



CarsonLLP.com

The Harrison

301 W. Jefferson Boulevard, Suite 200

Fort Wayne, IN 46802

260-423-9411

Christopher L. Nusbaum
cnusbaum@carsonllp.com

Andrew D. Boxberger
aboxberger@carsonllp.com

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Clint Woods (Via email: ClintWoods@idem.IN.gov)
Commissioner
Indiana Department of Environmental Management
100 N. Senate Avenue
Indianapolis, IN 46204

RE: Marshall County Regional Sewer District

Dear Mr. Woods:

As you are aware, we represent the interests of the Marshall County Regional Sewer District (the "District"). We are submitting this letter in response to your request dated September 18, 2025 on behalf of, and in consultation with, the District and its professional advisors.

The District appreciates the Indiana Department of Management's ("IDEM") continued review and oversight of its plan in the best interest of the community. We would like to clarify that there has been no material change to the plan originally submitted and deemed complete on January 17, 2024. While the District is exploring opportunities to phase implementation of the plan, an approach that is both common and prudent in order to achieve the most economical and efficient outcome, the fundamental elements and objectives of the plan remain unchanged. The District remains committed to carrying out the approved plan in accordance with IC § 13-26 and will continue to coordinate with IDEM throughout this process. Therefore, the District is not able to produce a modified plan as requested, because no such modified plan exists. The January 17, 2024 plan remains the current and viable plan the District intends to implement.

The District values IDEM's request for additional information to assist in its evaluation. We respectfully note, however, that the question of economic feasibility is not yet ripe for final consideration at this stage. As IDEM is aware, districts of this nature often spend several years carefully exploring and structuring funding options. The District is pursuing this process in the ordinary course, with primary attention directed toward opportunities through the Indiana Finance

Authority's State Revolving Loan Fund ("SRF"), while also considering other potential funding mechanisms, consistent with common practice for such projects.

While the District is a long way from introducing a rate for this project, it is important to highlight that the proposed rate range remains within an economically feasible scope. As reflected in the SRF's current project priority list, the average post-project rate is approximately \$161 per month. By the very nature of placing projects in the "fundable range," the SRF has already determined those projects to be viable for funding and advancement. But, it is further important to note that the District has not even contemplated a rate to introduce, and is in the early stages of funding and planning to come up with that proposed rate.

Further, any present suggestion by the Marshall County Council or the Marshall County Commissioners that these projects are "now" not viable is, respectfully, inconsistent with the record. The Baker Tilly Report, included as Appendix G to the County's petition to establish the District, and signed by the Board of Commissioners and their counsel, is dated April 2, 2022, nearly a month before the same bodies submitted their petition to IDEM. That report provides a clear indication of the financial and operational feasibility underpinning the original petition, which fundamentals have not changed.

The District remains committed to transparency in its process and will provide IDEM with additional financial information as appropriate as funding options are solidified and the project advances through its natural phases.

In addition, thank you for addressing the rate making process. Your engagement highlights the importance of maintaining transparency and accountability in our processes. We fully recognize that, according to Indiana Code (IC) §§ 13-26-11-12 and -13, the District holds a substantial responsibility when it comes to introducing and passing ordinances pertaining to rates and charges. We assure you that we are well-versed in these legal requirements, having successfully navigated similar procedures in numerous projects in the past. Our team has extensive experience working within this framework, and we understand the importance of public notification and providing opportunities for the community to voice their concerns. As we move forward with this process, we are fully committed to ensuring that all statutory obligations are met in a thorough and transparent manner.

We welcome the opportunity to engage with the district authority (if an appeal is filed) and the community through this public hearing. It is our intention to actively listen to feedback and gather evidence that will help shape our approach to the rates and charges. The requirement for a public hearing following an appeal, as outlined in IC § 13-26-11-15, is a crucial step that we intend to facilitate properly. We understand that this hearing will serve as a platform for determining whether our District board has adhered to the mandated procedures and whether the rates and charges proposed are just and equitable, in alignment with IC § 13-26-11-9.

I would like to emphasize how grateful we are for your acknowledgment of this process. In light of your inquiry, it becomes even more evident that the appropriate process for addressing concerns over rates and charges will be conducted through the formal framework established by Indiana law, rather than through complaints such as the one you received. The structured public

hearing process will not only allow us to address the community's concerns but will ensure that all voices are heard in a manner that is fair and organized. This reinforces our commitment to engaging with our stakeholders transparently and demonstrates that we are intent on adhering to the protocol designed to for this process and rate making.

The District is confident that it shares the same mission of IDEM to protect human health and environment. The very commissioners who petitioned to create the District, now seek to dissolve it. This is not based on any fact or fundamental change, but is based on misinformation, disingenuous motivations and political expediency. Indiana, like many states, has long faced challenges related to water pollution and inadequate waste management systems in rural and semi-urban areas. A key contributor has been the widespread use of outdated or failing septic systems, particularly in areas where lot sizes are too small for proper drainage or where properties are located near lakes, rivers, or wetlands.

Recognizing the limitations of county governance structures in managing such technical and long-term infrastructure issues, the Indiana General Assembly enacted IC § 13-26, authorizing the formation of the District. The legislature intentionally envisioned for districts to be insulated from county political structures to carry out their mission consistently and effectively.

Under IC §13-26-1-1, a regional district is defined as a "body corporate and politic", which carries with it both corporate powers (like contracting and bonding) and public responsibilities (serving health and environmental goals). Once established, as this District was, it becomes an autonomous unit, not answerable to county commissioners or other local government bodies in their operational decision-making. This framework intentionally avoids the short-termism and politicization that can affect county or municipal utilities, and aligns governance more with professional, engineering-driven priorities for the betterment of the community and the environment.

Indiana's watersheds do not respect political borders, and local resistance or delay can compromise broader public health and environmental goals. This independent structure of the District serves several purposes. Many properties on small lots, particularly those built before modern zoning, rely on septic systems that are too close to water bodies or on soil unsuitable for leaching. The District was created to solve this problem, which will only get worse. Wastewater treatment involves multi-decade planning. By insulating the District from electoral cycles, IC § 13-26 ensures decisions are based on engineering assessments and environmental data rather than temporary political considerations.

The legislatures intent reflects a broader philosophy of delegated governance for technical expertise. By design, once a district is established, counties have no day-to-day control. This protects the district's core mission from political swings that might deprioritize environmental needs, local resistance to unpopular but necessary interventions, and budgetary competition within counties that might delay infrastructure investment. This independence also enables professional staff, engineers, environmental scientists, and utility managers to guide policy, rather than elected officials who may lack the technical background or necessary political will.

In lakeside communities, districts have replaced patchwork septic systems with modern sewers, dramatically reducing phosphorus runoff and E. coli outbreaks. In rural counties, regional districts have succeeded where counties failed to address pollution due to limited funds or political will.

Indiana Code § 13-26 reflects a deliberate legislative strategy to depoliticize water and wastewater governance in favor of environmental integrity and long-term infrastructure planning. By creating independent bodies corporate and politic, the State of Indiana ensured that the District could rise above parochial concerns and fulfill a mission critical to protecting watersheds, modernizing waste management, and ensuring public health.

This structure is not a mere legal technicality, it is a deliberate and essential feature, crafted to ensure the District remains effective, resilient, and firmly aligned with scientific and environmental best practices. The District is deeply grateful for this opportunity and hopeful that IDEM, as a partner in environmental stewardship, will recognize the resolutions calling for dissolution for what they truly are: not an act of sound governance, but a gesture of political expediency that runs counter to the best interests of the community.

Without the District fulfilling its mission, the consequences for the community are stark: unbuildable lots, condemned homesteads, contaminated watersheds, stalled development, and long-term environmental harm. It was to prevent such outcomes that the commissioners, with foresight and responsibility, petitioned IDEM to establish the District in the first place.

As you have correctly noted, there exists a proper process for addressing rates and their appropriateness, a process the District both respects and fully intends to follow in strict accordance with the law. What is before us today, however, is not only legally inappropriate, but emblematic of precisely what the legislature sought to prevent when it created regional sewer districts—short-term political maneuvering at the expense of citizens, communities, and the environment.

Thank you, and the District welcomes any further discussion IDEM deems appropriate.

Very truly yours,
CARSON LLP



Christopher L. Nusbaum



Andrew D. Boxberger

CLN/dgn

cc: Emily E. Faust (Via email: EFaust@idem.IN.gov)
William H. Anthony (Via email: whanthon@idem.IN.gov)