means the Regional Administrator of Region V, U.S. Environmental Protection Agency or Commissioner of the Indiana Department of Environmental Management or its successor, provided such state agency has a pretreatment program approved by the EPA.

Applicable pretreatment standard means, for any specified pollutant, the board's prohibitive discharge standards, the board's specific limitations on discharges, the State of Indiana pretreatment standards, or the federal general or categorical pretreatment standards (when effective), whichever standard is most stringent.

Approval authority means the administrator.

Authorized representative of industrial user means:

- (1) A responsible corporate officer if the industrial user is a corporation. A responsible corporate officer means:

- a. A president, vice-president, treasurer or secretary of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or
- b. A manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty five million dollars (\$25,000,000.00) (in second quarter 1980 dollars) provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary

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systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where, if authority to sign documents has been assigned or delegated to such manager in accordance with corporate procedures.

- (2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively.
- (3) For a municipality, state, federal or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- (4) An individual duly authorized by the person designated in subsection (1), (2) or (3) above, provided:
 - a. The authorization is made in writing by the individual described in subsection (1), (2) or (3) above;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, plant engineer, superintendent, or a position of equivalent responsibility or having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the CWA Authority.

Best management practices or "BMP" means any or all of the following:

- (1) Schedules of activities;
- (2) Prohibitions of practices;
- (3) Maintenance procedures and other management practices to implement the prohibitions listed in 30 CFR 403.5(a)(1) and 40 CFR 403.5 (b);
- (4) Treatment requirements;
- (5) Operating procedures; and/or
- (6) Practices to control any of the following:
 - a. Plant site runoff;
 - b. Spillages or leaks;
 - c. Sludge or waste disposal; and/or
 - d. Drainage for raw materials storage.

Board means the board of directors of CWA Authority.

Biologicalchemical Oxygen Demand ("BOD") ~~(denoting biochemical oxygen demand)~~ means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter (mg/l).

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Categorical pretreatment standard means any regulation containing pollutant discharge limits or alternative best management practices promulgated by the EPA in accordance with section 307(b) and (c) of the Act that apply to a specific category of industrial user.

Chemical Oxygen Demand ("COD") means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

City sewer means a sewer owned and operated by CWA Authority.

Combined sewer means a sewer that has been designed or intended to receive both surface runoff and sewage.

Commercial wastewater means the liquid or liquid-borne wastes from commercial establishments including, but not limited to, restaurants, dry cleaners, service stations or auto repair facilities and retail establishments or public or private nonresidential buildings; and shall include any grease, oil, solvents, sludge or other material removed from any sewage disposal system or wastewater treatment plant.

Composite sample means a sample representative of a user's discharge within a given twenty-four (24) hour period of operation. Samples may be done either manually or automatically, and continuously or discretely, with not less than four (4) samples to be composited or a sufficient number of individual aliquots to comprise a representative sample as determined by the director.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

CWA Authority means CWA Authority, Inc., an Indiana nonprofit corporation established pursuant to an interlocal cooperation agreement, dated as of August 9, 2010, by and among the City of Indianapolis, the Sanitary District of the City of Indianapolis, acting by and through the board of public works, and the Department of Public Utilities of the City of Indianapolis, acting by and through the board of directors for utilities as the control authority.

Daily maximum means the analytical value representative of either a composite or grab sample collected from a user's discharge collected during a calendar day.

Daily maximum limit means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are express in units of mass, the daily discharge is the total mass discharged over the course of the day. Where the Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measure of the pollutant concentration derived from all measurements taken that day.

Department means the CWA Authority.

Direct discharge means the discharge of treated or untreated wastewater directly to the surface waters of the state.

Director means the vice-president of water operations for Citizens Energy Group or his/her designee.

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Discharge report means any report required of an industrial user by section B.2. of the industrial discharge permit.

Domestic wastewater means wastewater of the type commonly introduced into a POTW by residential users, including the liquid-borne wastes resulting from normal residential water-consuming activities including, but not limited to, disposal.

EDU's means equivalent dwelling unit, and shall be determined in accordance with industry standards and shall reflecting the greater of the actual daily flow requirements (per 327 IAC 3), the area ratio of the water meter size serving a particular user, or such means of determination deemed appropriate by the director. One (1) EDU shall be estimated as equal to equal three hundred ten (310) gallons per day.

EPA means the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Existing Source means any source that is not a new source.

General pretreatment regulations means "General Pretreatment Regulations for Existing and New Sources of Pollution," 40 CFR Part 403.

Grab sample means a sample that is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time over a period of time not to exceed fifteen (15) minutes.

IDEM means the Indiana Department of Environmental Management.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 USC § 1317) into the POTW (including holding tank waste discharged into the system).

Industrial surveillance section means the industrial surveillance section of CWA Authority-~~f~~.

Industrial user ("IU") means any user of the POTW who discharges, causes or permits the discharge of nondomestic wastewater into the POTW.

Industrial wastewater means a combination of liquid and water-carried waste discharged from any industrial user's establishment and resulting from any trade or process carried on in that establishment, including the wastewater from pretreatment facilities and polluted cooling water. The term includes the liquid or liquid-borne waste from industrial manufacturing process, trades or businesses.

Infiltration means the groundwater entering the public sewer system from the ground through such means as, but not limited to, defective or poorly constructed pipes, pipe joints, connections and manholes or from drainage pipes constructed to remove groundwater from areas such as building foundations and farm fields.

Inflow means the stormwater and surface water entering directly into city sewers from such sources as, but not limited to, manhole covers, roof drains, basement drains, land drains, foundation drains, cooling/heating water discharges, catch basins or stormwater inlets.

Instantaneous limit means the maximum concentration of a pollutant allowed to be

discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means any discharge that, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Land application means the process of disposing of wastewater by burial or incorporation into the soil.

Lift station means any arrangement of pumps, valves and controls that lifts wastewater to a higher elevation.

Medical Waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly average limitation means the highest allowable average of "daily discharges" over a calendar month calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

NH₃-N (denoting ammonia nitrogen) means all of the nitrogen in water, sewage or other liquid waste present in the form of ammonia, ammonia ion or in the equilibrium $\text{NH}_4^+ \rightleftharpoons \text{NH}_3 + \text{H}^+$.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
- (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (3) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. *In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.*

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a new source has commenced if the owner or operator has:

- (1) Begun or caused to begin as part of a continuous on-site construction program:
 - a. Any placement, assembly or installation of facilities or equipment; or
 - b. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities that is necessary for the placement, assembly or installation of new source facilities or equipment; or
- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact Cooling Water means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Nonindustrial user means all users of the POTW not included in the definition of "industrial user."

Pass-through means a discharge that exits the POTW into waters of the state in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation.)

Person means any individual, partnership, copartnership, trust, firm, company, association, society, corporation, group, estate, joint stock company, governmental agency including, but not limited to, the United States of America, the State of Indiana and all political subdivisions, authorities, districts, departments, agencies, bureaus and instrumentalities thereof, or any other legal entity or any combination of such.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. (or, alternatively, the layman's definition from the model rule: a measure of the acidity or alkalinity of a solution, expressed in standard units.)

Comment [AWM1]: We went to PN with this comment in there – what are we going to use?

Pollutant means, but is not limited to, any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical materials, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pollution means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

~~POTW means all publicly owned facilities for collecting, pumping, treating and disposing of wastewater, including sewers, lift stations, manhole stations and the wastewater treatment plants.~~

POTW Treatment Plant means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste. This includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except as prohibited by 40 CFR section 403.6(d).

Pretreatment requirements mean any substantive or procedural requirement related to pretreatment imposed on a User, other than a pretreatment standard.

Pretreatment standard or regulation means any substantive or procedural requirement related to pretreatment contained in this resolution.

Prohibited discharge standards or prohibited discharges mean an absolute prohibition against the discharge of certain substances.

Process wastewater means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (one and twenty-seven one-hundredths (1.27) centimeters) in any dimension.

Public entity means and the state of Indiana, any city, town, county, political subdivision (as defined by IC 36-1-2-13), and any department, commission, board, bureau or agency thereof.

Public sewer means any combined or sanitary sewer or lift station located within the public right-of-way or a dedicated easement and that is controlled by a public entity.

Publicly Owned Treatment Works ("POTW") means all publicly owned facilities for collecting, pumping, treating and disposing of wastewater, including sewers, lift stations, manhole stations and the wastewater treatment plants.

Radioactive material means any material (solid, liquid or gas) that spontaneously emits ionizing radiation and that is regulated by the Nuclear Regulatory Commission (NRC) or the Indiana State Board of Health. This may include naturally occurring radioactive material, by-product material, accelerator produced material, source material or special nuclear material.

Sanitary district means that area incorporated into the sanitary district established pursuant to IC 36-9-25.

Sanitary sewer means a sewer that carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

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Sewage means human excrement and gray water (household showers, dishwashing operations, etc.)

Sewage disposal system means and includes septic tanks, wastewater holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units and other equipment, facilities or other devices used to store, treat, render inoffensive or dispose of human excrement or liquid-borne wastewater.

Sewage normally discharged by a residence means the liquid waste contributed by a residential living unit and shall not exceed a volume of ten thousand five hundred (10,500) gallons per month, thirty (30) pounds of BOD per month, and thirty-five (35) pounds of suspended solids per month.

Sewer means a pipe or conduit for carrying sewage.

Sewer work means the connecting of any building sewer to a city sewer, the making of a significant alteration to or significant repair of a building sewer, the connecting of a building sewer to a building drain or the altering or repairing of a city sewer.

Shall is mandatory; *may* is permissive.

Significant industrial user ("SIU") means any industrial user that is:

- (1) A facility regulated by a national categorical pretreatment standard ~~the Act~~ and generates a process discharge;
- (2) A noncategorical facility with a process wastewater discharge equal to or greater than an average of twenty-five thousand (25,000) gallons per day (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
- (3) Any industrial user with a reasonable potential to adversely affect the POTW, its treatment processes or operations, or its sludge use or disposal or for violating any pretreatment standard or requirement;
- (4) Any other industrial user deemed to be significant by the director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or
- (5) Any other industrial user that contributes process wastewater that makes up five (5) percent or more of the dry weather average hydraulic or organic capacity of the POTW treatment plant.

Upon a finding that an industrial user meeting the criteria of paragraphs (2), (3), (4) and (5) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the director may at any time, on the director's own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR § 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Slug, slug load, or slug discharge means any discharge of a non-routine, episodic nature, including but not limited to an accidental discharge, accidental spill, or a non-customary batch discharge, which has reasonable potential to cause interference or pass through, or in any other way violate any requirement of this resolution or the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

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Storm drain or *storm sewer* means a sewer that carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

~~*Suspended solids (SS)* means solids that either float on the surface of or are in suspension in water, sewage or other liquids and that are removable by laboratory filtering.~~

Tank means any container when placed on a vehicle to transport wastewater.

Total suspended solids (TSS) or suspended solids (SS) means the total solids that either float on the surface of or are in suspension in water, sewage or other liquids and that are removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of CWA §§ 307(a) or 405(d) or other acts.

Upset means an exceptional incident in an industrial user's facility, in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

User means any person who contributes, causes or permits the contribution of wastewater into the POTW.

Vehicle means a device used to transport a tank.

Wastewater means a combination of the liquid and water-carried pollutants from residences, commercial businesses, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

Wastewater hauler means any person who engages in the activity, service, business or leasing of vehicles for the purpose of transporting domestic wastewater to another location for disposal.

Wastewater treatment plant means any arrangement of devices and structures used for treating wastewater.

Wastewater works means all facilities for collecting, pumping, treating and disposing of wastewater.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Abbreviations. The following abbreviations shall have the designated meanings:

BOD or BOD5:	Biochemical oxygen demand
CFR:	Code of Federal Regulations (July 1, 1994 edition)
COD:	Chemical oxygen demand
CWA:	Clean Water Act
EPA:	U.S. Environmental Protection Agency
gpd	Gallons per Day
IC:	Indiana Code
IAC:	Indiana Administrative Code (as amended as of December 1, 1994)
IDEM:	Indiana Department of Environmental Management
ISBH:	Indiana State Board of Health
IU:	Industrial User
l:	Liter
mg:	Milligrams
mg/l:	Milligrams per liter
NPDES:	National Pollutant Discharge Elimination System
RCRA	Resource Conservation and Recovery Act
SIC:	Standard industrial classification
SNC:	Significant Noncompliance
SS:	Suspended solids
SWDA:	Solid Waste Disposal Act, 42 USC § 6901 et seq.
TSS:	Total suspended solids
40 CFR 136:	"Guidelines Establishing Test Procedures for the Analyses of Pollutants"

Sec. 1.3. Required connection to wastewater system.

Except where a valid NPDES permit exists, the owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the jurisdiction of the CWA Authority and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a city sewer, is hereby required at the owner's expense to connect such facilities directly with the proper city sewer in accordance with the provisions of this resolution within ninety (90) days after the day of official notice to do so, provided that such city sewer is within one hundred (100) feet (30.5 meters) of the property line, notwithstanding whether or not the facilities are served by any private sewage disposal system and within conditions as hereinafter provided.

Sec. 1.4. Regulation of discharges to public sewers.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff or subsurface drainage into any sanitary sewer.

(b) Stormwater and all other unpolluted drainage may be discharged through existing structures to such sewers as are specifically designated as combined sewers or storm sewers. No additional flow shall be introduced. Industrial cooling waters or unpolluted process waters may be discharged, on approval of application as provided in section 2.8 of this resolution.

(c) No person shall discharge or cause to be discharged to any city sewer wastewater or pollutants which cause, threaten to cause or are capable of causing, either alone or by interaction with other substances:

- (1) Fire or explosion hazard, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F [60 degrees C] using the test methods specified in 40 CFR 261.21;
- (2) Corrosive structural damage to the POTW but in no case water with a pH lower than 5.0 or higher than 12.0;
- (3) Obstruction to the flow in city sewers or other interference with the proper operation of the POTW;
- (4) An interference;
- (5) A pass-through.

(d) No person shall discharge or cause to be discharged to any city sewer:

- (1) A slug or a flow rate and/or pollutant discharge rate which is excessive over a relatively short time period so that there is a treatment process upset and subsequent loss of treatment efficiency;
- (2) Heat in amounts which will inhibit biological activity at the wastewater treatment plant but in no case greater than sixty (60) degrees centigrade (one hundred forty (140) degrees Fahrenheit) or heat in such quantities that the temperature at the wastewater treatment plant exceeds forty (40) degrees centigrade (one hundred four (104) degrees Fahrenheit);
- (3) Any wastewater containing toxic pollutants or any discharge which could result in toxic gases, fumes or vapors in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed applicable categorical pretreatment standards;
- (4) A wastewater with a closed cup flash point of less than one hundred forty (140) degrees Fahrenheit or any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious or hazardous in any other way to the POTW or to the operation of the wastewater treatment plant. At no time shall a discharge cause a reading on a meter capable of reading L.E.L. (lower explosive limit) to be greater than ten (10) percent at the point of discharge to the POTW or at any point in the POTW;
- (5) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;
- (6) Solid or viscous substances and/or other pollutants which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to, grease, improperly shredded garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes,

cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones;

- (7) Any substance which may cause the POTW's effluent or any other product of the wastewater works such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act;
 - (8) Any substance which will cause the POTW to violate its NPDES permit or the receiving stream's water quality standards;
 - (9) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes, inks and vegetable tanning solutions;
 - (10) Any wastewater containing radioactive material above limits contained in regulations, licenses or orders issued by the appropriate authority having control over their use. The disposal of any licensed radioactive material must meet applicable local, state or federal requirements;
 - (11) Any wastewater containing a total petroleum hydrocarbons concentration as determined by a procedure deemed appropriate by the director in excess of two hundred (200) mg/l. This limitation shall apply at the point of discharge to the city sewer system and is the maximum concentration allowed in any single grab sample collected from the waste stream;
 - (12) Any gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, carbides, hydrides, stoddard solvents, sulfides, epoxides, esters, amines, polynuclear aromatic hydrocarbons, pyridines, new and used motor oil, or antifreeze, except at concentrations which do not exceed levels of such substances which are routinely present in the normal wastewater discharge and do not otherwise violate any section of this resolution or the conditions of an industrial discharge permit or a special agreement; and
 - (13) Polychlorinated biphenyls (PCBs) in any detectable concentrations.
 - (14) Any pollutant, including oxygen demanding pollutants, released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
 - (15) Any trucked or hauled pollutants, except at discharge points designated by the POTW.
- (e) No person shall discharge or cause to be discharged a wastewater which has a value in excess of the values shown on table 1.

TABLE 1
NONCATEGORICAL DISCHARGE LIMITS

Pollutant	Daily Maximum Allowable Concentration Value (mg/l)
Arsenic	4.0
<u>Beryllium</u>	<u>1660.0</u>
Cadmium	1.2
Chromium (total)	24.0
Chromium (hex)	3.4
Copper	2.2
Cyanide (amenable)	0.4
Lead	4.7
<u>Mercury</u>	<u>0.025</u>
Nickel	7.3
Phenol	46.0
Pentachlorophenol	0.012
<u>Selenium</u>	<u>21.5</u>
<u>Silver</u>	<u>4.2</u>
Zinc	38.0
Mercury	0.025
Silver	4.2

(f) The limitations set forth in table 1 established pursuant to 40 CFR 403.5(c) above apply at the point of discharge to the city sewer system. The local limitations for amenable cyanide, total cyanide and phenols apply to twenty-four-hour composite samples only in those cases where the composite sample is preserved according to EPA approved methods prior to collection. Otherwise, the values set forth for amenable cyanide, total cyanide and phenols or, with the approval of the director, any other listed pollutants shall apply to an instantaneous grab sample taken during prevailing discharge conditions and representative of the facility's discharge in general. The limitations and requirements imposed in subsections (c) and (d) of this section shall apply at the point of discharge to the city sewer unless specified otherwise.

(g) A grease interceptor shall be installed in the waste line leading from sinks, drains and other fixtures or equipment in restaurants, cafes, lunch counters, cafeterias, bars and clubs; hotel, hospital, sanitarium, factory or school kitchens; or other establishments where grease may be introduced into the drainage or sewage system in quantities that can affect line stoppage or hinder sewage treatment. The characteristics, size and method of installation of the grease interceptor shall meet the requirements imposed by the Indiana department of fire prevention and building services and shall be reviewed and approved by the director prior to the commencement of installation. Approval of proposed facilities or equipment does not relieve the person of the responsibility of enlarging or otherwise modifying such facilities to accomplish the intended purpose. On a showing of good cause, the director may waive this requirement. A grease interceptor is not required for individual dwelling units or for any private living quarters.

(h) No user shall introduce new constituents or change substantially the character or volume of pollutants discharged to the POTW without prior written notification to and approval by the director. Such prior notification shall include hazardous wastes for which an industrial user has

submitted notification to the director pursuant to section 3.15.

Sec. 1.5. Removal Credits.

When the CWA Authority demonstrates consistent removal of pollutants limited by federal categorical pretreatment standards, as required by 40 CFR 403.7, CWA Authority may apply to the administrator of EPA, or the state if it has an approved pretreatment program, for authorization to give a removal credit to industrial users to reflect removal of toxic or other regulated pollutants by the wastewater treatment system.

Sec. 1.6. State and federal requirements.

Federal categorical pretreatment standards or state requirements and limitations on discharges shall apply in any case where they are more stringent than those in this resolution. To the extent the federal regulations contain stricter standards, the categorical pretreatment standards found in 40 CFR Chapter I, Subchapter N, Parts 405--471, are hereby incorporated by reference into this resolution. To the extent the state regulations contain stricter standards, the pretreatment standards found in 327 IAC 5-12-6 are hereby incorporated by reference into this resolution.

Sec. 1.7. Right of revision.

CWA Authority reserves the right to establish by resolution more stringent limitations or requirements on discharges to the wastewater system than those in this resolution that may be deemed necessary to comply with the objectives presented in section 1 of this resolution or to comply with federal or state laws, regulations, or permits issued by such authorities.

Sec. 1.8. Excessive discharge.

No industrial user shall ever increase the use of process water or other flows to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards or in any other pollutant-specific limitation developed by the board or the state.

Sec. 1.9. Accidental discharge.

(a) Each industrial user shall provide protection from accidental discharge of substances regulated by this resolution. Facilities to prevent accidental discharge shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be available to the CWA Authority for review. All existing industrial users shall complete such a plan within six (6) months after the effective date of this resolution. No industrial user who commences contribution to the POTW after the effective date of this resolution shall be permitted to introduce pollutants into the system until accidental discharge procedures are available. Such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of this resolution.

(b) In the case of an accidental discharge, it is the responsibility of the industrial user to immediately telephone and notify the CWA Authority of the incident. The notification shall include:

- (1) Name of company;
- (2) Location of discharge;

- (3) Type of waste discharged;
- (4) Concentration and volume of waste discharged; and
- (5) Corrective actions taken to minimize the impact of the discharge to the POTW.

(c) The industrial user shall notify the CWA Authority if it is unable to comply with any requirement of this resolution because of a breakdown of its treatment equipment, accidents caused by human error, or upsets. The notification should include the information required in subsection (b) above.

(d) Within five (5) working days, unless extended by the CWA Authority in writing, the industrial user shall submit to the CWA Authority a detailed written report describing the accidental discharge, including:

- (1) The cause of the accidental discharge;
- (2) The period of the accidental discharge, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
- (3) Steps being taken and/or planned to reduce, eliminate or prevent recurrence of the accidental discharge.

(e) Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the wastewater works or aquatic life, fish kills, or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this resolution or other applicable law.

(f) An affirmative defense of upset may be available to an industrial user in an enforcement proceeding. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof. An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

- (1) An upset occurred and the industrial user can identify the specific cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
- (3) The industrial user has submitted to the CWA Authority the information required in subsections (c) and (d) above;
- (4) The industrial user complied with any reasonable remedial measures to minimize or prevent any discharge or sludge use or disposal in violation of this resolution which has a reasonable likelihood of adversely affecting human health or the environment.

Any upset defense is only available for violations of categorical pretreatment standards or technology-based permit effluent limitations.

(g) A notice shall be permanently posted on the user's bulletin board or other prominent place advising affected employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

Sec. 1.10. Plan to control slug discharges.

(a) The CWA Authority shall evaluate and document whether each significant user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation shall have been conducted at least once by October 14, 2006. Additional significant industrial users shall be evaluated within one (1) year of being designated as an industrial user.

(b) Significant industrial users shall notify the CWA Authority immediately of any changes at a facility affecting potential for a slug discharge.

(c) Slug control plans shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the CWA Authority of slug discharges, including any discharge that would violate a prohibition under section 4 of this resolution with procedures for follow-up written notification within five (5) days; and
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.

Sec. 1.11. Liability for damage.

(a) If any person discharges or causes to be discharged a waste which causes interference, pass-through, obstruction, damage or any other impairment to the POTW, the CWA Authority may assess a charge against such person for:

- (1) The work required to clean or repair the POTW;
- (2) Any civil penalty, fine or cost of compliance with injunctions or other orders of a court or governmental authority imposed against the CWA Authority as a result of such interference, obstruction, damage or impairment; and
- (3) All other costs incurred by the CWA Authority as a result of such interference, pass through, obstruction, damage or impairment including but not limited to expert, consultant and attorneys' fees;

and add such charges to such person's regular charge.

(b) A person shall have an affirmative defense to any charge assessed against it under this section where the person can demonstrate that it did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference, and:

- (1) A local limit designed to prevent pass through or interference, as the case may be, has been developed for each pollutant in the person's discharge that caused pass through or interference, and the person was in compliance with such local limit directly prior to and during the pass through or interference; or
- (2) If a local limit designed to prevent pass through or interference, as the case may be, has not been developed for the pollutant(s) that caused the pass through or interference, the person's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the person's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

Sec. 1.12. Special agreements.

Special agreements and arrangements between the CWA Authority and any person may be established when the director determines that, unusual or extraordinary circumstances compel special terms and conditions. The director shall consider the total cost of application of technology in relation to the pollutant reduction benefits to be achieved from such application, the quality of pollutants that will be included in the discharge, the impact of those pollutants on the POTW and the receiving stream, and such other factors as the director determines to be appropriate. A violation of a term of a special agreement shall be considered a violation of this resolution. There cannot be special agreements and arrangements where federal categorical pretreatment standards and requirements apply.

Sec. 1.13. Monitoring devices; metering equipment.

(a) Installation and maintenance at industrial user's expense. The director may require, as is necessary to carry out the requirements of this resolution, any industrial user to construct at the industrial user's expense monitoring facilities to allow inspection, sampling and flow measurement of the building drain or sewer and may also require sampling or metering equipment to be provided, installed and operated at the industrial user's expense. The monitoring facility should normally be situated on the industrial user's premises, but the director may, when such a location would be impractical or cause undue hardship, upon approval allow the facility to be constructed in the public right-of-way; provided, however, the department of public works of the city of Indianapolis shall determine the locations on the public right-of-way on or below which the monitoring device and facility shall be placed.

(b) Temporary right-of-way use permit. The owner of the property abutting the public right-of-way to be used for the installation of the monitoring device shall submit to the appropriate city agency a temporary right-of-way use request and site plan prior to proceeding with the installation of the monitoring device.

(c) Industrial users. Industrial users subject to categorical pretreatment standards shall have the option to designate a sampling location at a point containing only regulated process wastewaters or at a point containing the combined waste stream to demonstrate compliance with the applicable standard. The industrial user shall prove to the satisfaction of the CWA Authority that the selected self-monitoring location contains all regulated waste streams. This option does not relieve the industrial user of the requirements specified in subsection (a) of this section.

(d) An industrial user shall obtain written approval of the CWA Authority prior to changing the point of self-monitoring activities.

Sec. 1.14. Right to inspect.

Whenever required to carry out the objectives of this resolution, the director or his/her authorized representative shall have a right of entry to, upon or through any premises for purposes of reviewing and copying relevant records or inspecting, measuring and sampling of the discharges. If requested, the director or his/her authorized representative shall present appropriate credentials. This right of entry shall include, but not be limited to, any equipment necessary to conduct such inspections, measuring and sampling. It shall be the duty of the person to provide all necessary clearance before entry and not to unnecessarily delay or hinder the authorized representative in carrying out the review of relevant records, inspection, measuring and sampling. The right of entry shall exist at any time.

Sec. 1.15. Rules and regulations.

After the adoption of this resolution, and from time to time thereafter as may be needed, the board may by resolution promulgate rules and regulations necessary to implement and carry out the provisions of this resolution and not inconsistent therewith.

Sec. 1.16. Penalties.

(a) Notwithstanding any other section, any person who violates any provision or discharge limit of this resolution may be fined an amount not to exceed:

- (1) two thousand five hundred dollars (\$2,500-~~00~~) for the first occurrence; and
- (2) seven thousand five hundred dollars (\$7,500) for a second or subsequent violation.

A violation of any condition or requirement of any permit issued under this resolution or special agreement entered into under the authority of this resolution shall constitute a violation of this resolution. Each day's violation shall constitute a separate offense.

(b) Nothing in this resolution shall restrict any right which may be provided by statute or common law to the board or CWA Authority to bring other actions, at law or equity, including injunctive relief. Violations of this resolution may be resolved through administrative adjudication as provided in a resolution adopted by the board.

Sec. 1.17. Recordkeeping requirement.

(a) Any industrial user subject to the reporting requirements established in this resolution shall maintain records of all information resulting from any monitoring activities required by this resolution, including documentation required by best management practices. Such records shall include for all samples:

- (1) The date, exact place, method and time of sampling and the name(s) of the person or persons taking the samples;
- (2) The dates analyses were performed;
- (3) The name, title and address of the person or persons who performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

(b) Any industrial user subject to the reporting requirements established in this resolution

shall be required to retain for a minimum of three (3) years any records of monitoring activities and results and shall make such records available for inspection and copying by the CWA Authority, the EPA and the IDEM. The CWA Authority may extend the recordkeeping retention requirement beyond three (3) years during periods of litigation, in anticipation of litigation, or as requested by the approval authority. Records maintained pursuant to this section are deemed to be public records subject to the provisions of IC 5-14-3-1 et seq.

Sec. 1.18. Baseline report.

(a) Within one hundred eighty (180) days after the effective date of a federal categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made on a category under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW will be required to submit to the department a report containing the information in subsections (1) through (6) as required by 40 CFR 403.12(b)(1) through (b)(6). At least ninety (90) days prior to the commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard will be required to submit to the department a report which contains the information listed in subsections (1) through (5) of this section. New sources also will be required to include in this report information on the method of pretreatment the source intends to use to meet the applicable pretreatment standards. New sources shall give estimates of the information requested in subsection (6).

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- (1) *Identifying information.* The user shall submit the name and address of the facility, including the name of the operator and owners.
- (2) *Permits.* A list of any environmental control permits held by or for the facility.
- (3) *Description of operations.* User shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the wastewater works from the regulated processes.
- (4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - a. Regulated process streams; and
 - b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).

(b) The director may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

- (1) *Measurement of pollutants.* The pretreatment standards applicable to each regulated process and concentration and nature (or mass) as measured according to 40 CFR 403.12(b)(5).
- (2) *Report of compliance.* The report shall state whether the applicable pretreatment standards or regulations are being met on a consistent basis. If not, then the report shall state what operation and maintenance or pretreatment is necessary to bring the user into compliance and the shortest schedule by which the user will provide such additional operation and maintenance or pretreatment, provided that the completion

date shall not be later than the compliance date established for the applicable categorical pretreatment standard. This statement shall be signed by an authorized representative of the industrial user and certified by a professional engineer licensed in the State of Indiana. If the industrial user's categorical pretreatment standard has been modified by a removal allowance pursuant to 40 CFR 403.7, the combined wastestream formula pursuant to 40 CFR 403.6(e) or a fundamentally different factors variance pursuant to 40 CFR 403.13, the industrial user shall report to the department within the time frames specified in 40 CFR 403.12(b).

Sec. 1.19. Signatories and Certifications.

All wastewater discharge permit applications, User reports, and certification statements required to be submitted must be signed by an Authorized Representative of the User and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

CHAPTER 2. Permits; registration

Sec. 2.1. Permit required.

(a) All industrial users proposing to connect to or discharge into a city sewer must complete an application for an industrial discharge permit before connecting to or discharging into a city sewer. All industrial users connected to or discharging into a city sewer, who do not currently have an industrial discharge permit, must complete an application for an industrial discharge permit within ninety (90) days after the effective date of this resolution. All significant industrial users (SIU's), including those users subject to federal standards, users not subject to federal standards but deemed significant by the CWA Authority, or which otherwise meet the criteria of a significant industrial user shall obtain a permit from the CWA Authority before connecting to or discharging into a city sewer.

(b) No person shall knowingly make any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this resolution or the industrial discharge permit. Nor shall any person falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this resolution.

Sec. 2.2. Application.

(a) The CWA Authority shall have the authority to prescribe an industrial discharge permit application form. The application form may require the following information:

- (1) Name, address of the facility and standard industrial classification number.
- (2) Name of the owner and operator.
- (3) Contact information, description of activities, facilities, and plant production processes on the premises. This description should include a schematic process

diagram which indicates points of discharge of the POTW from the regulated processes.

(4) Number and type of employees, hours of operation, and proposed or actual hours of operation.

(4)(5) Volume and flow of wastewater to be discharged.

(5)(6) The wastewater characteristics including, but not limited to, BOD, suspended solids, ammonia and pH.

(6)(7) Type and amount of raw materials processed (average and maximum per day) and a description of daily, weekly and seasonal variations in wastewater discharges, including instantaneous, daily maximum, and long-term average concentrations, or mass, of pollutants.

(7)(8) Location of building drain or building sewer and the location for monitoring all wastewater covered by the permit application.

(8)(9) Pretreatment standards applicable to the discharge and any new categorically regulated processes for Existing Sources.

(9)(10) If additional pretreatment and/or operation and maintenance are required to meet the pretreatment standards, the user shall provide it by the shortest possible compliance schedules. The completion date in the schedule shall not be later than the compliance date established for any applicable federal pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

b. No increment referred to in paragraph a. shall exceed nine (9) months.

c. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the director.

(10)(11) Any other information as may be deemed by the board to be necessary to evaluate the industrial discharge permit application.

(b) The industrial discharge permit application shall be signed and sworn to by an authorized representative of the industrial user.

Sec. 2.3. Term.

The industrial discharge permit shall be for a term of no more than five (5) years. Any person wishing to continue to discharge to a city sewer beyond the term of the industrial discharge permit shall apply for renewal of the industrial discharge permit at least sixty (60) days prior to the expiration of such permit using forms prescribed by the board, which forms may require the information set forth in section 4-182.2 of this resolution.

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In the event the permittee does not receive permit renewal prior to the expiration date due to circumstances beyond the control of the permittee, the standards and requirements set forth in the expired permit shall remain in full force and effect until such renewal is received by the permittee.

Sec. 2.4. Conditions.

The CWA Authority may prescribe conditions to the industrial discharge permit that shall may, as applicable, include the following:

- (1) Applicable federal, state and/or local laws, resolutions, regulations or orders, including national categorical pretreatment standards for new and existing sources promulgated in 40 CFR parts 401 through 471.
- (2) Limits or prohibitions on the wastewater characteristics other than those in section 4 of this resolution including, but not limited to, polychlorinated biphenyls and polybrominated biphenyls for the protection of public health or the POTW. The director shall apply applicable federal categorical pretreatment standards, or, in the absence of such standards, limits may be based on the best practical technology.
- (3) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a city sewer, as approved by the Indiana utility regulatory commission.
- (4) Limits on the average and maximum wastewater constituents and characteristics.
- (5) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- (6) Requirements for installation and maintenance of inspection and sampling facilities.
- (7) Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedule.
- (8) Compliance schedules which may not extend the compliance date beyond applicable federal deadlines.
- (9) Best management practices.
- (10) Requirements for submission of technical reports or discharge reports.
- (11) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the board, and affording the CWA Authority access thereto.
- (12) Requirements for prior notification of the CWA Authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW, including any hazardous wastes for which the industrial user has submitted notification to the city pursuant to section 3.15.

(13) Requirements for notification of slug discharges and the submittal and implementation of a slug control plan as described in section 1.10.

(14) Mandatory statement of duration as provided in section 2.2.

(15) Mandatory statement of non-transferability as provided in section 2.7.

(16) Mandatory effluent limits based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits and state and local law.

(17) Mandatory self-monitoring, sampling, reporting notification and recordkeeping requirements, as provided in this Resolution, including an identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits and state and local law.

(18) Mandatory statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

(19) Whenever deemed necessary, requirements for discharge restrictions during peak flow periods, including designations that certain wastewater may be discharged only to specific sewers, relocation and/or consolidation of points of discharge, separation of sewage waste streams from industrial wastestreams, and other such conditions, may be necessary to protect the POTW.

(20) Whenever deemed necessary, requirements for installation and maintenance of suitable storage and flow-control to ensure equalization of flow at the user's facility at their own expense.

~~(19)(21)~~ Other conditions as deemed appropriate by the board to ensure compliance with this resolution.

Sec. 2.5. Permit modifications.

(a) Within nine (9) months of the promulgation of a categorical pretreatment standard, the industrial discharge permit of users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. In addition, the user with an existing industrial discharge permit shall submit to the CWA Authority, within one hundred eighty (180) days after the promulgation of an applicable categorical pretreatment standard, the information required by section 19-22 of this resolution. Industrial discharge permits of users who must comply with federal categorical pretreatment standards prior to the effective date of this resolution shall be revised immediately upon the effective date of this resolution to reflect applicable pretreatment standards.

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(b) Modification of an industrial discharge permit may also be accomplished at any time during the term of the permit when the CWA Authority determines a modification is necessary to accurately characterize changes in industrial contribution, wastewater constituents or characteristics, ordinance requirements or any other applicable condition. An industrial user shall be given a thirty-day written notice of the impending modification. Compliance deadlines with the modified requirements shall be determined on a case-specific basis.

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Sec. 2.6. Application Fee.

There shall be an application fee of one hundred fifty dollars (\$150.00) for an individual discharge

permit. This fee shall apply to original and renewal permit applications and modifications of existing permits initiated by the permittee. Payment of the fee shall accompany submission of the completed application. The board may revise the amount of such fee from time to time, but not more than once each year.

Sec. 2.7. Nonassignability.

The industrial discharge permits are issued to a specific person for a specific facility and do not constitute a property interest nor shall the industrial discharge permit be assigned, conveyed or sold to a new owner, new user, different premises or a new or changed operation, except as follows: Industrial discharge permits may be reassigned or transferred to a new owner and/or operator if the permittee gives at least thirty (30) days advance written notice to the board and the board approves the industrial discharge permit transfer in writing. The notice to the board must include a written certification by the new owner and/or operator which: (1) states that the new owner and/or operator has no immediate intent to change the facility's operations and process; (2) identifies the specific date on which the transfer is to occur; and (3) acknowledges full responsibility for complying with the existing industrial discharge permit and all applicable laws and regulations. Failure to provide advance notice of a transfer renders the industrial discharge permit voidable on the date of facility transfer.

~~Sec. 2.8. Registration.~~

~~(a) An industrial user that is not otherwise required to apply for a discharge permit under this resolution shall annually register with the department. The following information must be registered annually with the department:~~

~~(1) Name, address and standard industrial classification number.~~

~~(2) Volume of wastewater to be discharged.~~

~~(3) The wastewater characteristics including, but not limited to, BOD, suspended solids, ammonia and pH.~~

~~(4) Description of daily, weekly and seasonal variations in discharges.~~

~~(5) Location of building drain and/or building sewer.~~

~~(6) Pretreatment standards applicable to the discharge.~~

~~(7) Any other information as may be required by the department.~~

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CHAPTER 3. Pretreatment requirements.

Sec. 3.1. Pretreatment.

Industrial users shall provide necessary wastewater treatment as required to comply with this resolution and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the CWA Authority shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the CWA Authority for review and shall be acceptable to the CWA Authority before final review and approval of such plans by the IDEM and construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an

effluent acceptable to the CWA Authority under the provisions of this resolution. Any subsequent significant modifications in the pretreatment facilities or method of operation affecting its discharge shall be reported to and be acceptable to the CWA Authority prior to the user's initiation of the changes.

Sec. 3.2. Compliance date report.

Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the system, any user subject to pretreatment standards or regulations shall submit to the board a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards or regulations and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or regulations. The report shall state whether the applicable pretreatment standards or regulations are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment are necessary to bring the user into compliance with the applicable pretreatment standards or regulations. This report shall contain a reasonable measure of the user's long-term production rate. This statement shall be signed by an authorized representative of the industrial user and certified by a professional engineer licensed in the State of Indiana.

Sec. 3.3. Periodic compliance reports.

(a) Any user subject to a pretreatment standard set forth in this resolution, after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the CWA Authority, during the months of June and December (or alternative months specified by the director), unless required more frequently in the pretreatment standard or by the board, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in section 3.2 of this resolution. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the industrial user will submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the director may agree to alter the months during which the above reports are to be submitted.

(b) Reports of permittees shall contain the results of sampling and analyses of the discharge, including the flow and the nature and concentration, or production and mass where requested by the board, of pollutants contained therein that are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with 40 CFR Part 136 or with any other test procedures approved by the board. Sampling shall be performed in accordance with the techniques approved by the board. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the director determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or other sampling and analytical procedures approved by the director.

Section 3.4. Reporting and sampling requirements.

(a) The reports required by sections 1.18 (baseline reports), 3.2 (compliance date reports) and 3.3 (periodic compliance reports) shall be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of

the conditions occurring during the reporting period. The director shall require a frequency of monitoring that is necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the director. Where time-proportional composite sampling or grab sampling is authorized by the director, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols, including appropriate preservation, as specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to analysis as follows:

- (1) For cyanide, total phenols and sulfides, the samples may be composited in the laboratory or the field;
- (2) For volatile organics and oil and grease, with the approval of the director, the samples may be composited in the laboratory;
- (3) Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the director, as appropriate.

(b) For sampling required by section 1.18 (baseline reports) and section 3.2 (compliance date reports), a minimum of four (4) grab samples must be used for:

- (1) pH;
- (2) Cyanide;
- (3) Total phenols;
- (4) Oil and grease;
- (5) Sulfide; and
- (6) Volatile organic compounds; for facilities for which historical sampling data do not exist. For facilities for which historical sampling data are available, the director may authorize a lower minimum.

(c) For periodic reports required by section 3.3 (periodic compliance reports), the director shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

(d) If an industrial user subject to section 3.3 (periodic compliance reports) monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director using the procedures described in section 3.3, the results of this monitoring shall be included in the report.

Sec. 3.5. Confidential information.

(a) Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, and monitoring programs, and from CWA Authority's inspection and sampling activities, shall be available to the public without restriction unless the User specifically requests, and is able to demonstrate to the satisfaction of CWA Authority that the information is confidential as described in paragraph (b). Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be made available to the public without restriction.

(a)(b) The CWA Authority shall protect any information (other than effluent data) contained in

the application forms or other records, reports or plans as confidential upon showing by any person that such information, if made public, would divulge methods or processes entitled to protection as trade secrets of such persons.

(c) Information accepted by the CWA Authority with a claim for confidentiality shall be safeguarded by the CWA Authority and shall not be transmitted to the public until and unless a fifteen-day notification is given to the user. During the fifteen-day period, the user shall submit a justification of confidentiality to the CWA Authority. A determination of confidentiality shall be made by the director pursuant to regulations used by the EPA for acquisition of and public access to agency information, 40 CFR § 403.14.

~~(b)(d)~~ When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the permit furnishing the report.

Sec. 3.6. Emergency suspension of service and industrial discharge permit.

- (a) Notwithstanding any other provisions of this resolution, the director may:
- (1) After informal notice to the user, suspend the wastewater treatment service and/or an industrial discharge permit when such suspension is necessary, in the determination of the director, in order to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the health or welfare of persons, and/or
 - (2) After notice and an opportunity to respond, suspend the wastewater treatment service and/or an industrial discharge permit when such suspension is necessary, in the opinion of the director, in order to stop an actual or threatened discharge that presents or may present an endangerment to the environment or causes interference to the POTW, or causes the CWA Authority to violate any condition of its NPDES permit.

(b) Any user notified of a suspension of the wastewater treatment service and/or the industrial discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to any individuals. The director shall reinstate the industrial discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. The user shall pay all costs associated with disconnecting from and reconnecting to the city sewer. A detailed written statement submitted by the user describing the cause(s) of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the CWA Authority within five (5) days of the date of occurrence.

Sec. 3.7. Revocation.

The director may revoke the industrial discharge permit of any person for any of the following:

- (1) Violation of any provisions of this resolution or of any applicable state and/or federal law including regulations;
- (2) Failure to timely file any discharge reports;
- (3) Failure to factually report wastewater characteristics;

- (4) Refusal of reasonable access to the user's premises for the purpose of review of records, inspection or monitoring; or
- (5) Violation of any condition of the industrial discharge permit.

Sec. 3.8. Notice of revocation.

Except in cases of willfulness or those in which public health interest or safety require otherwise, the revocation, withdrawal or suspension of an industrial discharge permit is lawful only if, before the institution of proceedings thereof, the permittee has been given:

- (1) Notice by the director, in writing, of the facts or conduct which may warrant the action.
- (2) Opportunity to demonstrate or achieve compliance with all lawful requirements.

Sec. 3.9. Notification of violation.

Whenever the director determines that any user has violated or is violating this article or any conditions of its industrial discharge permit, the director may serve upon such person a written notice stating the nature of the violation. Within fifteen (15) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the CWA Authority by the user. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of CWA Authority to take any action, including emergency actions or any other enforcement action without first issuing a Notice of Violation.

Sec. 3.10. Consent Orders

CWA Authority may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative order issued pursuant to this resolution and Resolution CWA 3-2011 and shall be administratively or judicially enforceable.

Sec. 3.1011. Show-cause hearing.

The director may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause at a hearing why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held before the director or an appointed hearing officer, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail at least ten (10) days before the hearing.

Sec. 3.142 Appeals.

A user may file with the director a written request for reconsideration within fifteen (15) days of any action, decision or determination taken as part of the CWA Authority's administrative enforcement program. The request shall set forth in detail the facts surrounding the request. The director shall respond within ten (10) days of receipt of the request and shall make a final determination within thirty (30) days of receipt of the request.

The user may appeal to the Marion circuit or superior courts within fifteen (15) days of any final decision of the director.

Sec. 3.123. Publication of significant noncompliance.

(a) By April 30 of each year, the CWA Authority shall publish in the newspaper of general circulation that provides meaningful notice in the Central Indiana area a list of the users that at any time during the previous calendar year were in significant noncompliance with applicable pretreatment requirements. The list shall be published by April 30 of each year summarizing the noncompliance of the previous calendar year.

(b) For purposes of this section, a significant industrial user (or any industrial user that violates subsections (3), (4), or (8) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of discharge limitations in which sixty-six (66) percent or more of all measurements taken for the same pollutant parameter during a six-month period exceed by any magnitude parameter numeric pretreatment standard or requirement, including instantaneous limits, as defined in 40 CFR 403.3(l);
- (2) Violations of technical review criteria (TRC) defined as those in which thirty-three (33) percent or more of all measurements for the same pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);
- (3) Any other violations of an effluent limit or a pretreatment standard or requirement as defined in 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit or narrative standard) that the director has determined have caused, alone or in combination with other discharges, interference or pass-through at the POTW or endangerment to POTW personnel or the public;
- (4) Any discharge of a pollutant causing imminent endangerment to human health, welfare or the environment or resulting in the director's exercise of emergency authority under section 3.5 to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after a scheduled date, a compliance schedule milestone contained in a compliance schedule or order;
- (6) Failure to provide a required report within forty-five (45) days after the due date;
- (7) Failure to accurately report noncompliance; or,
- (8) Any violation or group of violations, that may include violations of best management practices that the director determines will adversely affect the operation or implementation of the CWA's or CWA's pretreatment program.

Sec. 3.134. Submission of self-monitoring reports.

Any industrial user required to complete self-monitoring reports as a condition of an industrial discharge permit shall submit the required reports to the CWA Authority. The reports shall be postmarked no later than the date specified in the permit. The reports shall be signed by an authorized representative of the industrial user as defined in section 1.2 of this resolution.

Sec. 3.145. Signatory requirements.

Reports and sworn statements required by this resolution shall be made by an authorized representative as defined in section 1.2 of this resolution. The reports and sworn statements which relate to the actual operation of or discharge from a pretreatment facility shall be prepared by or under the direction of a wastewater treatment plant operator certified under the provisions of

327 IAC 85-22, if the industrial user is required to have such a certified wastewater treatment plant operator.

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If an authorization allowed under this section is no longer accurate due to changes in the person or position designated, a new authorization satisfying the requirements of this section shall be submitted to the CWA Authority prior to or together with any applicable report.

~~Such reports and sworn statements shall be made as follows: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."~~

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Sec. 3.156. Violation of permit requirements.

(a) In the case of noncompliance with industrial discharge permit limitations, standards or requirements, the industrial user shall contact the director within twenty-four (24) hours of knowledge of the noncompliance. The person representing the industrial user shall provide the following information:

- (1) Name of the company;
- (2) Facility location;
- (3) Limitation, standard or requirement in violation; and
- (4) Corrective actions taken to eliminate, prevent and/or minimize the violation.

(b) The industrial user shall provide a detailed written report describing the violation to the industrial surveillance section. The report shall be submitted within five (5) working days subsequent to knowledge of the noncompliance incident. The director may grant an extension in writing to the report deadline in consideration of special circumstances. The report shall contain the following information:

- (1) Description of the discharge and cause of the violation;
- (2) Parameters in violation; and
- (3) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue and the steps being taken to reduce, eliminate and prevent recurrence of the noncomplying discharge or violation.

(c) Within thirty (30) days of knowledge of a violation from self-monitoring activities, the industrial user shall sample and analyze for the parameter(s) found in violation to demonstrate that compliance has been achieved. The results shall be submitted to the CWA Authority on the appropriate self-monitoring report. Where the director has performed the sampling and analysis in lieu of the industrial user, the director must perform the repeat sampling and analysis unless he/she notifies the user of the violation and requires the user to perform the repeat analysis.

(d) A violation of a monthly average limitation that is derived from federal categorical pretreatment standards shall constitute a separate violation for each day the facility operates

during a given month unless actual daily analyses are demonstrated to be less than the applicable monthly average limitation.

Sec. 3.167. Discharge of hazardous wastes.

Any industrial user which discharges a substance, which if disposed of otherwise would be a hazardous waste under 40 CFR Part 261, shall give prior written notification to the director, the Indiana Department of Environmental Management, and U.S. EPA Region V of such discharge, in accordance with the requirements of 40 CFR Part 261 and 40 CFR § 403.12(p).

Sec. 3.18. Bypass.

(a) The following definitions apply to this section.

1. Bypass means the intentional diversion of wastestreams from any portion of an Industrial users treatment facility.
2. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economical loss caused by delays in production.

(b) An industrial user may allow any bypass to occur which does not cause pretreatment standards or permit limitations or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. Such bypasses are not subject to subsections (c) and (d) of this section.

(c) Notice of bypass

1. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the director, if possible at least ten (10) days before the date of bypass.
2. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the director within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain the following:
 - a. A description of the bypass and its cause;
 - b. The duration of the bypass, including exact dates and times;
 - c. If the bypass has not been corrected, the anticipated time it is expected to continue; and
 - d. Steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass is prohibited and the director may take enforcement action against an industrial user for a bypass unless:

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
3. The industrial user submitted notices as required under subsection (c) this section.

(e) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three (3) conditions listed in subsection (d) of this section.

Chapter 4. Wastewater hauling.

Sec. 4.1. Wastewater hauler criteria.

Any wastewater hauler who engages in business in Marion County must comply with all of the following provisions of this resolution.

Sec. 4.2. Registration.

(a) Any wastewater hauler must be registered with and receive a permit from the CWA Authority and must display a valid decal issued by the CWA Authority in the lower corner of the driver's side windshield of each vehicle. The charge for the permit and decal for each vehicle shall be established by rule or regulation of the board. Such charge shall be due and payable at the time of filing. Such charges may be revised by the board no more than once each calendar year.

(b) Each wastewater hauler shall update the hauler's permit application as required by the board and shall include the following information:

- (1) Proof of ownership of each vehicle, including owner's name and legal address.
- (2) Proof of a valid permit from IDEM issued pursuant to IC 13-18-12.

(3) Proof of insurance as specified in subsection (d) of this section4.3 of this Resolution.

(4) The wastewater hauler's legal address and legal business address, type of business, i.e., domestic and/or industrial wastewater hauler.

(5) The number of wastewater hauling vehicles, tank capacity in gallons of each vehicle, and license and vehicle identification numbers of all vehicles.

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(6) Any other information as may be deemed by the director to be necessary to evaluate the wastewater hauler's permit.

(c) Each vehicle shall be equipped with an entry port, which allows sampling of the contents of the tank from top to bottom by CWA Authority personnel. This port shall have a minimum diameter of six (6) inches and shall be tightly secured to prevent leakage. Each vehicle must have the company name, address, telephone number, capacity in gallons, displayed in a manner similar to that required by IDEM.

(d) After the application has been received and reviewed by the director, and has been determined to satisfy the conditions above, a permit and decal for each vehicle shall be issued for a period not to exceed five (5) years from date of issuance. The board may prescribe additional permit conditions, including but not limited to:

- (1) Approved charges and fees;
- (2) Limits on the wastewater characteristics;
- (3) Restrictions on the times and days of discharge;
- (4) Requirements for the completion, submittal and retention of customer receipts and other documents and reports related to wastewater hauling;
- (5) Type of wastewater allowed to be hauled and disposed of at POTW;
- (6) Location of approved discharge sites;
- (7) Any other condition as deemed appropriate by the board to assure compliance with this resolution.

(f) A wastewater hauler's permit is issued to a specific person at a specific location and does not constitute a property interest nor shall the permit be assigned, conveyed or sold to a new owner, different premises or new or changed operation.

Sec. 4.3. Insurance required.

Each wastewater hauler shall be furnish the department with a certificate of insurance from companies satisfactory to the department, evidencing coverage of not less than the following limits of liability and listing the department as an additional insured on a primary and non-contributory basis:

Comprehensive Automobile Liability (including coverage for liability arising out of owned, non-owned and hired autos and for bodily injury and property damage):

Each Accident	\$1,000,000
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The above insurance policy shall be endorsed to provide a thirty (30)-day written notice of cancellation to the department. The insurance coverage shall cover all work performed by the wastewater hauler while transporting and discharging wastewater and shall include, but not be limited to, liability arising out of disposal of any hazardous waste, spilled material on public property, and fines or any other costs incurred by the CWA Authority as a result of the wastewater hauler's activities. The CWA Authority shall be named as an additional insured. A certificate of such policies shall be delivered to the CWA Authority prior to commencement of hauling. The insurance carrier shall give notice to the CWA Authority at least thirty (30) days before such insurance is either canceled or not renewed, and the certificate shall state this obligation. Wastewater haulers permitted at the time of the effective date of this provision shall submit proof of adequate insurance coverage with the next permit application or upon expiration of their bond, whichever is sooner. Potential wastewater haulers applying for a permit subsequent to the effective date of this provision shall secure the proper insurance coverage at the time of filing.

Sec. 4.4. Discharging procedures.

(a) All discharging of wastewater from the wastewater hauler's vehicle tanks must be done at designated sites approved by the CWA Authority. The CWA Authority shall have the right to limit the hours of the day and the days of the week during which discharging shall be allowed, and has the authority to revoke gate privileges for wastewater haulers that do not comply with the requirements of this Resolution.

(b) Any unpermitted discharging of wastewater into the POTW at any location under the jurisdiction of the CWA Authority is prohibited unless approved by the CWA Authority prior to discharging.

(c) Any disposal of wastewater by land application must be approved by the board. Written permission of the owner of the property used for disposal and written approval by IDEM must be submitted to the board before any approval may be granted and prior to discharging any wastewater.

(d) The wastewater hauler shall be responsible for the cleanup to the satisfaction of the director for any and all spills on public streets, rights-of-way and property.

(e) The board may require any wastewater hauler to correct any defective equipment including hoses, valves, tanks, piping and permanent or flexible connections which may result in the leakage or spilling of wastewater from the vehicle. Defective equipment shall be repaired before the wastewater hauler is allowed to discharge at the site designated by the CWA Authority.

(f) Any disposal of wastewater into the POTW must be performed by a wastewater hauler having the permit described in section 4.1. Disposal of domestic wastewater or restaurant grease trap waste requires no further approval. A wastewater hauler disposing of industrial or commercial wastewater generated inside or outside Marion County must obtain special approval from the director.

Sec. 4.5. Testing requirements.

(a) The contents of all wastewater haulers' vehicles are subject to preliminary sampling and testing by the board before discharging into the approved site at the CWA Authority's wastewater treatment facility. The test results on any sample must be within a specified range for the specific test parameters established by the board in order not to inhibit the performance of the wastewater treatment plant into which the wastewater is discharged.

(b) The contents of any wastewater hauler's tank that do not pass the preliminary testing procedures will be subject to additional specific testing to determine the nature of the contents. If the contents of the tank are deemed by the board to be an inhibitory substance, and unsatisfactory for discharging into the wastewater treatment plant, the wastewater hauler must arrange for proper disposal of the tank contents and submit to the board proof, by affidavit and receipt, of proper disposal. Until the director has determined that the conditions of proof have been satisfied, the wastewater hauler is prohibited from using all designated disposal sites approved by the CWA Authority.

(c) The board shall notify IDEM of the status of any wastewater hauler whose tank contents are determined to be unsatisfactory for discharging into a designated disposal site approved by the board.

(d) The board may refuse to accept any wastewater if, after testing, it is deemed unsatisfactory for discharge into the wastewater treatment plant.

(e) The wastewater hauler shall reimburse the board for all costs associated with the treatment, testing and disposal of any prohibited wastes.

Sec. 4.6. Administration procedures.

(a) All wastewater haulers shall maintain accurate business records pertaining to wastewater hauling, available to the director, EPA, and IDEM upon request, including names, addresses, and telephone numbers of the generators of all wastewater being transported and/or disposed of, county of origin, type of waste, volume of waste, and disposal site, customer receipts required under subsection (b) of this section, and approvals, permits and certifications issued by federal, state and local authorities. All records required to be retained under this article shall be retained for a minimum of three (3) years.

(b) The driver of each vehicle delivered to the wastewater treatment plant for discharging shall have dated customer receipts for each source of wastewater showing the names and addresses of the customers, the nature of the wastewater, amount of wastewater in gallons, wastewater hauler's name and legal business address and telephone number, and vehicle driver's name.

(c) All wastewater haulers shall compensate the board for the full cost of all sampling, laboratory analysis and treatment costs. Fees shall reflect the costs associated with sampling and testing, treatment and administering the program and shall be based on a fee schedule published by the board.

(d) Whenever required to carry out the objectives of this resolution relating to the control of the discharging of wastewater or the collection of dump fees, the board shall have a right of entry to, upon or through any premises for purposes of inspection, measuring and sampling. This right of entry shall include, but not be limited to, any equipment necessary to conduct such inspections, measuring and sampling. It shall be the duty of the wastewater hauler to provide all necessary clearance before entry and not to unnecessarily delay or hinder the director in carrying out the inspection, measuring and sampling. The right of entry shall exist at any time.

Sec. 4.7. Enforcement.

(a) Any person who fails to comply with any provision of this article may be fined not more than:

(1) two thousand five hundred dollars (\$2,500) for the first violation; and

(2) seven thousand five hundred dollars (\$7,500) for the second and subsequent violations.

A violation of a permit issued under this resolution or a special agreement entered into in accordance with the resolution shall constitute a violation of this resolution and ordinance. Each violation of this resolution shall constitute a separate offense. In addition, the department shall be entitled to all reasonable expenses including court costs and attorney fees.

(b) Nothing in this resolution shall restrict any right which may be provided by statute or common law to the board to bring other actions, at law or in equity, including injunctive relief.

Sec. 4.8. Permit revocation.

(a) The department may revoke, suspend or modify the permit for any of the following reasons:

(1) A violation of any provision of this resolution or of any applicable state or federal statute or regulation related to wastewater hauling;

(2) Failure to report the characteristics of any load, including the furnishing of false information or misrepresentation of any material fact related to wastewater hauling;

(3) Refusal of reasonable access to the wastewater hauler's premises for the purpose of inspecting records, inspection, sampling or monitoring;

(4) Noncompliance with any condition of the permit or special agreement entered into pursuant to the resolution.

(b) The department shall send written notice of facts underlying the proposed revocation, suspension or modification to the wastewater hauler.

(c) The department shall grant a hearing upon the receipt of the wastewater hauler's written request made within fifteen (15) days of the notice of revocation. A hearing officer appointed by the director shall hold the hearing within ten (10) days of the receipt of the written request. If the wastewater hauler does not request a hearing as provided by this article, the revocation, suspension or modification shall be effective upon the date of the notice.

(d) At the hearing, the wastewater hauler may present any evidence which the hearing officer finds relevant and material to the issues underlying the proposed revocation, suspension or modification. Based on the evidence presented at the hearing, the hearing officer shall make a written determination revoking, suspending, modifying or reinstating the permit.

(e) If the wastewater hauler objects to the decision made by the hearing officer, the wastewater hauler shall be entitled to a hearing before the board upon such objection. The wastewater hauler shall file a written statement of his objections with the hearing officer, who shall call the same to the attention of the board. The appeal shall be scheduled before the board within thirty (30) days after such objections are filed with the hearing officer. Notice shall be given to the wastewater hauler identifying the time, place and date of the appeal hearing at least ten (10) days prior to the scheduled date. The board may hear any evidence it finds relevant. After the hearing, the board may confirm, reverse or modify the decision of the director. The order of the board shall be final. Such order shall be made within ten (10) days after the hearing and shall be in writing and sent to the wastewater hauler.

Chapter 5. Effective date; formalities.

Sec. 5.1. Effective date.

This resolution shall be effective upon passage by the board and thirty (30) days after publication of this resolution in accordance with IC 5-3-1.

Date of Original Adoption: April 13, 2011

CWA Resolution 2-2011

Amended this _____ day of _____, 201____ by a vote of _____ayes and _____nays.

CWA AUTHORITY, INC.
BOARD OF DIRECTORS

President

Attest:

Secretary

Appendix N-2: Resolution and Ordinance CWA 3-2011 (Enforcement & Appeals)

BOARD OF DIRECTORS FOR CWA AUTHORITY, INC.

RESOLUTION NO. 3-2011

**A RESOLUTION AUTHORIZING ENFORCEMENT OF VIOLATIONS AND ESTABLISHING
AN ADMINISTRATIVE ADJUDICATION PROCESS FOR VIOLATIONS**

WHEREAS, CWA Authority, Inc. (the "CWA Authority"), is a political subdivision in the State of Indiana organized as an Indiana nonprofit corporation and established pursuant to an "Interlocal Cooperation Agreement for the Provision of Utility Services (Wastewater)" (the "Interlocal Agreement") entered into among the Department of Public Utilities of the City of Indianapolis d/b/a Citizens Energy Group ("Citizens"), acting by and through the Board of Directors for Utilities for the City of Indianapolis (the "City") and the Sanitary District of the City of Indianapolis, acting by and through the Board of Public Works (the "District");

WHEREAS, pursuant to Special Ordinance No. 4-2010 and Special Ordinance No. 7-2010 (collectively, the "Ordinances") passed by the City-County Council of Indianapolis and Marion County, Indiana and signed by the Mayor of Indianapolis on July 6, 2010, the City-County Council and the Mayor approved the transfer and delegation to, and vesting in and exercising by CWA Authority, all of the powers, duties, functions and obligations of the District (except the City's taxing power and taxing authority) with respect to the wastewater system; and

WHEREAS, the wastewater system assets were transferred and assigned to CWA Authority on August 26, 2011 and the Authority possesses all the powers that are necessary, useful or appropriate to own and operate the wastewater system and/or assert jurisdiction over disposal of sewage, including industrial wastes or other wastes; now; therefore:

BE IT RESOLVED BY THE BOARD OF DIRECTORS FOR CWA AUTHORITY, INC. as follows:

Sec. 1. Definitions.

As used in this resolution, the following terms shall have the meanings ascribed to them in this section. Additional definitions may be found in Resolution 2-2011.

(a) *Board* means the board of directors of CWA Authority, Inc. or their designee.

(b) *Department* means CWA Authority, Inc.

(c) *Party* and *parties* means and includes the department and respondents.

(d) *Respondent* or Respondents means a person to whom a notice of hearing is issued pursuant to section 4 of this resolution.

(e) *Violation* means and includes a violation of one (1) or more of the resolutions of the board concerning:

- (1) unauthorized discharges;
- (2) industrial discharge permits; and
- (3) wastewater hauling.

Sec. 2. General penalties for violations of resolutions.

(a) Whenever in any resolution of this Board:

- (1) the doing of any act, or the omission to do any act or to perform any duty, is declared to be a violation of a resolution or resolutions adopted by the Board, or of any provision thereof, or is declared to be unlawful;
- (2) if there shall be no fine or penalty otherwise specifically prescribed or declared for any such violation, or for doing or for omitting to do any such act or to perform any such duty;

any person found to have committed any such violation shall be fined, by way of a penalty therefore, an amount not exceeding:

- (A) two thousand five hundred dollars (\$2,500) for the first violation, act or omission; and
- (B) seven thousand five hundred dollars ((\$7,500) for a second or subsequent violation;

in accordance with IC 36-1-3-8(a)(10)(B).

(b) In addition to the foregoing penalty, the Board may enjoin or abate any violation of a resolution by appropriate action.

Sec. 3. Prosecution; election by counsel for the department.

In all cases where the same offense is made punishable or is created by different clauses or sections of a resolution, or of any additions thereto, counsel for the department may elect under which to proceed; but not more than one (1) prosecution and recovery shall be had against the same person for the same violation of any provision of a resolution actually constituting the same offense.

Sec. 4. Administrative adjudication provided.

It is hereby declared to be the policy of the Board that violations may be subject to enforcement in administrative proceedings as provided in this resolution.

Sec. 5. Hearing officer(s); appointment and term; compensation; qualifications; conduct.

(a) The administrative adjudication of a violation under this resolution shall be presided over by a hearing officer appointed by the Board. The Board may appoint more than one (1) hearing officer as necessary to address in an expeditious manner all violations pursuant to this a resolution. Nothing in this section shall automatically prohibit an individual who is an employee of the department or the Board or an independent contractor associated with the department or the Board from being appointed or serving as a hearing officer.

(b) A person must have a minimum of two (2) years of legal and environmental experience to be appointed as a hearing officer.

(c) A hearing officer shall not preside over a hearing or approve a compliance agreement if the hearing officer believes he or she is subject to disqualification, or if by motion of any party it appears that the hearing officer is subject to disqualification, for:

- (1) Bias, prejudice, or personal interest in the outcome of a hearing;
- (2) Knowledge of a disputed evidentiary fact which might influence the decision;
- (3) Failure to dispose of any motion or hearing in an orderly and reasonably prompt manner after written request by a party; or
- (4) Any cause for which a judge of a court may be disqualified.

(d) Except as to the subjects of hearing schedules and procedures, a hearing officer who:

- (1) Comments publicly on a hearing over which the hearing officer presides; or
- (2) Communicates directly or indirectly with a party or other individual who has an interest in the outcome of a hearing, without notice and opportunity for all parties to participate in the communication;

is subject to disqualification under this section.

Sec. 6. Notice of administrative hearing.

(a) Whenever the department issues a notice of violation for an environmental violation under the rules of the board, the department shall issue a notice of administrative hearing as provided in this resolution.

(b) Service of notice of administrative hearing shall be by United States mail to the respondent's last known address, or by personal service. Service on an artificial person or a person incompetent to receive service shall be made on a person allowed to receive service under the rules governing civil actions in the courts. The department shall keep a record of the time, date and manner of service.

(c) The department shall cause a copy of each notice issued pursuant to this section to be delivered to the hearing officer who will preside over the hearing.

(d) Each notice of administrative hearing shall include the following information:

- (1) A caption for the hearing, which shall include the name of each party expected to participate in the hearing, and an official file or other reference number;
- (2) A statement of the date, time and place of the hearing;
- (3) A statement of the nature of the hearing, including the legal authority under which the hearing is to be held, and a summary of the parties' procedural rights at the hearing;
- (4) A statement of the date, time, place, and nature of each alleged violation, and the maximum penalty that can be imposed thereupon;
- (5) The official title and mailing address of the hearing officer and a telephone number through which information concerning the hearing may be obtained;
- (6) The official title, mailing address and telephone number of the person who has been designated to appear on behalf of the department; and
- (7) A statement that a party who fails to respond to the notice of the hearing, or to participate in the hearing, may be held in default.

(e) Notice of administrative hearing shall be issued at least twenty (20) days prior to the date of the hearing.

Sec. 7. Prehearing procedures.

(a) Prior to the hearing, the hearing officer shall give the parties an opportunity to file documents or motions regarding matters such as continuances, discovery, and any other preliminary matters. At the time of filing, a party shall serve a copy of all filed items on each other party.

(b) Motions for continuance shall be filed no later than seven (7) days before the date assigned for the hearing, unless the reason therefor is shown by affidavit to have occurred within the seven-day (7) period.

(c) The hearing officer, upon request by any party or upon the hearing officer's own initiative, may issue subpoenas and discovery orders in accordance with the rules of procedure governing subpoenas and discovery in judicial proceedings. The party seeking the subpoena or order shall cause them to be served in accordance with these rules of procedure.

(d) The hearing officer, upon request by any party or upon the hearing officer's own initiative, may direct the parties to negotiate a compliance agreement in accordance with section 8 of this resolution in lieu of conducting a hearing. If the parties are unable to reach a mutually acceptable compliance agreement within a reasonable period of time, the hearing officer may proceed with hearing procedures.

Sec. 8. Compliance agreements.

The parties may elect to negotiate a compliance agreement which establishes a program and schedule to attain and maintain compliance, penalties and other provisions necessary to ensure compliance. The compliance agreement shall take effect upon approval by the hearing officer.

Sec. 9. Hearing procedures.

(a) The hearing officer shall afford all parties the opportunity to participate in the hearing to the extent necessary for full consideration of all relevant facts and issues. A party may present evidence in the form of testimony, affidavits and documentation, engage in argument, and conduct cross-examination. A party may participate in person or by counsel at the party's own expense; if the party is not an individual or is incompetent to participate, then the party shall participate by a duly authorized representative.

(b) The department shall have the burden of proving the environmental violation and the burden may be sustained by a preponderance of the evidence.

(c) The hearing officer shall conduct the hearing in an informal manner and without strict adherence to the technical rules of evidence and procedure which govern judicial proceedings. The hearing officer shall rule on the admissibility of any offer of proof, and on other motions, and shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds. The testimony of each party and witness shall be made under oath or affirmation.

(d) The hearing officer may take official notice of any resolution of the board, and any law or fact that could be judicially noticed in the courts.

(e) The hearing officer shall cause an audio recording of the hearing to be made at the expense of the department.

Sec. 10. Stipulated penalties.

The decision of the hearing officer or the compliance agreement approved by the hearing officer may require the payment of stipulated penalties if the terms of the decision or compliance agreement are violated.

Sec. 11. Decision.

(a) Upon the conclusion of each hearing or within a maximum of forty-five (45) days after conclusion of each hearing, the hearing officer shall render a decision which shall include a determination whether the respondent violated the resolution as alleged, the amount of civil penalty that must be paid for each violation with instructions on when and how payment shall be made, and a statement of the parties' right to petition for review of the decision.

(b) The hearing officer's decision may include an order affirming, modifying or revoking any order issued by the board with the notice of violation or directing the abatement or cessation of the action described in the notice of violation.

(c) The hearing officer's decision may include a compliance order, establishing a program and schedule to attain and maintain compliance, stipulated penalties, and other provisions necessary to ensure compliance.

(d) The decision shall be based exclusively upon the evidence of record in the hearing and on matters officially noticed therein. The hearing officer's experience and specialized knowledge may be used in the evaluation of the evidence.

(e) The hearing officer shall cause each decision rendered pursuant to this section to be memorialized on a minute sheet or similar written entry into the record. A copy of the minute sheet or similar written entry shall be served upon the parties by United States mail or personal service.

(f) A decision rendered pursuant to this section may be modified by the hearing officer who rendered it, upon the hearing officer's own initiative or by motion of any party. Any motion to modify a decision shall be filed by a party within thirty (30) days after the date of the decision.

Sec. 12. Record of the hearing.

The record of each hearing under this article consists of the following:

- (a) The notice of hearing;
- (b) The notice of violation, if any;
- (c) Any documents, motions, or exhibits filed or entered into evidence;
- (d) Any written orders, subpoenas, and decision of the hearing officer;
- (e) Any compliance agreement negotiated by the parties and approved by the hearing officer or issued by the hearing officer as part of the decision; and

(f) The audio recording of the hearing and a written transcript of same;
and shall constitute the complete and exclusive record for review of a hearing officer's decision.

Sec. 13. Written transcript of hearing; preparation and cost.

At the written request of respondent, the department shall provide a written transcript of the audio tape recording of the hearing. Respondent shall pay the reasonable cost of preparing the written transcript, unless respondent files with the hearing officer under oath and in writing, a statement of indigency as described in IC 33-37-3-2. Respondent may cause to be prepared, at his own expense, a written transcript which the department shall review and certify as to accuracy.

Sec. 14. Petition for review of decision.

A party may petition for judicial review of the final determination of the department under this section. The petition must be filed in the Marion County circuit or superior court not more than thirty (30) days after the department issues its determination.

Sec. 15. Effective date.

This resolution shall be effective upon passage by the board and thirty (30) days after publication of this resolution in accordance with IC 5-3-1.

Date of Original Adoption: April 13, 2011

CWA Resolution 3-2011

Amended this _____ day of _____, 2012, by a vote of
_____ ayes and _____ nays.

CWA AUTHORITY, INC.
BOARD OF DIRECTORS

President

Attest:

Secretary

**Appendix O: Indianapolis Industrial Pretreatment Program Local Limits
Evaluation**

[File is available as a separate document due to
size]

Appendix P: Tables Cross-Referencing IPP Regulatory Authorities and Procedures

Appendix P-1: Table P-1 Regulatory Cross Reference

Appendix P-2: Table P-2 Delegation Application Cross Reference

Appendix P-3: Table P-3 Chapter 671 and CWA Authority Cross Reference

Appendix P-1: Table P-1 Regulatory Cross Reference

Table P-1 - Cross Reference of IPP Regulatory Authorities

Requirements in 403.8(f)(1)	Current City Ordinances:	Resolution and Ordinance Establishing Uniform Requirements for Discharges Into, the Construction of and Addition to Wastewater Collection and Treatment System Owned and Operated by CWA Authority, Inc. (Resolution CWA 2-2011)
A. 403.8(f)(1)(i):	<ul style="list-style-type: none"> • 671-3 “unlawful disposal of waste” • 671-4 “regulation of discharges to public sewers” 	<ul style="list-style-type: none"> • Section 1.3: “Required connection to wastewater system” • Section 1.4 : Regulation of Discharges to Public Sewers
B. 403.8(f)(1)(ii)	<ul style="list-style-type: none"> • 671-4 “regulation of discharges to public sewers” • 671-5 "Modification of Federal Categorical Pretreatment Standards" • 671-6 "State and Federal Requirements" • 671-7: "City's Right of Revision" 	<ul style="list-style-type: none"> • Section 1.4: Regulation of Discharges to Public Sewers • Section 1.5: Removal Credits • Section 1.6: State and Federal Requirements • Section 1.7: Right of Revision
C. 403.8(f)(1)(iii)	<ul style="list-style-type: none"> • 671-41 to 671-62 “Industrial Discharge Permits” 	<ul style="list-style-type: none"> • Chapter 2, Sections 2.1 to 2.8: Permits, registration. [correlates with 671-41 to 671-47] • Chapter 3, Section 3.1 to 3.15: Pretreatment Requirements. [correlates with 671-48]
D. 403.8(f)(1)(iv)(A)	<ul style="list-style-type: none"> • 671-44 “Conditions (i.e., of Industrial Discharge Permits).” • 671-48 “Pretreatment 	<ul style="list-style-type: none"> • Section 2.4: Conditions • Section 3.1: Pretreatment
E. 403.8(f)(1)(iv)(B)	<ul style="list-style-type: none"> • 671-49 “Compliance Data Reports” • 671-50 “Periodic Compliance Reports” 	<ul style="list-style-type: none"> • Section 3.2: Compliance Data Report • Section 3.3: Periodic Compliance Report
F. 403.8(f)(1)(v)	<ul style="list-style-type: none"> • 671-14 “Right to Inspect” 	<ul style="list-style-type: none"> • Section 1.4: Right to Inspect
G. 403.8(f)(1)(vi) (A)	<ul style="list-style-type: none"> • 671-16 “Penalties” 	<ul style="list-style-type: none"> • Section 1.16: Penalties
H. 403.8(f)(1)(vi) (B)	<ul style="list-style-type: none"> • 671-52 “Emergency Suspension of Service and Discharge Permit” 	<ul style="list-style-type: none"> • Section 3.5: Emergency Suspension of Services and Industrial Discharge Permit
I. 403.8(f)(1)(vii)	<ul style="list-style-type: none"> • 671-51 “Confidential Information” 	<ul style="list-style-type: none"> • Section 3.4: Confidential Information

Appendix P-2: Table P-2 Delegation Application Cross Reference

Table P-2 – Delegation Application Cross Reference

Regulatory Provision	Document Supplement / Appendix Reference
Evaluation of Legal Authority 40 CFR 403.9(b)(1)(i)	Appendix A: Certification by Counsel Appendix B: Memo Outlining CWA Authority's Legal Status
Program Procedures 40 CFR 403.9(b)(1)(ii)	Appendix J: Enforcement Response Plan Appendix K: Industrial Pretreatment Program Plan Appendix M: Adopted Resolutions Appendix N: Proposed Amendments to Resolutions
Permitting Procedures 40 CFR 403.9(b)(1)(ii)	Appendix K: Industrial Pretreatment Program Plan
Compliance Monitoring 40 CFR 403.9(b)(1)(iii) and 40 CFR 403.8(f)(1)(vi)	Appendix K: Industrial Pretreatment Program Plan
Compliance Tracking Procedures 40 CFR 403.8(f)(1)(ii)	<i>Contained in Narrative</i>
Notification of Requirements to Industrial Users 40 CFR 403.8(f)(1)(iii)	<i>Contained in Narrative</i>
Noncompliance Enforcement 40 CFR 403.8(f)(1)(vi)	Appendix J: Enforcement Response Plan
Confidentiality Requirements 40 CFR 403.8(f)(1)(vii)	<i>Contained in Narrative</i>
Industrial User Survey 40 CFR 403.8(f)(2)(i)	<i>Contained in Narrative</i>
Public Participation 40 CFR 403.8(f)(2)(viii)	<i>Contained in Narrative</i>
Local Limits 40 CFR 403.8(f)(4)	Appendix O: Indianapolis Industrial Pretreatment Local Limits Evaluation
Program Authorities 40 CFR 403.9(b)(2)	Appendix C: Ind. Code §8-1-11.1 Appendix D: The CWA Authority, Inc., Articles of Incorporation Appendix E: Interlocal Agreement Appendix G: Terms & Conditions of Service Appendix H: Certificate of Closing Appendix I: Legal and Regulatory Mechanisms Appendix J: Enforcement Response Plan Appendix K: Industrial Pretreatment Program Plan Appendix M: Adopted Resolutions
Program Organization and Funding 40 CFR 403.9(b)(3) and (b)(4) and 40 CFR 403.8(f)(3)	Appendix G: Terms & Conditions of Service Appendix L: IPP Program Staffing

Appendix P-3: Table P-3 Chapter 671 and CWA Authority Cross Reference

FOR DISCUSSION PURPOSES ONLY
October 29, 2012

Sewers and Sewage Disposal

Article I – In General

Sec. 671-1. - Purpose and policy.	CWA Resolution 2-2011 §1.1
Sec. 671-2. - Definitions.	Terms & Conditions of Service (T&C) Section 1 CWA Resolution §1.2
Sec. 671-3. - Unlawful disposal of wastes.	(a) deleted (b) CWA Resolution 2-2011 §1.3
Sec. 671-4. - Regulation of discharges to public sewers.	T&C Section 17, Section 19 CWA Resolution 2-2011 §1.4
Sec. 671-5. - Modification of federal categorical pretreatment standards. (Retitled <i>Removal Credits</i> in Streamlining Rule)	CWA Resolution 2-2011 §1.5
Sec. 671-6. - State and federal requirements.	CWA Resolution 2-2011 §1.6
Sec. 671-7. - City's right of revision.	CWA Resolution 2-2011 §1.7
Sec. 671-8. - Baseline report. (Sec 671-48.5 in Streamlining)	CWA Resolution 2-2011 §1.18
Sec. 671-9. - Excessive discharge.	CWA Resolution 2-2011 §1.8
Sec. 671-10. - Accidental discharge.	T&C Section 21 CWA Resolution 2-2011 §1.9
Sec. 671-10.5 (Streamlining) Slug Discharge Plans	CWA Resolution 2-2011 §1.10
Sec. 671-11. - Liability for damage.	CWA Resolution 2-2011 §1.11
Sec. 671-12. - Special agreements.	CWA Resolution 2-2011 §1.12
Sec. 671-13. - Monitoring devices; metering equipment.	CWA Resolution 2-2011 §1.13
3Sec. 671-14. - Right to inspect.	CWA Resolution 2-2011 §1.14
Sec. 671-15. - Rules and regulations.	CWA Resolution 2-2011 §1.15
Sec. 671-16. - Penalties.	CWA Resolution 2-2011 §1.16 <i>Amended to be consistent with statutory penalty amounts</i>
Sec. 671-17. - Recordkeeping requirement.	CWA Resolution 2-2011 §1.17
Signatories and Certifications	CWA Resolution 2-2011 §1.19
Secs. 671-18—671-21. - Reserved.	

FOR DISCUSSION PURPOSES ONLY
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Article II – Building Sewers

Sec. 671-22. - Connection permits.	Terms & Condition of Service Section 4 Appendix B to Rates Document filed with the IURC
Sec. 671-23. - Prohibition against clear water discharges.	T&C Section 15
Sec. 671-24. - Dewatering discharge to a combined sewer.	T&C Section 16
Sec. 671-25. - Mandatory inspection.	T&C Section 6.1
Sec. 671-26. - Building sewer maximum length.	T&C Section 5.1
Sec. 671-27. - Maximum number of connections.	T&C Section 5.2
Sec. 671-28. - Building sewer responsibility.	T&C Section 5.3
Sec. 671-29. - Existing foundation drains, roof drains, defective building sewers and sump pumps.	T&C Section 15
Sec. 671-30. - Penalties.	CWA Resolution 3-2011
Sec. 671-31. - Appeal.	CWA Resolution 3-2011
Secs. 671-32—671-40. - Reserved.	

FOR DISCUSSION PURPOSES ONLY

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Article III – Industrial Discharge Permits

Sec. 671-41. - Permit required.	Terms & Condition of Service Section 20.3 CWA Resolution 2-2011 §2.1
Sec. 671-42. - Application.	CWA Resolution 2-2011 §2.2
Sec. 671-43. - Term.	CWA Resolution 2-2011 §2.3
Sec. 671-44. - Conditions.	CWA Resolution 2-2011 §2.4
Sec. 671-45. - Permit modifications.	CWA Resolution 2-2011 §2.5
Sec. 671-46. - Fees.	CWA Resolution 2-2011 §2.6
Sec. 671-47. - Nonassignability.	CWA Resolution 2-2011 §2.7
Registration of Users	CWA Resolution 2-2011 §2.8
Sec. 671-48. - Pretreatment.	CWA Resolution 2-2011 §3.1
Sec. 671-48.5 Baseline Report	CWA Resolution 2-2011 §1.18
Sec. 671-49. - Compliance date report.	CWA Resolution 2-2011 §3.2
Sec. 671-50. - Periodic compliance reports.	CWA Resolution 2-2011 §3.3
Sec. 671-50.5 – Reporting and Sampling Requirements	CWA Resolution 2-2011 §3.4
Sec. 671-51. - Confidential information.	CWA Resolution 2-2011 §3.5
Sec. 671-52. - Emergency suspension of service and industrial discharge permit.	CWA Resolution 2-2011 §3.6
Sec. 671-53. - Revocation.	CWA Resolution 2-2011 §3.7
Sec. 671-54. - Notice of revocation.	CWA Resolution 2-2011 §3.8
Sec. 671-55. - Notification of violation.	CWA Resolution 2-2011 §3.9
Consent Orders	CWA Resolution 2-2011 §3.10
Sec. 671-56. - Show-cause hearing.	CWA Resolution 2-2011 §3.11
Sec. 671-57. - Appeals.	CWA Resolution 21-2011 §3.12
Sec. 671-58. - Publication of significant noncompliance.	CWA Resolution 2-2011 §3.13
Sec. 671-59. - Submission of self-monitoring reports.	CWA Resolution 2-2011 §3.14
Sec. 671-60. - Signatory requirements.	CWA Resolution 2-2011 §3.15
Sec. 671-61. - Violation of permit requirements.	CWA Resolution 2-2011 §3.16
Sec. 671-62. - Discharge of hazardous wastes.	CWA Resolution 2-2011 §3.17
Bypass (Required by Streamlining)	CWA Resolution 2-2011 §3.18
Secs. 671-63—671-74. - Reserved.	

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Article IV – Rates, Charges, and Billing

DIVISION 1. - GENERALLY	
Secs. 671-75—671-100. - Reserved.	
Sec. 671-101. - Sewer user charge imposed.	Terms & Conditions of Service Section 2
Sec. 671-102. - Basis for charge; how calculated.	<p>Rate / Tariff</p> <p><u>Residential:</u> Sewer Rate No. 1 filed with the IURC (Original Page 101)</p> <p><u>Industrial:</u> Sewer Rate No. 2 filed with the IURC (Original Page 102)</p> <p><u>FOG:</u> Sewer Rate No. 3 filed with the IURC (Original page 103)</p> <p><u>Septic & Grease Haulers:</u> Sewer Rate No. 4 filed with the IURC (Original Page 104)</p>
Sec. 671-102.5. - Reserved.	
Sec. 671-102.7. - Reserved.	
Sec. 671-103. - Charges and fees for city's pretreatment program.	<p>Sewer Rate No. 2 filed with the IURC (Original Page 102)</p> <p><i>See Also</i> Appendix A, Miscellaneous Nonrecurring Charges</p>
Sec. 671-104. - Billing estimates and reports.	<i>Generally</i> , T&C Section 8
Sec. 671-105. - Contract for billing by the Indianapolis Water Company.	<i>Not needed when utilities are combined under Citizens / CWA</i>
Sec. 671-106. - Use by other political subdivisions.	
Sec. 671-107. - Applicable to sewer service agreements.	
Sec. 671-108. - Rules and regulations authorized.	CWA Resolution 2-2011 and CWA Resolution 3-2011
Sec. 671-109. - Appeals to the board.	CWA Resolution 3-2011
Sec. 671-110. - Exceptions.	<i>Included in Sewer Rate No. 1</i>
Sec. 671-111. - Rate review.	Indiana Code 8-1-11.1
Sec. 671-111.1. - Advanced wastewater treatment facilities reserve fund.	
Sec. 671-112. - Charges not duplicated; repeal of divisions 1 and 2 upon this article becoming effective.	

FOR DISCUSSION PURPOSES ONLY
October 29, 2012

Article IV – Rates, Charges, and Billing

DIVISION 2. - WATER SERVICE TERMINATION	
Sec. 671-113. - Termination of service procedures.	Terms & Conditions of Service Section 9 Terms & Conditions of Service Section 10 Terms & Conditions of Service Section 11
Sec. 671-114. - Termination of services not exclusive remedy.	CWA Resolution 3-2011

DIVISION 3. - ELIMINATION OF UNCOLLECTIBLE ACCOUNTS	
Sec. 671-115. - Procedure.	Terms & Conditions of Service Section 8
Secs. 671-116—671-119. - Reserved.	

FOR DISCUSSION PURPOSES ONLY

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Article V – Private Disposal Facilities

Sec. 671-120. - Conformity with this article required.	<i>Code of the Health & Hospital Corporation of Marion County, Chapter 14</i>
Sec. 671-121. - When use required.	
Sec. 671-122. - Permit required; fee.	
Sec. 671-123. - Approval of the division of compliance required; inspections.	
Sec. 671-124. - Conformity with health regulations required.	
Sec. 671-125. - Authority of health department not impaired.	
Sec. 671-126. - Maintenance.	
Sec. 671-127. - Abandonment of facilities.	

Article VI – Wastewater Hauling

Sec. 671-128. - Definitions.	CWA Resolution 2-2011 §1.2
Sec. 671-129. - Wastewater hauler criteria.	Terms & Conditions of Service Section 24 CWA Resolution 2-2011 §4.1
Sec. 671-130. - Registration.	CWA Resolution 2-2011 §4.2
Insurance Requirements	CWA Resolution 2-2011 §4.3
Sec. 671-131. - Discharging procedures.	CWA Resolution 2-2011 §4.4
Sec. 671-132. - Testing requirements.	CWA Resolution 2-2011 §4.5
Sec. 671-133. - Administration procedures.	CWA Resolution 2-2011 §4.6
Sec. 671-134. - Enforcement.	CWA Resolution 2-2011 §4.7
Sec. 671-135. - Permit revocation.	CWA Resolution 2-2011 §4.8
Secs. 671-136—671-149. - Reserved.	

FOR DISCUSSION PURPOSES ONLY

October 29, 2012

Article VII – Sanitary Sewer Construction Permits

Sec. 671-150. - Purpose and territorial application.	<i>See Generally</i> Terms & Conditions of Service Section 3 T&C Section 4 and 5 T&C Section 23
Sec. 671-151. - Requirements for construction permits; enforcement.	
Sec. 671-152. - Application procedures; design plans and specifications.	
Sec. 671-153. - Capacity and depth maintained.	
Sec. 671-154. - Economic analysis for lift stations.	
Sec. 671-155. - Right to limit sewer capacity.	
Sec. 671-156. - Posting of bond.	
Sec. 671-157. - Execution of covenant.	
Sec. 671-158. - Dedication of easement.	
Sec. 671-159. - Expiration of construction permit by operation of law; extensions; certificate of completion and compliance.	
Sec. 671-160. - Inspection of construction of sanitary sewers.	
Sec. 671-161. - Requirements for project acceptance and dedication to the city.	
Sec. 671-162. - Dedication and rehabilitation of existing sewers.	
Sec. 671-163. - General authority for investigations and inspections.	
Sec. 671-164. - Variance procedure.	
Sec. 671-165. - Plan review fee.	
Sec. 671-166. - Exemption relative to sewer construction activity accomplished by and for certain governmental units.	
Sec. 671-167. - Notice of change in permit information; amendment of permits and plans.	
Sec. 671-168. - Stop-work order; revocation of permits.	
Sec. 671-169. - Appeals.	
Sec. 671-170. - Transfer of permit.	

Article VIII – City Sewer Construction; Pro Rata Cost Sharing

Sec. 671-801. - Purpose and policy.	<i>Repealed</i>
Sec. 671-802. - Definitions.	
Sec. 671-803. - Procedures; council approval as pro rata project.	
Sec. 671-804. - Connection fee.	
Sec. 671-805. - Use of connection fee.	