

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)
THE TOWN OF WINFIELD, LAKE)
COUNTY, INDIANA, FOR APPROVAL OF)
A REGULATORY ORDINANCE) CAUSE NO.: 45992
ESTABLISHING A SERVICE TERRITORY)
FOR THE TOWN'S MUNICIPAL SEWER)
SYSTEM PURSUANT TO IND. CODE § 8-)
1.5-6 *ET SEQ.*)

THE CITY OF CROWN POINT, INDIANA'S SUBMISSION OF
THE VERIFIED RESPONSIVE TESTIMONY AND EXHIBITS OF
GREGORY FALKOWSKI

Petitioner/Intervenor City of Crown Point, Indiana, by counsel, submits the Verified
Responsive Testimony of and Exhibits of Gregory Falkowski in this Cause.

Respectfully submitted,

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Mark W. Cooper, an Attorney for the
City of Crown Point

/s/ Robert M. Glennon
Robert M. Glennon, Attorney for
Crown Point, Indiana

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing has been served upon the following counsel of record by electronic mail this 19th day of August 2025:

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PETITIONER/INTEVOR CROWN POINT'S
EXHIBIT 6

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**IN THE MATTER OF THE PETITION OF THE)
TOWN OF WINFIELD, LAKE COUNTY,)
INDIANA, FOR APPROVAL OF A)
REGULATORY ORDINANCE ESTABLISHING A) CAUSE NO. 45992
SERVICE TERRITORY FOR THE TOWN'S)
MUNICIPAL SEWER SYSTEM PURSUANT TO)
IND. CODE 8-1.5-6 ET. SEQ.)**

VERIFIED RESPONSIVE TESTIMONY AND EXHIBITS

OF

Gregory Falkowski

ON BEHALF OF PETITIONER/INTERVENOR,

CITY OF CROWN POINT, INDIANA

Cause No. 45992
Verified Responsive Testimony of Gregory Falkowski

Q1. PLEASE STATE YOUR NAME.

A1. Gregory Falkowski.

Q2. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?

A2. I am the Crown Point Economic Development Director.

Q3. ARE YOU THE SAME GREGORY FALKOWSKI THAT PRESENTED TESTIMONY IN CROWN POINT'S CASE IN CHIEF IN THIS CASE?

A3. Yes I am. I now present my Responsive Testimony in this case.

Q4. WHAT IS THE PURPOSE OF YOUR RESPONSIVE TESTIMONY?

A4. I respond to certain areas of Winfield's case in chief testimony.

Q5. PLEASE SUMMARIZE YOUR RESPONSIVE TESTIMONY.

A5. Assigning the Disputed Area to Winfield would destroy the area's current economic development opportunities and seriously inhibit or prevent future economic growth. Winfield's suggested costly complex multiple lift stations and force mains conveyance system to serve the Disputed Area will stifle economic development. Conversely Crown Point's efficient much lower cost gravity flow conveyance system will promote economic development in the Disputed Area. Crown Point already has a contractual Donation Agreement committed to offer sewer service to the major developer of the Disputed Area, LBL Development ("LBL"). By that contractual Donation Agreement commitment LBL donated the 44 acre site for the new SW WWTP. The Crown Point SE WWTP will provide abundant new capacity to promote environmental compliance and expanded sewer service, promoting economic development. Crown Point and its economic

1 development staff have proven ability to secure and grow material economic
2 development. Winfield has had no economic development achievements and lacks
3 economic development staff and abilities. Crown Point's well documented ability to
4 promote and achieve economic development will be a major benefit to the development
5 of the Disputed Area. This ability to facilitate new economic development in the
6 Disputed Area is already proven by Crown Point successfully working with LBL to
7 obtain the donated SE WWTP site and design a completely gravity flow low cost sewage
8 conveyance system to LBL within the Disputed Area. Mr. Stong indicates Winfield's
9 complex "daisy chain" lift station / force main plan is at least five times the cost as
10 Crown Point's gravity flow system. The impact on economic development of assigning
11 the Disputed Area totally favors Crown Point.

12 The history of service and contractual agreements in the Disputed Area also
13 totally favors Crown Point. Crown Point has a Donation Agreement contract to make
14 sewer service available to LBL and that is the only history of sewer service or customers
15 in the Disputed Area.

16
17 **Q6. MR. BEAVER CONTENDS THAT ASSIGNING THE DISPUTED AREA**
18 **WOULD BE BENEFICIAL TO ECONOMIC DEVELOPMENT. WOULD**
19 **AWARDING WINFIELD THE DISPUTED AREA MORE BENEFICIALLY**
20 **IMPACT ECONOMIC DEVELOPMENT THAN CROWN POINT SERVING**
21 **THE DISPUTED AREA?**

22
23 **A6.** Absolutely no. Awarding the Disputed Area to Winfield would undermine the
24 current economic drivers in the Disputed Area. It would derail Crown Point's current
25 sewer service and economic development efforts and create overall economic
26 development uncertainty for many reasons.

27 LBL owns or controls a very large portion of the Disputed Area and is the current
28 economic development driver in the Disputed Area with plans for residential, commercial

1 and possible industrial development. Virtually no development will likely occur in the
2 Disputed Area until LBL initiates it as the owner/controller of hundreds of acres and the
3 initial developer in the property in the Disputed Area.

4 LBL has made very clear to Crown Point and to others that it absolutely does not
5 want sewer service from Winfield and will resist becoming subject to Winfield sewer
6 service to the fullest extent available under any and all lawful means. Crown Point and
7 LBL have already agreed on offering LBL Development, and in lock step the surrounding
8 Disputed Area with efficient lower cost, lower maintenance, more reliable gravity feed
9 sewer mains as detailed by our engineer Mr. Stong.

10 As Mr. Stong details, Winfield's wastewater treatment plant is poorly located
11 uphill and far from from the Disputed Area. As Mr. Stong details that means conveying
12 wastewater to the Winfield plant must be done through a complicated "daisy chain"
13 series of costly lift stations and force mains – if it is even realistically financially feasible.
14 The lower cost of gravity feed mains and the resulting avoidance of more sewage lift
15 stations incents developers to obtain sewer service from Crown Point, and, thus,
16 promotes new economic development. In my opinion prohibitively high infrastructure
17 development costs prevent new development, and in turn prevents economic growth.

18 LBL was so dissatisfied with its failed efforts to obtain service from the town of
19 Windfield for a LBL property that is located within Winfield that LBL facilitated a
20 donation to Crown Point of the 44-acre site of the new South East ("SE") WWTP in
21 exchange for Crown Point agreeing to make sewage service available to certain areas.
22 See Donation Agreement, Exhibit H attached to Mr. Stong's Direct Testimony. Crown
23 Point has committed to making sewage service available to that development within the
24 Disputed Area. The donated 44-acre WWTP site is the location of Crown Point's new
25 SE WWTP and thereby directly allows Crown Point's IDEM environmental compliance
26 and allows Crown Point's efforts to promote area economic development.

27
28 **Q7. IS THE DONATION AGREEMENT IMPORTANT TO POSITIVELY**
29 **IMPACTING ECONOMIC DEVELOPMENT IN THE DISPUTED AREA AND**
30 **ELSEWHERE?**
31

1 **A7.** Yes, it is very important to positively impacting economic development. The 44
2 acres donated are literally the foundation for Crown Point's new SE WWTP. That new
3 SE WWTP satisfies many public demands and provides broad area economic,
4 environmental and social benefits. The new WWTP's increased treatment capacity will
5 promote economic development in Crown Point's entire requested Regulated Territory,
6 including the Disputed Area, by making sewage service available where it currently is
7 not.

8 The new SE WWTP provides capacity that will continue to fulfill Crown Point's
9 promise to accept sewage from Lake County failing septic systems. This promotes
10 economic development by avoiding ground water, surface water and downstream
11 contamination, with obvious health and social benefits.

12 The new SE WWTP allows Crown Point to comply with IDEM's requirements to
13 eliminate problems associated with combined sewer out flows. This promotes new
14 economic development by increasing capacity and allowing additional developers, and
15 commercial and residential property owners to connect the Crown Point sewer system.

16 Crown Point, along with the local developers, have created these economic
17 development benefits for the Disputed Area and elsewhere through the donation of the
18 SE WWTP ground in exchange for Crown Point's promise to offer service to the
19 Disputed Area. Winfield's arguments to disrupt the economic development sewer service
20 efforts that Crown Point and local developers have collaboratively worked out should be
21 rejected.

22
23 **Q8. AT PAGE 18 OF HIS DIRECT TESTIMONY, MR. BEAVER TESTIFIES**
24 **REGARDING HIS PREFERENCE FOR WINFIELD SERVICE IN THE**
25 **DISPUTED AREA FOR THE BENEFIT OF ECONOMIC DEVELOPMENT.**
26 **HOW DO YOU RESPOND TO HIS TESTIMONY?**

27
28 **A8.** First, he contends that Winfield could serve the Disputed Area by extending a sewer
29 transmission main that would take 12 months. Mr. Stong has indicated Crown Point can
30 initially serve the Disputed Area within 9 months with a low-cost gravity line to the
31 current treatment plant. But importantly, LBL owns much of the Disputed Area and
32 would be the main developer in the Disputed Area and does not need service that soon. It
33 is likely that virtually no development will occur in the Disputed Area until LBL initiates

1 it and LBL does not need prompt service. But if prompt service were needed by for
2 example a restaurant, or commercial building off I 65 east on 231, economic
3 development would be better served by Crown Point's 9 month to service timing rather
4 than Winfield's 12 months.

5 What is much more important is getting a firm commitment to offering sewer
6 service for full major development buildout within an acceptable time frame to the
7 critical initial developments. Crown Point has already made that commitment in the
8 Donation Agreement. Winfield made no commitment to LBL or any one else in the
9 Disputed Area. LBL's stated position is it will not develop in the area if the Disputed
10 Area is assigned to Winfield. As Mr. Stong details Winfield's multiple lift stations and
11 force mains conveyance system plan for the Disputed Area is very complex and very
12 costly. That alone is enough to inhibit economic development. In my opinion giving
13 Winfield control over the provision of sewer service in the Disputed Area would be a
14 severe impediment to economic development.

15 Winfield's track record is contrary to promoting economic development. It is my
16 understanding that Winfield did not even commit to providing sewer service to LBL's
17 development area inside of Winfield's current corporate limits. Winfield's assertions
18 regarding its ability to provide sewer service to the Disputed Area are not consistent with
19 its past actions and inabilities to commit to provide LBL sewer service and its complex
20 high cost proposed conveyance system. .

21
22 **Q9. HOW ELSE IS CROWN POINT SUPERIOR TO WINFIELD IN**
23 **POSITIVELY IMPACTING ECONOMIC DEVELOPMENT?**

24
25 **A9.** As my Direct Testimony detailed, Crown Point has a proven track record and
26 excellent performance in actively promoting, attracting and growing economic
27 development in areas served by Crown Point municipal utilities. There I previously
28 stated Crown Point's many economic development achievements and successes.

29
30 **Q10. WHAT HAS WINFIELD AND OR ITS SEWAGE UTILITY ACHIEVED OR**
31 **EVEN ATTEMPTED TO ACHIEVE IN ECONOMIC DEVELOPMENT?**
32

1 **A10.** I live in the area and have done so for more than 30 years. I am familiar with the
2 Winfield and Crown Point areas. I am not aware of any Winfield economic development
3 achievements. Here is a summary of what Crown Point asked Winfield to state in Data
4 Requests 3.1 – 3.11 about Winfield and economic development:

- 5
- 6 • Winfield's most important economic development achievements.
- 7 • Economic development opportunities pursued but not achieved.
- 8 • Current economic development opportunities Winfield is working on.
- 9 • Who runs economic development for Winfield and is it a full time job.
- 10 • Does Winfield have any economic development marketing materials?
- 11 • Completed Winfield economic development projects.
- 12 • Of completed economic development projects, which are receiving sewer
- 13 service from Winfield?
- 14 • The structure and staffing of Winfield's public safety.
- 15 • Winfield's definition of economic development.
- 16 • Winfield's economic development goals.
- 17

18 **Q11. WHAT WAS WINFIELD'S RESPONSE?**

19

20 **A11.** They objected and refused to answer any and all of the questions. In objecting they
21 apparently contend that the economic development future of the Disputed Area rests in
22 the hands of Lake County. Apparently because Winfield can't overcome Crown Point's
23 superior ability to promote economic development in the Disputed Area, their tact is to
24 ignore the statutory criteria of considering the effect of the Commission's order on
25 economic development and, instead, they try to deflect the effect of Disputed Area's
26 current and future economic development onto Lake County. Yet, their own Direct
27 Testimony asserts that Winfield, not Lake County, has the alleged ability to promote
28 economic development in the Disputed Area. See Beaver Direct p. 17, Wilson Direct p.
29 15.

30

31 **Q12. DO YOU AGREE WITH WINFIELD REGARDING LAKE COUNTY?**

32

33 **A12.** No, I do not. Trying to hide its lacking economic development ability behind the
34 Disputed Area's current status as being within unincorporated Lake County is ineffective.
35 The fact that currently the Disputed Area is not inside the municipal boundaries of Crown
36 Point makes no difference. If Crown Point's request is approved the Disputed Area will

1 be part of the service area of Crown Point's sewer and water utilities. Providing
2 developers with sewer and water service is critically essential to economic development.
3 Crown Point has constructively worked with many developers and will continue to work
4 with developers in the Disputed Area in a manner that allows them to obtain in
5 reasonable time frames with reasonable certainty the critical elements to economic
6 development, commitments for and receipt of sewer and water service. Crown Point's
7 ability to cooperatively work with LBL on the low cost gravity flow conveyance system
8 is proof of our ability to work with developers in ways that promote efficiency and
9 economic development. Crown Point's utility and economic development staff will work
10 with developers in the Disputed Area and elsewhere in its regulated territory. Crown
11 Point will provide our insights and economic development assistance because Crown
12 Point has enormous economic incentives to help grow economic development in the
13 Disputed Area and elsewhere in its regulated territory, for several reasons.

14 **First**, development and economic growth would provide a larger customer base
15 over which Crown Point's fixed costs can be spread, serving to lower future rates.

16 **Second**, quality well planned economic development has the ripple effect of
17 increasing all forms of businesses and services in the surrounding area, including within
18 Crown Point. It is appropriate and necessary that area developers requesting sewage
19 service are given the economic development insights and advice of Crown Point.

20 **Third**, ensuring that new development sewer systems are properly designed and
21 constructed provides operational, environmental and economic development benefits to
22 the entire Crown Point system. Preventing inflow and infiltration situations in new
23 development design and construction helps preserve Crown Point's treatment capacity
24 and ensures it will be there to serve future economic development and customer needs.

25 **Fourth**, to increase area employment Crown Point actively looks for employment
26 enhancing economic development opportunities. We actively participate in the economic
27 development agencies at a local and state level to promote appropriate employment
28 growth. When we grow the number of good paying jobs, whether they are inside Crown
29 Point or slightly outside Crown Point in the Disputed Area, we create new employment
30 income opportunities for the people of Crown Point and boost our local economy. Crown

Point's provision of sewer service to the Disputed Area combined with our economic development knowledge will promote the area's economic development.

Q13. WHAT DO YOU MAKE OF WINFIELD REFUSING TO ANSWER THE SIMPLE DATA REQUEST 3.1 – 3.11 QUESTIONS YOU SUMMARIZED?

A13. It reenforces my understanding that the small town of Winfield has no real economic development experience, material accomplishments or organized structure or effort to promote economic development. Winfield has not demonstrated an understanding of the impact that the ability to timely provide well designed reliable wastewater service has on economic development.

Q14. AT PAGE 10 MR. BEAVER STATES THAT A PORTION OF LBL DEVELOPMENT WILL BE WITHIN THE TOWN OF WINFIELD'S CORPORATE BORDERS. HE CONTENDS THAT IT SEEMS A WASTE TO HAVE DUPLICATE SERVICES IN THE SAME DEVELOPMENT. WHAT IS YOUR RESPONSE TO THAT?

A14. Crown Point has not proposed to serve the LBL development area within Winfield, just north of and contiguous to the Disputed Area. For Winfield to use its past failure to make LBL its customer within the Town of Winfield cannot credibly now be used as a duplication of facilities argument.

Moreover, as Mr. Stong testifies separate sanitary collection systems can be readily designed by a developer to have separate routes of flow for treatment by contiguous sewage utilities. From discussion with Mr. Stong my understanding is there are no inefficiencies associated with correctly splitting a well-planned development conveyance system.

Q15. AT PAGE 11-12 OF HIS DIRECT TESTIMONY, MR. BEAVER ARGUES THAT ASSIGNING THE DISPUTED AREA TO CROWN POINT WOULD NEGATE WINFIELD'S EFFORTS TO PROVIDE ESSENTIAL SERVICES TO THE AREA INCLUDING SEWER SERVICE. WHAT IS YOUR OPINION OF MR. BEAVER'S TESTIMONY?

A15. In my opinion it is an exaggeration of Winfield's ability and true interest in serving the Disputed Area. If Winfield is ready, willing and able to serve the Disputed Area as Mr. Beaver states, they would have already committed in writing to serve LBL in that

1 area. It is my understanding that Winfield has not even committed in writing to serve
2 LBL's smaller development area inside of Winfield. As Mr. Stong explains, Winfield's
3 very costly alleged plan to serve the whole of the Disputed Area has serious planning and
4 engineering defects that render their sewer service plan cost prohibitive to developers.

5
6 **Q16. AT PAGE 19 MR. BEAVER TESTIFIES THAT WINFIELD'S RATES ARE**
7 **LOWER THAN CROWN POINT'S AND THUS WOULD BE CONDUCTIVE TO**
8 **ECONOMIC DEVELOPMENT IN THE DISPUTED AREA. SIMILARLY, MR.**
9 **LIN AT PAGE 11 AND MS. WILSON AT PAGE 15 CONTEND WINFIELD'S**
10 **CURRENT RATES ARE LOWER THAN CROWN POINT'S AND THUS ARE**
11 **MORE CONDUCTIVE TO ECONOMIC DEVELOPMENT. WHAT IS YOUR**
12 **RESPONSE TO THAT?**

13
14 **A16.** I disagree with them for many reasons. Mr. Guerrettaz details why Winfield's
15 asserted rate comparison is flawed for several reasons. Moreover, the rates make no
16 difference in instances where developers cannot get utility commitments to receive sewer
17 service. For example, even if the service were free, if it cannot be obtained, the zero rate
18 is just window dressing. Winfield's track record shows its inability to make
19 commitments to timely provide sewer service. Mr. Stong testifies that Winfield's
20 engineering plans to serve the Disputed Area are not reasonable, viable and are so costly
21 to developers that it would chill or prevent new development. The high cost of
22 Winfield's lift stations / force mains conveyance system will chill any economic
23 development in the area, especially when compared to Crown Point's much lower cost
24 gravity flow system.

25 Second, as Mr. Guerrettaz testifies, the use of Winfield's municipal Building
26 Corporation bonds to finance new sewer infrastructure forces Winfield property tax
27 payers to unknowingly subsidize the cost of Winfield sewer service. All of Winfield's
28 landowners, including the many on private septic systems, or even farm ground and
29 vacant lot owners are subsidizing Winfield's sewage rates. As Mr. Guerrettaz describes,
30 Winfield has phantom sewer service rates embedded within its property tax rates thus,
31 hiding the true cost of its sewer service.

32 Third, as Mr. Guerrettaz points out, Crown Point's two rate phases already
33 reflects the cost of its three Phases of its sewage utility capital improvement plans,
34 including the new SE WWTP. Mr. Guerrettaz testifies, given Crown Point's financing

1 options no additional third phase Crown Point rate increase is expected. On the other
2 hand, Winfield's rates do not reflect the high cost of its daisy chain lift station force main
3 conveyance system or its suggested future new 4 mgd WWTP expansion. Comparing
4 Winfield's current rates to Crown Point's current rates is not a fair apples to apples
5 comparison. Moreover, what Winfield's sewer rates are today is no guarantee of what
6 they will be in the future.

7 Fourth, it is my understanding that Winfield's engineering plan to provide sewage
8 service is so expensive and complex that developers like LBL do not want Winfield
9 sewer service. Without development there will be no new customers, no opportunity to
10 spread fixed costs over more customers, no new economic development.

11
12 **Q17. MS. WILSON TESTIFIES AT PG. 11 THAT GIVING THE DISPUTED**
13 **AREA TO WINFIELD WILL BE POSITIVE TO ITS RATES BECAUSE FIXED**
14 **COSTS COULD BE SPREAD OVER A BROADER CUSTOMER BASE. WHAT**
15 **DO YOU THINK OF THAT?**

16
17 **A17.** Her contention is ironic because, based on her rate comparison it is more
18 supportive of Crown Point than of Winfield. She previously testified that Winfield's
19 current sewer rates are much lower than Crown Point's current rates. Thus, the rate
20 reduction impact of spreading fixed costs over the increased customer base of the
21 Disputed Area is arguably much more appropriate and useful to Crown Point's alleged
22 higher rates than to Winfield's current lower rates. As Mr. Guerrettaz testifies the
23 increased number of customers from the expanded area will allow fixed costs to be
24 shared by more customers and allow the opportunity for a Crown Point rate reduction in
25 the future.

26
27 **Q18. IN YOUR OPINION WHICH IS MORE SUPPORTIVE OF INCREASING**
28 **ECONOMIC DEVELOPMENT, LOWER SEWER RATES OR A CLEAR**
29 **RELIABLE PATH TO ACTUALLY GETTING SEWER SERVICE?**

1 **A18.** A commitment that sewer service will be made available, such as Crown Point's
2 commitment to LBL, is much more critical than what might arguably be currently lower
3 rates.

4
5 **Q19. IN CONTRAST TO WINFIELD'S CURRENTLY LOWER RETAIL**
6 **SEWER RATE ARGUMENTS, IN YOUR EXPERIENCE AMONG ALL THE**
7 **FACTORS THAT GO INTO CREATING NEW ECONOMIC DEVELOPMENT**
8 **HOW IMPORTANT ARE RETAIL SEWER RATES?**

9
10 **A19.** Typically only in instances of very high use e.g. industrial customers is the retail
11 cost of utility services an important factor in attracting economic development. Such
12 high use customers often have the ability to negotiate a lower utility rate as part of a
13 package of economic incentives to locate in a target area. In the case of the Disputed
14 Area far more critical elements are, the certainty that utility service is available; a low
15 cost sewage conveyance system; the cost of the building lots or the finished buildings;
16 area transpiration; area schools; area support systems; area social amenities; the
17 desirability of the area; public safety and other factors. The retail cost of sewer service is
18 not a critical economic development element.

19 The critical economic development in the Disputed Area is which municipal
20 sewer utility will be given the right to serve. Unlike Winfield Crown Point has by the
21 Donation Agreement already committed to make its sewer service available to LBL in the
22 Disputed Area. Unlike Winfield, Crown Point has the proven economic development
23 experience and achievements. Unlike Winfield, as Mr. Strong explains, Crown Point has
24 a far more economically sensible engineering design to serve the Disputed Area. Unlike
25 Winfield, Crown Point does not hide the cost of its capital improvements with property
26 tax payer subsidization by paying rent for its own municipal buildings.

27 In my opinion, Winfield's currently lower taxpayer subsidized sewer rates and its
28 as Mr. Stong describes it's poorly designed very high cost plan do not support an award
29 of the Disputed Area to Winfield.

1 **Q20. WHAT IS THE HISTORY OF SEWER SERVICE AND CONTRACTS FOR**
2 **SERVICE IN THE DISPUTED AREA?**

3 **A20.** Winfield does not note any history of sewer service or Contracts for sewer service
4 in the Disputed Area. It is my understanding that Winfield provides no sewer service in
5 the Disputed Area and has not made any commitment to any developer in the Disputed
6 Area to provide service.

7 Conversely, Crown Point's history of sewer service in the Disputed Area is it has,
8 by the Donation Agreement in writing contractually agreed to offer sewer service to LBL
9 development. LBL so very much wants sewer service from Crown Point that in this
10 Cause and elsewhere, it has vigorously opposed being forced to take sewer service from
11 Winfield. LBL and Crown Point have already discussed and designed engineering plans
12 for the provision of sewer service. LBL has said it will not develop the area if it assigned
13 to Winfield. That is a lot of history and contractual commitment in the Disputed Area.

14 In my opinion the history of sewer service and existing contract is heavily in favor
15 of Crown Point.

16
17 **Q21. HAS CROWN POINT LEARNED OF THE OPPORTUNITY TO**
18 **COOPERATE WITH A NEARBY SEWER UTILITY, APPLE VALLEY**
19 **UTILITIES?**

20
21 **A21.** Yes. Recently Apple Valley Utilities ("Apple Valley") reached out to Crown Point
22 to advise of a possible conflict between Apple Valley's Sewage utility CTA service area
23 approved in Cause No 42817, and a south portion of Crown Point's regulated sewer and
24 water territories. Crown Point was previously unaware of any potential Apple Valley
25 sewer service area conflict. As I understand, there is no map for Indiana that shows
26 sewer CTA locations and borders.

1 Since then Crown Point and Apple Valley have exchanged pertinent information
2 and determined that a south portion of Crown Point's requested regulated territory does
3 extend into the northern most portion of Apple Valley's Sewer CTA.

4 As Crown Point has done with its northern and western utility and municipal
5 neighbors, Crown Point shows deference to Apple Valley and does not seek to extend it's
6 regulated territory into Apple Valley's sewer CTA. As Crown Point has advised Apple
7 Valley, an adjustment to remove Apple Valley's sewer CTA from Crown Point's
8 requested Regulated Territory will be made.

9 Attached, as Exhibit 6-1 is the Stipulation Agreement from Cause No. 42817 with
10 its map that shows the approved Apple Valley CTA. A detailed map that shows Apple
11 Valley's sewer CTA area removed from Crown Point's requested sewer Regulated Sewer
12 Territory is attached hereto as Exhibit 6-2.

13 Had Crown Point known of Apple Valley's sewer CTA proximity we would have
14 addressed their concern previously. But there is no harm and should be no concern as
15 Crown Point is not seeking to take Apple Valley's sewer CTA area.


16 **Q22 DOES THAT CONCLUDE YOUR RESPONSIVE TESTIMONY?**

17 A22 Yes, it does.

18

VERIFICATION

The undersigned affirms under the penalties for perjury that the foregoing testimony is true to the best of his knowledge and belief.



Gregory Falkowski

IURC
JOINTEXHIBIT No. 19-1-05

DATE

REPORTER UR

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF APPLE VALLEY UTILITIES)
 FOR A CERTIFICATE OF TERRITORIAL)
 AUTHORITY TO RENDER RURAL SEWAGE)
 SERVICE IN ADDITIONAL)
 AREAS OF LAKE COUNTY, INDIANA.)

CAUSE NO. 42817

STIPULATION AND SETTLEMENT AGREEMENT

Apple Valley Utilities, Inc. ("Petitioner") and the Indiana Office of the Utility Consumer Counselor ("OUCC") (collectively the "Parties"), having been duly advised by their respective staff, experts and counsel, stipulate and agree for purposes of settling all matters in this Cause, that the terms and conditions set forth below represent a fair and reasonable resolution of all the issues in this Cause, subject to their incorporation in a final Commission Order without modification or further condition, which may be unacceptable to any Party. If the Commission does not approve the Stipulation and Settlement Agreement in its entirety and incorporate it in a final Order, the entire Stipulation and Settlement Agreement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Parties. There are no other agreements in existence between the Parties relating to the matters covered by this Stipulation and Settlement Agreement which in any way affect this Stipulation and Settlement Agreement.

In consideration of the premises and the mutual covenants and conditions contained herein, the Parties agree as follows:

1. The Commission should grant Petitioner an expanded certificate of territorial authority ("CTA") authorizing it to serve the area of Lake County, Indiana, shown on the map attached hereto as Exhibit A, which is smaller than the area requested by Petitioner. A legal description for the expanded CTA is attached as Exhibit B. The area removed from the scope of the CTA originally requested by Petitioner corresponds to (a) the area currently served by Lake Dalecarlia Regional Waste District, and (b) the area removed from Petitioner's existing CTA by virtue of Petitioner's agreement with the Town of Lowell, a copy of which is attached hereto as Exhibit C. In addition, Petitioner agrees to publish notice of removal (b) in a newspaper of general circulation and allow a period of thirty days for comments to be received by Petitioner from such landowners. At the close of the thirty day period, Petitioner will prepare and submit a report to the Presiding Officers, with a copy to the OUCC, detailing any comments from landowners.

2. If after three (3) years from the date the Commission approves the expanded CTA, Petitioner receives a request for service from a landowner within the expanded CTA area that Petitioner cannot accommodate within six (6) months on the same terms and conditions applicable to Petitioner's other customers, including without limitation rates and charges, then Petitioner shall notify the Commission of the fact and the CTA authority to serve the area where the landowner is located may be revoked upon the written request of the landowner. Petitioner, however, would have an opportunity to demonstrate to the Commission in a noticed public hearing that such a revocation was not appropriate. Petitioner shall provide written notice of the contents of this paragraph to any landowner within the expanded CTA area requesting service that Petitioner cannot accommodate.

3. Petitioner shall submit to the Commission, subject to a finding of confidentiality, financial statements sufficient to support the financial ability of Petitioner's new ownership to provide service. In addition, Petitioner shall request, and shall file with the Commission upon receipt, any determination made by the Indiana Department of Natural Resources and/or the Indiana Department of Environmental Management relevant to the expansion of Petitioner's CTA. Submission of such documentation, however, should not be a precondition to the Commission granting the expanded CTA as described herein. Petitioner shall also submit supplemental testimony to support this settlement, and such testimony shall include and explain the *Preliminary Engineering Analysis* previously provided to the OUCC.

4. Petitioner's direct evidence, together with any supplemental direct testimony Petitioner may submit to the Commission, constitutes substantial evidence sufficient to support this Stipulation and Settlement Agreement and provide an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of the Stipulation and Settlement Agreement. Such evidence shall be admitted into evidence without objection and the Parties hereby waive cross-examination of the other's witnesses.

5. This Stipulation and Settlement Agreement does not and should not be construed as representing the OUCC's agreement that any of Petitioner's charges or practices related to the expansion of its CTA in the manner provided for in paragraph 2 above is reasonable, appropriate or should be approved. Further, this Stipulation and Settlement Agreement shall not constitute nor be cited as precedent by the parties against each other or deemed an admission by any party in any other proceeding except as

necessary to enforce its terms before the Commission, or any state court of competent jurisdiction on these particular issues. This Stipulation and Settlement Agreement is solely the result of compromise in the settlement process and, except as provided herein, is without prejudice to and shall not constitute a waiver of any position that any of the Parties may take with respect to any or all of the items and issues resolved herein in any future regulatory or other proceedings.

6. The undersigned have represented and agreed that they are fully authorized to execute this Stipulation and Settlement Agreement on behalf of their designated clients who will be bound thereby.

7. This Stipulation and Settlement Agreement shall inure to the benefit of and be binding upon the successors, heirs, and assigns of the Parties.

ACCEPTED AND AGREED this 1 day of September, 2005.

OFFICE OF UTILITY CONSUMER
COUNSELOR

APPLE VALLEY UTILITIES, Inc.

By: 

By: 

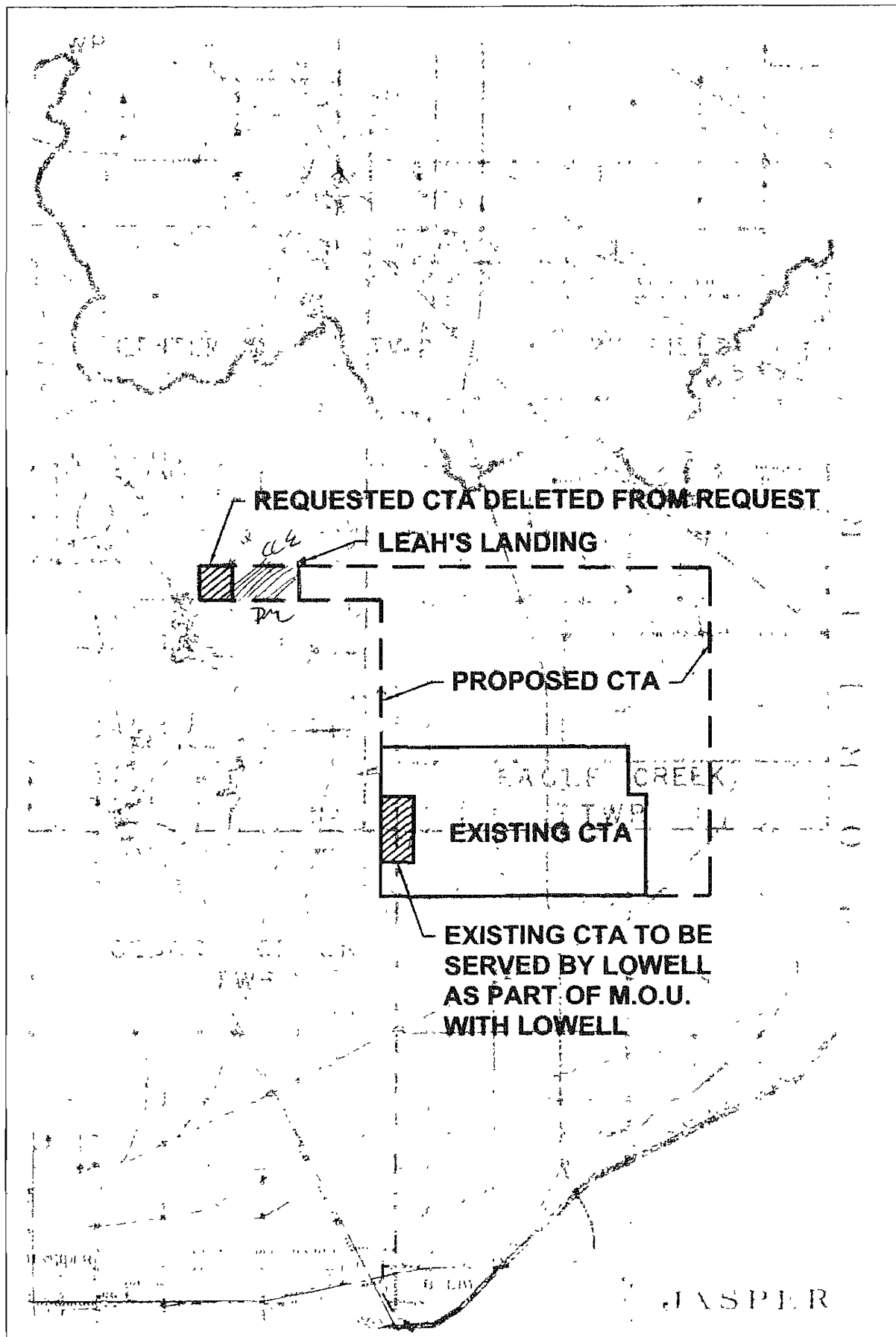
Daniel M. LeVay
Indiana Office of Utility Consumer
Counselor
Indiana Government Center North
Room N501
Indianapolis, IN 46204

Christopher C. Earle
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

Attorney for the Office of Utility
Consumer Counselor

Attorney for Petitioner,
Apple Valley Utilities

644313/10091



Legal description of New CTA Granted in this Course 42817

Beginning at the intersection of the South line of Section 29, Township 33 North, Range 8 West of the Second Principal Meridian with the East line of the West ½ of the West ½ of said Section 29, thence Northerly along the East line of the West ½ of the West ½ of Sections 29, 20, 17, 8 and 5 to a point on the North line of Section 5, Township 33 North, Range 7 West, thence Westerly along the North lines of Section 6, Township 33 North, Range 7 West and Sections 1, 2, 3, 4, 5 and 6 Township 33 North Range 8 West to the Northwest corner of the Northwest ¼ of said Section 6, thence Southerly along the West line of said Section 6 the same being the centerline of Clark Street to the South line of the North ½ of said Section 6, thence Easterly along the South line of the North ½ of Sections 6, 5 and 4, Township 33 North, Range 8 West to a point on the East line of the West ½ of the West ½ of said Section 4, thence Southerly along the East line of the West ½ of the West ½ of Section 4, 9 and 16 Township 33 North Range 8 West to a point on the South line of the North ½ of the South ½ of said Section 16, thence Easterly along the South lines of the North ½ of the South ½ of Section 16, 15, 14, and 13 to the East line of said Section 13, thence Southerly along the East lines of Sections 13 and 24 to a point on the South line of the North ½ of said Section 24, thence Easterly to the West line of East ½ of the West ½ of Section 19 Township 33 North Range 7 West, thence Southerly along the West lines of the East ½ of the West ½ of Section 19 and 30 to a point on the South line of Section 30, thence Easterly along the South lines of Sections 30 and 29, Township 33 North, Range 7 West to the Point of Beginning.

AND

Part of the SW ¼ of Section 32, Township 34 North, Range 8 West of the 2nd Principal Meridian in Lake County, Indiana, described as follows; Beginning at the intersection of the West line of said SW ¼ and the Northerly line of the Northern Indiana Public Service Company Right-Of-Way, said intersection being 416.57 feet North of the Southwest corner of said SW ¼ thence North 00° 00' 0" East, along said West line, 80.00 feet; thence North 90° 00' 00" East, 240.00 feet; thence North 00° 00' 00" East, 318.23 feet; thence North 90° 00' 00" East 514.85 feet; thence North 00° 00' 00" East, 270.02 feet; thence South 89° 16' 48" East, 743.67 feet; thence South 00° 10' 08" West, 1067.31 feet to the South line of said SW ¼; thence North 89° 32' 18" West, along said West line, 880.29 feet to the Northern Indiana Public Service Company right-of-way; thence North 55° 34' 31" West, along said Northerly Right-Of-Way line, 745.58 feet to the point of beginning, containing 28.031 acres more or less.

Legal description of Area Removed from the Existing CTA as part of a Memorandum of Understanding with the Town of Lowell dated August 22, 2005.

Beginning at the intersection of the South line of the North ½ of Section 28, Township 33 North, Range 8 West with the East line of the West ½ of the West ½ of said Section 28, thence Easterly to a point on the East line of the West ½ of the East ½ of said Section 28, thence Northerly along the East lines of the West ½ of the East ½ of Sections 28 and 21 to the North line of the South ½ of Section 21, Township 33 North, Range 8 West, thence Easterly along the North line of the South ½ of said Section 21 to a point on the East line of the West ½ of the West ½ of Section 21, thence Southerly along the East lines of the West ½ of the West ½ of Sections 21 and 28 to the Point of Beginning.

MEMORANDUM OF UNDERSTANDING

The purpose of this Memorandum of Understanding ("MOU") is to memorialize the understanding between the Town of Lowell, Indiana ("Lowell") and Apple Valley Utilities, Inc. ("Apple Valley") (collectively, the "Parties") concerning the provision of wastewater utility service in certain portions of southern Lake County, Indiana. Specifically, this MOU reflects the agreement of the Parties with respect to coordination of and cooperation on the provision of such service in neighboring portions of Lake County where each of the Parties is authorized to provide service for the ten year period beginning upon the date of execution of this MOU.

1. Apple Valley and Lowell agree to maintain a dialogue concerning issues of mutual concern, including but not limited to the following:

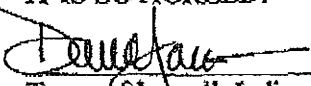
- a. growth in demand for wastewater service in their respective service territories;
- b. the technical and financial feasibility and advisability of centralized regional wastewater treatment facilities; and
- c. significant modifications and expansions in their respective wastewater plants, and

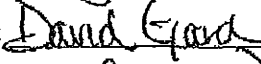
To that end, the Parties agree that representatives of their utilities should meet at least once a year to discuss such items of mutual concern and review appropriate planning documents. Nothing in this MOU should be construed to give either Party any right or authority over the management or operation of the other Party's utility, but rather should be construed to encourage a coordinated and cooperative approach to the provision of wastewater service.

2. Apple Valley and Lowell agree to use their best efforts to work together to resolve any territorial issues that may exist from time to time, including but not limited to potential modification of authorized service boundaries as necessary to promote the orderly and efficient provision of wastewater service. Consistent with that agreement, Apple Valley agrees to seek modification of its existing territorial boundary in IURC Cause No. 42817 to remove the portion of its CTA covered by the map and legal description attached hereto as Exhibit A.

3. Lowell agrees not to oppose modification of Apple Valley's certificated service territory in IURC Cause No. 42817 or such subsequent proceeding(s) as necessary to effectuate the modification of Apple Valley's territory proposed in Cause No. 42817, and agrees to withdraw its testimony in that proceeding prior to any evidentiary hearing therein. This paragraph shall not be interpreted to adversely impact any position to be taken by any Party in any other proceeding.

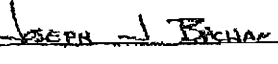
IT IS SO AGREED.


Town of Lowell, Indiana

By: 
Its: Town Council President

Dated: August 22, 2005


Apple Valley Utilities, Inc.

By: 
Its: CEO

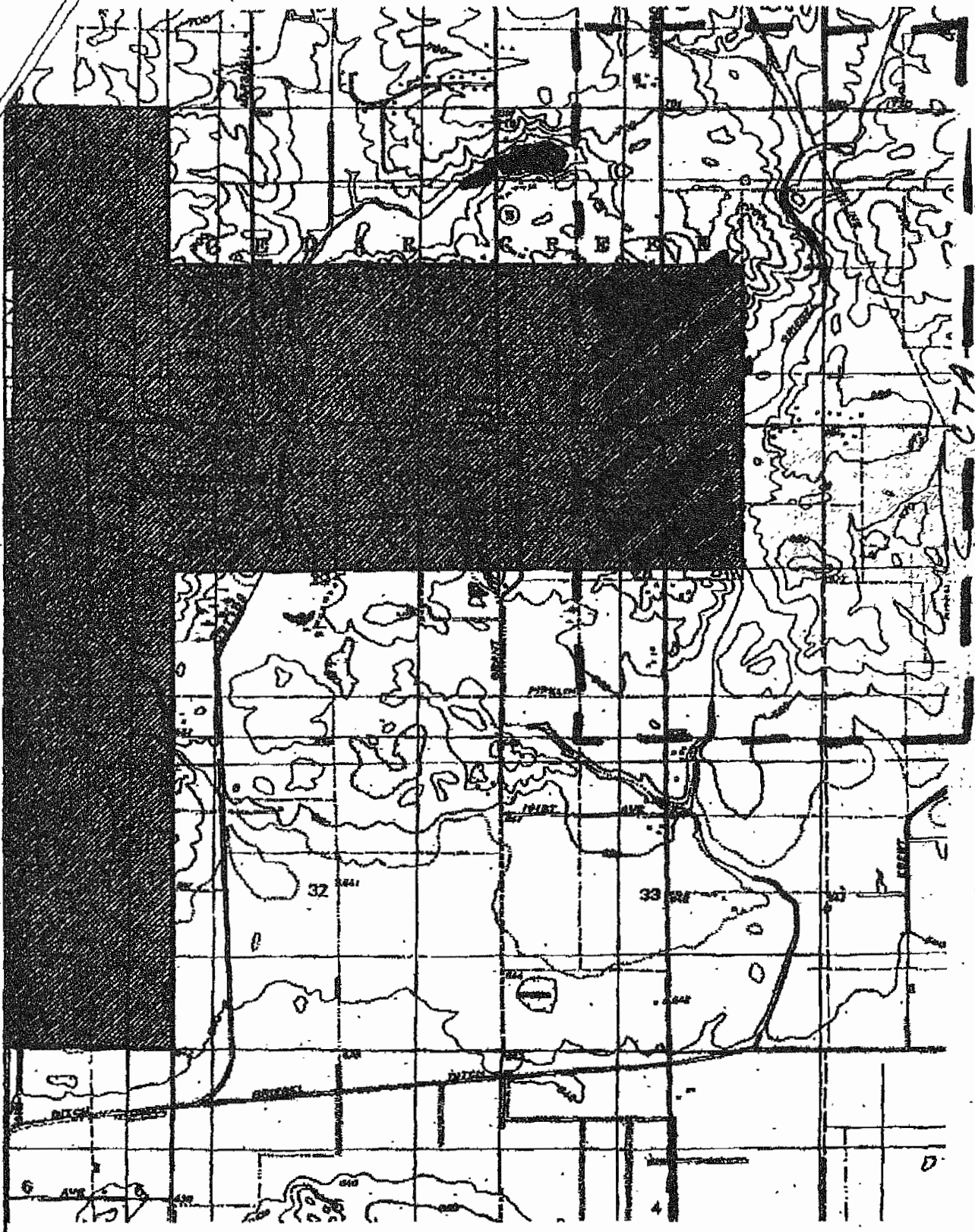
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TOWN OF LOWELL

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P.2RECAPTURE AREA
EAST SIDE SANITARY SEWER
LOWELL, INDIANA

That part of Cedar Creek Township in part of Sections 19, 20, 21, 28, 29, 30 and 31, Township 33 North, Range 8 West of the Second Principal Meridian, described as follows: Beginning at the Southwest corner of Section 31, Township 33 North, Range 8 West of the Second Principal Meridian, in Lake County, Indiana; thence Northerly along the West lines of said Section 31 and Section 30 to the Northwest corner of said Section 30; thence North $01^{\circ}27'00''$ West 585.11 feet along the West line of Section 19; thence North $88^{\circ}33'00''$ East 190.00 feet; thence South $70^{\circ}38'32''$ East 278.14 feet to the intersection of the North line of the South 500 feet of said fractional Southwest Quarter with the East line of the West 450 feet of said fractional Southwest Quarter; thence South $89^{\circ}40'34''$ East 928.78 feet along last said North line to the East line of the West 1374 feet of fractional Southwest Quarter of said Section 19, also being the West line of Phase 1 of Lowell Professional Center; thence North $01^{\circ}27'00''$ West 819.78 feet along last said West line to the North line of Phase 1 of Lowell Professional Center; thence South $89^{\circ}40'34''$ East 660.00 feet to the East line of said Phase 1 of Lowell Professional Center; thence South $01^{\circ}27'00''$ East 1320.00 feet along last said East line of Phase 1 of Lowell Professional Center to the South line of the fractional Southwest Quarter of said Section 19; thence South $89^{\circ}40'34''$ East 390.00 feet along last said South line to the East line of said Southwest Quarter of said Section 19; thence North $01^{\circ}32'34''$ West 2650.48 feet along last said East line to the North line of said Southwest fractional Quarter of Section 19; thence North $89^{\circ}42'08''$ West 1525.55 feet to the East line of Windsor Woods Unit 2 and the centerline of Holtz Road; thence Northeasterly along last said centerline and Easterly line of Windsor Woods Unit 2 to the Easterly corner of said Windsor Woods Unit 2; thence North $62^{\circ}08'54''$ West 188.53 feet along Lot 1 in said Windsor Woods Unit 2; thence continuing North $48^{\circ}48'14''$ West 64.75 feet to the North line of said Windsor Woods Unit 2; thence North $89^{\circ}40'07''$ East 292 feet, more or less, to the centerline of Holtz Road; thence Northerly along the East shoreline of Redwing Lake to the North line of said Section 19; thence Easterly along last said North line to the East line of said Section 19; thence Southerly along the East line of Section 19 to the North line of the South Half of Sections 20 and 21; thence Easterly along said North line to the East line of the West Half of the Southeast Quarter of Section 21; thence South along the East line of said West Half of the Southeast Quarter; thence continuing South along the East line of the West Half of the Northeast Quarter of Section 28, Township 33 North, Range 8 West of the Second Principal Meridian to the centerline of Section 28; thence West along the centerline of Section 28 and the centerline of Section 29 to the East line of Section 30; thence South along the East line of Section 30 and the East line of Section 31 to the South line of Section 31; thence West along the South line of Section 31 to the Place of Beginning, all in Cedar Creek Township, Indiana.

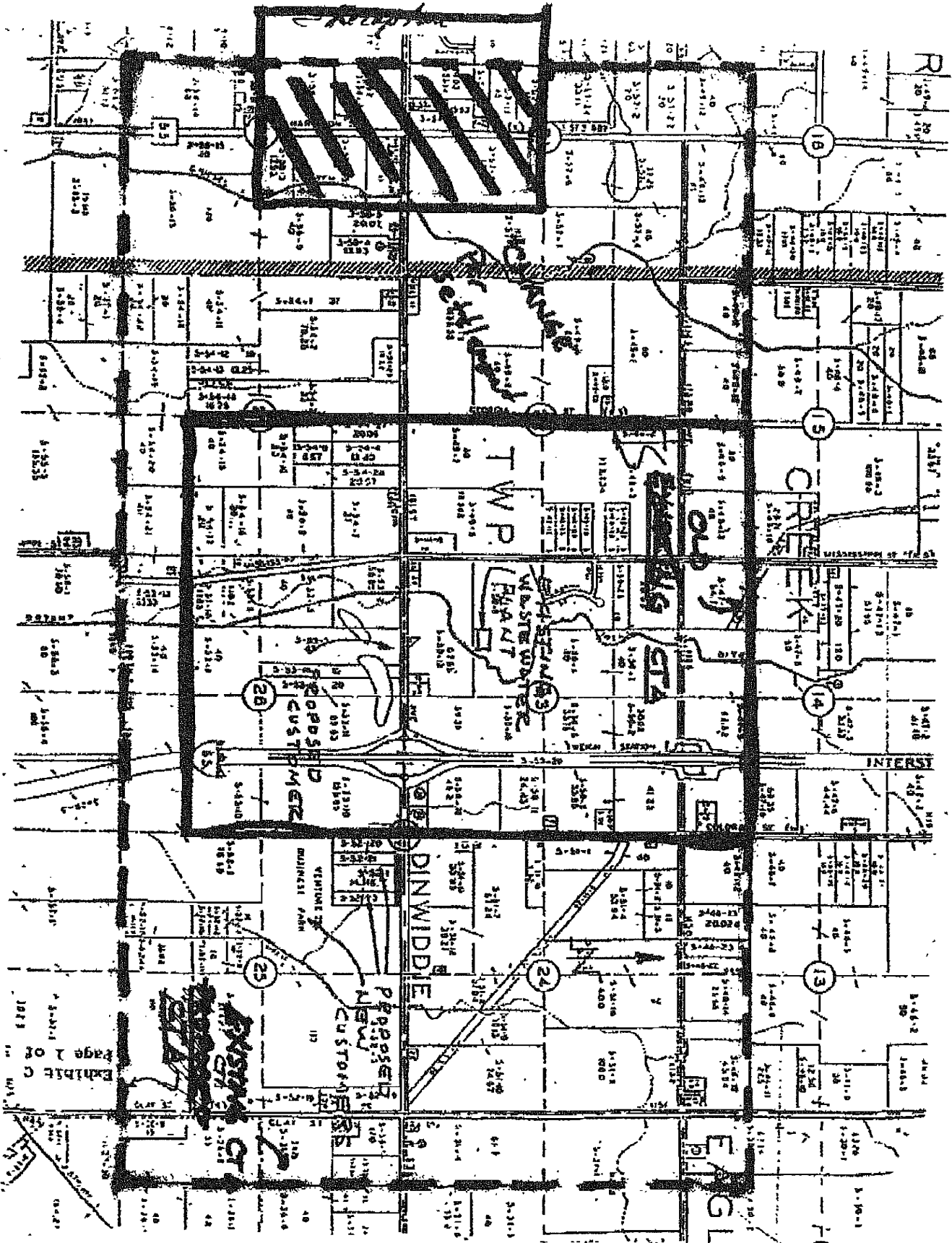
AND

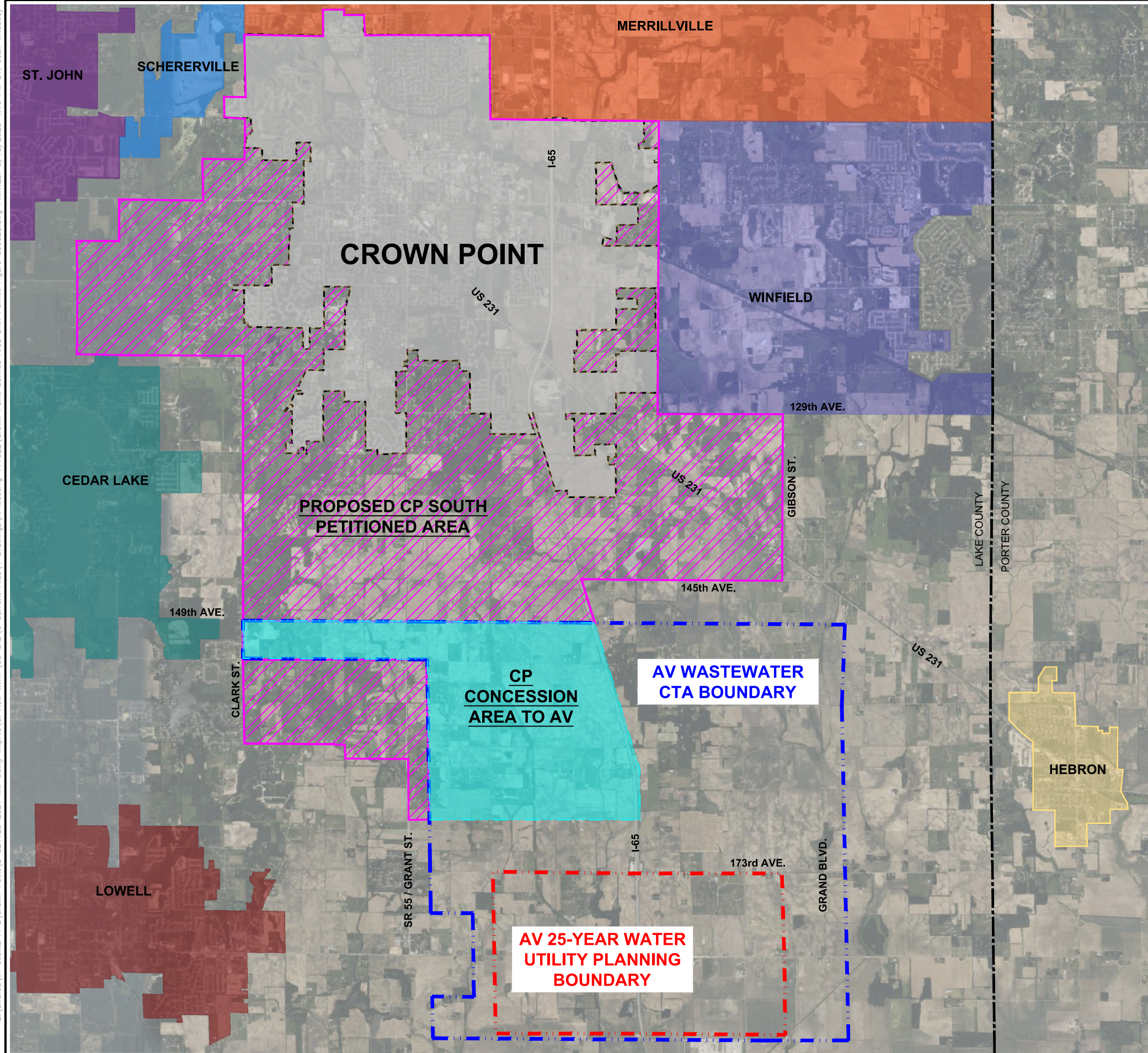
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TOWN OF LOWELL
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P. 3


That part of Sections 25, 36 and 38, in Township 33 North, Range 9 West of the Second Principal Meridian in Lake County, Indiana, described as lying East of the following described lines; Beginning at the North line of Section 25 and the North-South centerline of Section 25; thence South along said centerline to the East-West centerline of Section 25; thence East along last said centerline to the East line of the West Half of the Northwest Quarter of the Southeast Quarter of Section 25; thence South along last said East line to the North line of the South Half of the South Half of Section 25; thence West along said North line of the South Half of the South Half of said Section to the centerline of Joe Martin Road; thence South along last said centerline to the South line of Section 25 also being the North line of Section 36; thence West along the North lines of Sections 36 and 35 to the centerline of the Monon Railroad; thence Southerly along the centerline of said railroad to the centerline of Belshaw Road; thence Westerly along the centerline of Belshaw Road to the centerline of Cedar Creek; thence Southerly along the centerline of Cedar Creek to the South line of Section 35, Township 33 North, Range 9 West of the Second Principal Meridian for a terminus.






	EXISTING SERVICE AREA
	EXTENT OF PETITIONED SERVICE AREA
	PETITIONED SERVICE AREA
	AV 25-YEAR WATER UTILITY PLANNING BOUDNARY
	AV WASTEWATER CTA BOUNDARY

SCALE: 1"=6400'



A graphic scale bar consisting of a horizontal rectangle divided into four equal segments. The segments alternate in color: white, black, white, and black from left to right. Below the bar, the labels '6400'', '0', and '6400'' are positioned at the left, center, and right ends respectively.



	CITY OF CROWN POINT LAKE COUNTY, INDIANA
	PROPOSED CROWN POINT WWTP
	CTA (APPLE VALLEY) SERVICE AREA MAP 1