

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

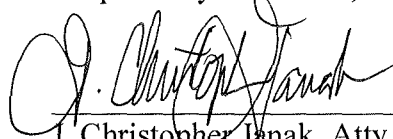
**IN THE MATTER OF THE PETITION OF THE
TOWN OF WINFIELD, LAKE COUNTY,
INDIANA, FOR APPROVAL OF A
REGULATORY ORDINANCE
ESTABLISHING A SERVICE TERRITORY
FOR THE TOWN'S MUNICIPAL SEWER
SYSTEM PURSUANT TO IND. CODE § 8-1.5-6
ET SEQ.**

CAUSE NO. 45992

**PREFILED RESPONSIVE TESTIMONY AND EXHIBITS
OF JEREMY C. LIN, PROFESSIONAL ENGINEER**

Prefiled Responsive Testimony of Jeremy C. Lin	<u>Petitioner's Exhibit 37</u>
Agreed Judgment in Cause No. 49D06-0709-CC-040349	<u>Petitioner's Exhibit 38</u>
IDEM Agreed Order in 2022-28739-W	<u>Petitioner's Exhibit 39</u>
Excerpts from Crown Point 2025 Preliminary Engineering Report	<u>Petitioner's Exhibit 40</u>
Excerpts from August 7, 2025 Albert Stong Deposition	<u>Petitioner's Exhibit 41</u>
Crown Point June 24, 2025 Discovery Response	<u>Petitioner's Exhibit 42</u>
IDEM Letter Regarding Antidegradation	<u>Petitioner's Exhibit 43</u>

Respectfully submitted,



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PREFILED RESPONSIVE TESTIMONY

OF

JEREMY C. LIN

ON BEHALF OF

THE TOWN OF WINFIELD, LAKE COUNTY, INDIANA

I.

INTRODUCTION

1
2
3 1. Q PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS
4 ADDRESS.

5 A My name is Jeremy C. Lin. I am a registered professional engineer and
6 President of Lintech Engineering, Inc. which is located at 8052 Monticello
7 Avenue, Suite 207, Skokie, IL 60076.

8 2. Q ARE YOU THE SAME JEREMY C. LIN WHO PREVIOUSLY
9 PREFILED DIRECT TESTIMONY AND EXHIBITS IN THIS CAUSE?

10 A Yes, I am. I originally prefiled my direct testimony and exhibits on
11 December 27, 2023, and then prefiled my amended and restated direct
12 testimony and exhibits on April 21, 2025.

13 3. Q IN PREPARATION FOR YOUR RESPONSIVE TESTIMONY, DID
14 YOU REVIEW THE TESTIMONY AND EXHIBITS PREFILED BY
15 THE CITY OF CROWN POINT, INDIANA ("CROWN POINT")?

16 A Yes, I did. I also reviewed the responses to discovery from the City of Crown
17 Point, Indiana ("Crown Point"), and LBL Development, LLC. ("LBL"), both
18 are of whom are intervenors in this cause.

19 4. Q WHAT IS THE PURPOSE OF YOUR TESTIMONY AND EXHIBITS?

20 A The purpose of my testimony is to respond to Crown Point's testimony and
21 exhibits from a technical and operational perspective. Specifically, I will
22 discuss Crown Point's: (i) history of non-compliance and regulatory orders
23 (issued against Crown Point) by the Indiana Department of Environmental

1 Management (“IDEM”); (ii) historical lack of capacity and inability to meet the
2 sewer demands from property owners in and immediately outside its current
3 boundaries; and (iii) anticipated flows from the areas outside the area in which
4 both Crown Point and Winfield are requesting to service (“Disputed Area”).

5 **II.**

6 **CROWN POINT’S HISTORY OF OPERATIONAL NON-**
7 **COMPLIANCE**
8

9 **5. Q DOES IDEM MAINTAIN A VIRTUAL FILING CABINET WITH**
10 **DOCUMENTS, CORRESPONDENCE, ORDERS, AND OTHER**
11 **DOCUMENTS PERTAINING TO OPERATIONS AND**
12 **MAINTENANCE OF MUNICIPAL SEWER UTILITIES?**

13 **A** Yes, it does. IDEM’s Virtual Filing Cabinet contains a great deal of public
14 documents regarding all sewer and water utilities over which IDEM has
15 jurisdiction. These documents include, among other things, reports, orders,
16 judgments, and information regarding enforcement actions initiated by IDEM.

17 **6. Q HAVE YOU RESEARCHED AND REVIEWED THE DOCUMENTS**
18 **AND MATERIALS IN IDEM’S VIRTUAL FILING CABINET WITH**
19 **RESPECT TO CROWN POINT’S MUNICIPAL SEWER SYSTEM?**

20 **A** Yes, I have.

21 **7. Q WHAT DID YOUR RESEARCH REVEAL?**

22 **A** Despite Crown Point’s direct testimony to the contrary, my research of the
23 public records in IDEM’s virtual filing cabinet revealed that Crown Point has

1 more than two decades of non-compliance associated with its operation and
2 maintenance of its sewer system.

3 **8. Q DO YOU AGREE WITH CROWN POINT WITNESS STONG'S**
4 **ASSERTION THAT CROWN POINT OPERATED ITS**
5 **"WASTEWATER UTILITY IN A MANNER NEEDED TO RESULT IN**
6 **SAFE, ADEQUATE, AND RELIABLE SEWER SERVICE."**

7 A No. The facts show otherwise.

8 **9. Q MR. LIN, PLEASE EXPLAIN SOME OF THE DEFICIENCIES YOU**
9 **HAVE FOUND.**

10 A Based on my review of the public records, Crown Point had a series of
11 discharges of raw sewage into the local water ways in Lake County, Indiana
12 from 2003 to 2006. As a result of these discharges, IDEM filed a Complaint
13 captioned as Cause No. 49D06-0709CC-040349 ("Non-Compliance
14 Complaint") against Crown Point, claiming that Crown Point was in non-
15 compliance with Title 13, Title 327 of the Indiana Administrative Code, and
16 Crown Point's National Pollutant Discharge Elimination System Permit
17 ("NPDES Permit"). This Complaint resulted in an agreed judgment against
18 Crown Point dated September 27, 2007 ("2007 Agreed Judgment") which
19 required Crown Point to make a series of improvements, some of which were
20 identified in Mr. Stong's testimony. For the Commission's convenience, I am
21 attaching a copy of the 2007 Agreed Judgment as Petitioner's Exhibit 38.

1 **10. Q HAVE YOU REVIEWED THE CAPITAL IMPROVEMENTS**
2 **IDENTIFIED ON PAGES 13-14 OF MR. STONG'S TESTIMONY?**

3 A Yes, I have. Some of these improvements were required as part of the
4 2007 Agreed Judgment.

5 **11. Q DID CROWN POINT VOLUNTARILY MAKE THESE**
6 **IMPROVEMENTS?**

7 A No, not really. Although Mr. Stong suggests that Crown Point voluntarily
8 made such improvements and Crown Point has appropriately operated and
9 maintained its municipal sewer utility, these suggestions are misleading. In
10 reality, IDEM forced Crown Point to make these improvements due to a series
11 of violations which precipitated IDEM filing the Non-Compliance Complaint
12 and the issuance of the 2007 Agreed Judgment.

13 **12. Q WHAT CONDITIONS DID THE 2007 AGREED JUDGMENT IMPOSE**
14 **AGAINST CROWN POINT?**

15 A The Agreed Judgment required Crown Point to submit a CSO Long-Term
16 Control Plan ("LTCP"), which was attached to the Agreed Judgment. The
17 Agreed Judgment also requires Crown Point to notify IDEM of its progress in
18 complying with the LTCP.

19 **13. Q WHAT IS THE STATUS OF THE 2007 AGREED JUDGMENT AT THIS**
20 **TIME?**

21 A Based on Mr. Stong's testimony, I understand that the 2007 Agreed Judgment
22 is still in effect today.

1 **14. Q SINCE THE 2007 AGREED JUDGMENT, HAS CROWN POINT**
2 **EXPERIENCED OTHER VIOLATIONS?**

3 A Yes. Crown Point has several other WWTP violations since 2007. I have
4 attached the various correspondence from IDEM that were available on the
5 IDEM virtual filing cabinet. The letters detail various violations at the WWTP
6 including effluent limit violations, unsatisfactory operations ratings, NPDES
7 modification violation, lab audit violations, sanitary sewer potential problems,
8 marginal maintenance ratings, marginal records and repair ratings, CSO/SSO
9 issues, and an enforcement referral.

10 **15. Q IS CROWN POINT SUBJECT TO ANOTHER OR SEPARATE ORDER**
11 **OR ENFORCEMENT ACTION FROM IDEM?**

12 A Yes, it is. Due to multiple violations and deficient maintenance practices, IDEM
13 initiated a new 2022 action against Crown Point captioned as Case No. 2022-
14 28739-W (“2022 IDEM Enforcement Action”) which resulted in an Agreed
15 Order on May 25, 2023 (“2023 Agreed Order”). A copy of the 2023 Agreed
16 Order is attached as Petitioner's Exhibit 39.

17 **16. Q DESCRIBE THE VIOLATIONS SET FORTH IN THE 2023 AGREED**
18 **ORDER?**

19 A The 2023 Agreed Order indicates that on multiple occasions Crown Point
20 violated effluent limitations and “IDEM staff observed and documented
21 inadequate maintenance and operation of the facilities.” The 2023 Agreed Order
22 states, in pertinent part:

6. During an investigation conducted by a representative of IDEM, violations were found, as described below.

...

8. Pursuant to Part I.A.1 of the Permit, the permittee is required to comply with the monitoring requirements contained in the Permit, including effluent limitations.

Discharge Monitoring Reports (DMRs) and Monthly Reports of Operation (MROs) submitted by Respondent for the period of October 2019 through May 2022 revealed violations of effluent limitations contained in Part I.A.1 of the Permit as follows:

- A. The weekly maximum average concentration limitation for total suspended solids (TSS) was exceeded during January and December 2020, April, June and August 2021, and April and May 2022.
- B. The monthly average concentration limitation for TSS was exceeded during December 2019, January 2020, June and August 2021, and May 2022.
- C. The monthly average loading limitation for TSS was exceeded during January 2020.
- D. The weekly maximum average loading limitation for TSS was exceeded during January 2020 and April 2021.
- E. The daily maximum concentration limitation for ammonia (as nitrogen) was exceeded during December 2019, and February and March 2021.
- F. The monthly average concentration limitation for ammonia (as nitrogen) was exceeded during December 2019, January, February and March 2021, and May 2022.
- G. The daily maximum loading limitation for ammonia (as nitrogen) was exceeded during March 2021.
- H. The monthly average concentration limitation for Phosphorus was exceeded during June, July, and September 2021.

Respondent failed to comply with the effluent limitations from Outfall 001 contained in the Permit, in violation of Part I.A.1 of the Permit.

9. Pursuant to 327 IAC 5-2-.8(9) and Part II.B.1 of the Permit, the permittee shall at all times maintain in good working order and efficiently operate all facilities and systems (and related appurtenances) for the collection and treatment which are installed or used by the permittee, and which are necessary for

1 achieving compliance with the terms and conditions of the
2 permit.

3 During the inspection on November 23, 2021, IDEM staff observed
4 and documented inadequate maintenance and operation of the
5 facilities, specifically:

6 A. problems with the media disk filters, including general
7 breakdowns and torn media in December 2020 and April
8 2021, which can be attributed as the cause of the Ammonia-
9 Nitrogen exceedances;

10 B. problems with the blowers which contributed to Ammonia-
11 Nitrogen exceedances; and

12 C. problems with the influent control panels causing erratic
13 influent sewage flows, which may have contributed to the
14 Phosphorus exceedances in May 2021 through September
15 2021.

16 Each in violation of 327 IAC 5-2-8(9) and Part II.B.1 of the
17 Permit.

18 10. On October 29, 2020, June 3, 2021, and December 2, 2021,
19 IDEM sent Inspection Summary and/or Noncompliance Letters to
20 Respondent outlining violations at the WWTP. The letters required
21 a response detailing actions taken to correct the violations. IDEM
22 received responses to the letter(s) explaining compliance actions
23 Respondent took or would take to address the violations. However,
24 the responses did not adequately address the violations noted
25 above at the WWTP.

26
27 **17. Q PLEASE EXPLAIN THE EFFLUENT LIMITATIONS VIOLATIONS.**

28 A The 2023 Agreed Order found that Crown Point violated effluent limitations
29 from outfall 001 of Part I.A.1 its NPDES Permit in twelve separate months
30 from December 2019 through May 2022 with several months having multiple
31 violations.

1 **18. Q WHAT IS THE SIGNIFICANCE OF CROWN POINT'S VIOLATIONS**
2 **OF ITS NPDES PERMIT EFFLUENT LIMITATIONS?**

3 A The violations outlined in the 2023 Agreed Order are significant and concerning
4 due to the documented effluent exceedances over a several consecutive months.
5 Accepting additional flow to the existing plant (without completion of the
6 IDEM-required improvements) would only complicate the ability to achieve the
7 required effluent requirements.

8 **19. Q PLEASE EXPLAIN THE MAINTENANCE AND OPERATIONS**
9 **VIOLATIONS.**

10 A The 2023 Agreed Order also found that Crown Point violated Part II.B.1 of its
11 NPDES Permit in seven months in 2020 and 2021. The 2023 Agreed Order
12 stated that these problems consisted of “problems with the media disk filters,
13 including general breakdowns and torn media in December 2020 and April
14 2021, which can be attributed as the cause of the Ammonia-Nitrogen
15 exceedances,” “problems with the blowers which contributed to Ammonia-
16 Nitrogen exceedances,” and “problems with the influent control panels causing
17 erratic influent sewage flows, which may have contributed to the Phosphorus
18 exceedances in May 2021 through September 2021.” (Petitioner's Exhibit 39,
19 2023 Agreed Order, p. 5, ¶9.)

1 **20. Q WHAT IS THE SIGNIFICANCE OF CROWN POINT'S VIOLATIONS**
2 **FOR FAILING TO ADEQUATELY OPERATE AND MAINTAIN ITS**
3 **SEWER FACILITIES?**

4 A These violations show a failure to properly operate and maintain facilities, a
5 basic function of any wastewater utility. The severity is evident in Crown
6 Point's 2025 Preliminary Engineering Report ("PER") that stated "the existing
7 facilities were failing, ultimately resulting in an Agreed Order and
8 corresponding required improvements to existing wastewater treatment
9 facilities to ensure treated effluent and consistency (See Petitioner's Exhibit 40,
10 p. ES-3. The PER further states that "several existing processes at the existing
11 WWTP were deficient in operations capabilities" that "manifested itself
12 through chronic violations of the existing WWTPs NPDES permitted
13 wastewater effluent quality and resultant [Agreed Order] for improvements."
14 (See Petitioner's Exhibit 40, p. ES-19 and p. 6-1).

15 **21. Q DOES THE 2023 AGREED ORDER INDICATE THAT IDEM**
16 **UNDERTOOK EFFORTS TO RESOLVE THESE VIOLATIONS**
17 **SHORT OF FILING ITS 2022 IDEM ENFORCEMENT ACTION?**

18 A Yes. The 2023 Agreed Order states "On October 29, 2020, June 3, 2021, and
19 December 2, 2021, IDEM sent Inspection Summary and/or Noncompliance
20 Letters to Respondent outlining violations at the WWTP. The letters required a
21 response detailing actions taken to correct the violations. IDEM received
22 responses to the letter(s) explaining compliance actions Respondent took or
23 would take to address the violations. However, the responses did not adequately

1 address the violations noted above at the WWTP.” Petitioner's Exhibit 39,
2 2023 Agreed Order, p. 5, ¶ 10. In other words, IDEM was required to file the
3 2022 in IDEM Enforcement Action due to Crown Point's failure develop an
4 adequate, responsible plan for remedying the repeated violations.

5 **22. Q WHAT TERMS AND CONDITIONS ARE IMPOSED AGAINST**
6 **CROWN POINT THROUGH THE 2023 AGREED ORDER?**

7 A Crown Point was required to submit a Compliance Plan to “Achieve and
8 maintain compliance with effluent limitations contained in the Permit,
9 specifically TSS, ammonia (as nitrogen), and phosphorus” and to “Address
10 Operation and Maintenance issues identified at the facility by developing a
11 maintenance Standard Operating Procedure (SOP) and/or an engineering study
12 to determine source of ammonia and phosphorus exceedances.” Petitioner's
13 Exhibit 39, 2023 Agreed Order, p. 2 ¶ 3. In addition, the 2023 agreed order
14 imposed a \$7,750 civil penalty against Crown Point for its violations
15 (Petitioners Exhibit 39, 2023 Agreed Order, p. 7, ¶ 11).

16 **23. Q DOES THE 2023 AGREED ORDER REMAIN IN EFFECT?**

17 A Yes. Paragraph 23 of the 2023 Agreed Order states that it “shall remain in effect
18 until [Crown Point] has complied with all of the terms and conditions of this
19 Agreed Order and IDEM issues a Resolution of Case (close out) letter to
20 [Crown Point].” Crown Point witness Albert Stong stated in his prefiled
21 testimony that Crown has not yet fulfilled all of the required terms. Crown
22 Point's PER further states that “The City is under both a State Judicial
23 Agreement [i.e the 2007 Agreed Judgment] and an Agreed Order (AO) [i.e. the

2023 Agreed Order] necessitating these improvements.” Petitioner's Exhibit 40, p. ES-4.

24. Q DO YOU HAVE COMMENTS ABOUT THE 2023 AGREED ORDER?

A Yes. First, it appears that Crown Point continued to violate its NPDES Permit requirements repeatedly after 2007. It failed to adequately address these issues after three letters from IDEM. Instead, IDEM had to file the 2022 IDEM Enforcement Action that resulted in the 2023 Agreed Order which forced Crown Point to develop a plan and make improvements with a goal of ensuring future compliance.

III.

CROWN POINT'S PRELIMINARY ENGINEERING REPORT

25. Q MR. LIN, HAS CROWN POINT PREPARED A PRELIMINARY ENGINEERING REPORT (“PER”)?

A Yes, it did. Although it did not attach a copy of the PER to its prefiled testimony and exhibits, Crown Point did complete a PER that outlines the proposed improvements that must be made in order for Crown Point to comply with the 2007 Agreed Judgment and 2023 Agreed Order.

26. Q WHAT ARE YOUR VIEWS OF CROWN POINT'S FOUR PHASE PLAN OUTLINED IN ITS PER?

A It appears that the projects set forth in the PER were necessary to comply with the 2007 Agreed Judgment and 2023 Agreed Order.

1 **27. Q MR. STONG CONTENDS THAT THE GREAT LAKES DRAINAGE**
2 **BASIN AND THE ASSOCIATED GREAT LAKES COMPACT FORM**
3 **A BASIS FOR THE COMMISSION TO GRANT CROWN POINT**
4 **SEWER SERVICE IN THE DISPUTED AREA. DO YOU AGREE?**

5 A No. Mr. Stong's statement that the Lake Michigan watershed prevents sewer
6 service by Winfield in the Disputed Area is simply wrong. The outfall for
7 Winfield's WWTP is in the Lake Michigan water shed. Similarly, Crown
8 Point's proposed WWTP outfalls into the Lake Michigan water shed as well.
9 The receiving waterways actually converge into one north of Winfield. Any
10 suggestion that Crown Point should be the water and sewer provider because
11 Crown Point could provide water and sewer services is another erroneous
12 statement.

13 **28. Q IS IT YOUR UNDERSTANDING THAT CROWN POINT'S FOUR**
14 **PHASES OF IMPROVEMENTS MUST BE COMPLETED FOR**
15 **CROWN POINT TO SATISFY THE 2007 AGREED JUDGMENT AND**
16 **2023 AGREED ORDER?**

17 A Yes. I understand that all four phases must be completed to satisfy Crown
18 Point's regulatory requirements through IDEM. It is my understanding,
19 however, that Crown Point is only proposing to complete the first three phases
20 at this time. I understand that the fourth phase will not be planned, designed,
21 financed, and constructed until some date in the future.

1 **29. Q DO YOU HAVE ANY CONCLUSIONS ON CROWN POINT'S**
2 **REGULATORY ISSUES OVER THE YEARS?**

3 A Yes, I do. First, the fact IDEM had to get involved with Crown Point, beyond
4 merely sending warning letters and attempting to resolve the issues informally,
5 is indicative of a utility that is not being proactive and failed to promptly resolve
6 an issue brought to its attention. Instead, IDEM was compelled to initiate formal
7 proceedings (i.e. the 2022 IDEM Enforcement Action) that, fortunately, appear
8 to have Crown Point on a path that will hopefully lead to future IDEM
9 compliance. I am concerned that some of the deficiencies that Crown Point is
10 still attempting to address date back to 2003 and were memorialized in the 2007
11 Agreed Judgment. It is also concerning that while to the 2007 Agreed Judgment
12 is still outstanding and the ink is barely dry from signing the 2023 Agreed
13 Order, Crown Point is now seeking to almost triple the size of its service
14 territory. Even if Crown Point did not have the legal impediment to seeking its
15 territorial expansion as described by Mr. Beaver in his Responsive Testimony,
16 it seems most prudent for Crown Point to address its outstanding regulatory
17 requirements in the 2007 Agreed Judgment in 2023 Agreed Order before
18 seeking such a significant expansion. I would recommend that the Commission
19 postpone Crown Point's requested relief until such time it can demonstrate that
20 it is in compliance with its IURC and IDEM requirements.

30. Q DO CERTAIN EXHIBITS WITHIN THE PER RAISE CAPACITY CONCERNS?

A Yes. Attached to the PER is a 2025 Memo dated March 21, 2025 Wastewater Capacity Memorandum. A copy of this Memo is attached as Petitioner's Exhibit 34 ("2025 Wastewater Capacity Memorandum").

31. Q CAN YOU EXPLAIN THE RELEVANT FLOW ESTIMATES IN THE 2025 WASTEWATER CAPACITY MEMORANDUM AND ITS SIGNIFICANCE TO THIS MATTER?

Yes, I can. As also explained by Mr. Duffy in his testimony, the 2025 Wastewater Capacity Memorandum contains the table, Table 1 (Petitioner's Exhibit 34, page 2), which indicates the build-out of the various areas within the Crown Point service area:

Area	Anticipated Flow (MGD)	Cumulative Flow (MGD)
Approved yet to be Developed	0.92	.092
In City – Anticipated to be Developed	4.12	5.04
Adjacent to City – Anticipated to be Developed	1.87	6.91
Requested in the Past but Denied due to Lack of Capacity	1.17	8.08

As you can see from Table 1, Crown Point has committed .92 MGD of capacity for projects that Crown Point had already approved (as of March 21, 2025) but not yet connected to its system. When considering that Crown Point's existing wastewater treatment plant ("WWTP") has average daily flows of 4.16 MGD and a maximum capacity of 5.2 MGD (See 2025 Wastewater Capacity

1 Memorandum, p. 3), Crown Point has allocated all the available capacity at its
2 existing WWTP. In the second box, it indicates that Crown Point is anticipating
3 an additional 4.12 MGD of usage or capacity demand from future property
4 owners or users within Crown Point's current municipal limits (that has not yet
5 been approved). Table 1 further shows that there are properties immediately
6 adjacent to the municipal limits that will generate a total of 1.87 MGD and an
7 additional 1.17 MGD for developments to which Crown Point has previously
8 denied service. Based on the deposition testimony of Mr. Stong and Petitioner's
9 Exhibits 34 and 35, Crown Point has denied service to thousands of residents
10 since at least 2021 due to lack of transmission and treatment capacity
11 (Petitioner's Exhibit 41, Stong Deposition, p. 50, line 8 to p. 52, line 1.

12 When considering the: (i) existing flows of 4.16 MGD; (ii) 0.92 MGD of
13 capacity that Crown Point has already committed for development; (iii) 4.12
14 MGD of capacity for anticipated development from new customers in Crown
15 Point; (iv) 1.87 MGD of capacity needed by new customers immediately outside
16 Crown Point (which includes the septic tank owners Crown Point has
17 contractually agreed to accept in its Interlocal Agreement with Lake County (see
18 Crown Point Exhibit F); and (v) 1.17 MGD of capacity that is required to satisfy
19 the needs of property owners to whom Crown Point previously denied service,
20 Crown Point is expecting over 12.24 MGD of flows. Crown Point's existing
21 plant is only rated for 5.2 MGD and the new plant, if and when it is completed,
22 will only have an additional 2.4 MGD of capacity. Obviously, Crown Point does

1 not have the capacity to serve these flows at this time or at any time in the near
2 future.

3 **32. Q CAN YOU PLEASE EXPLAIN TABLE 2 OF THE MARCH 21, 2025**
4 **CAPACITY MEMORANDUM?**

5 A Yes, I can. Table 2 estimates the anticipated flows that Crown Point will
6 receive over the next 20 years. Highlighted in red in Table 2 are the years in
7 which Crown Point would first be subject to either a warning of a potential
8 sewer ban or an actual ban. According to Table 2, Crown Point could be on a
9 sewer ban as early as 2026. Petitioner's Exhibit 34, page 3.

10 **33. Q WHAT IS A SEWER BAN?**

11 A A sewer ban would be an order prohibiting Crown Point from connecting new
12 customers to its system. Unfortunately, this type of ban is not uncommon for
13 Crown Point as it has denied service to thousands of customers over the last
14 decade. I will discuss this in more detail later in my testimony.

15 **34. Q DOES THE 2025 WASTEWATER CAPACITY MEMORANDUM**
16 **INCLUDE THE DISPUTED AREA?**

17 A No, it does not appear to include any flows from the Disputed Area. Page 1 of
18 the Memorandum indicates that Crown Point and its engineer studied and tallied
19 the anticipated growth in certain areas. These areas are described in the maps
20 attached to the Memorandum as Figures-1B and ES-1A. According to 2025

Capacity Memorandum and attached maps, Crown Point has not included the anticipated flows from the Disputed Area. If Crown Point had included the flows from the Disputed Area, the capacity short fall would be even greater.

35. Q ARE THERE ANY OTHER EXHIBITS TO THE PER DISCUSSING CROWN POINT'S LACK OF CAPACITY?

Yes, there is. Attached as Exhibit V to the PER is another document indicating that as of 2021, Crown Point had denied service to 4,226 EDUs (please see Petitioner's Exhibit 35, p. 1, ¶ 2). The PER states that "approximately 4,226 EDUs were associated with denied connections in 2020 due to insufficient capacity in the existing collection system." (Petitioner's Exhibit 40, p. 3-12, ¶1). Based on Mr. Stong's deposition testimony, the lack of capacity was due to lack of transmission and lack of treatment capacity during wet weather conditions (Petitioner's Exhibit 36, p. 55).

36. Q DO YOU AGREE WITH MR. STONG'S STATEMENT THAT CROWN POINT CAN OR SHOULD SERVE THE DISPUTED AREA ON AN INTERIM BASIS BY EXTENDING 3,900 FEET OF PIPE TO THE DISPUTED AREA?

A No I do not. For the past five years, Crown Point has denied capacity to numerous property owners, both inside and outside of its municipal limits. As a municipality, Crown Point has an obligation to provide sewer service to property owners within its municipal boundaries. According to Crown Point's PER, it has not satisfied this burden. In addition, Crown Point has identified

1 12.24 MGD of capacity needs outside of the Disputed Area, but yet at this time
2 it only has 5.2 MGD of capacity. The final phase of improvements required by
3 the Agreed Order includes a series of lift stations and transmission facilities that
4 would divert flows from the Crown Point to the proposed WWTP. Admittedly,
5 Crown Point has not planned, designed, or settled on a financing plan to
6 construct these facilities. Consequently, Crown Point should not be expand its
7 service territory, including offering temporary or permanent service to the
8 Disputed Area, until it has satisfied all of the requirements of the IURC and
9 IDEM, including construction of the new facilities necessary to divert flows
10 from Crown Point to the proposed WWTP.

11 **37. Q MR. STONG CONTENDED THAT WINFIELD LACKS PLANNING**
12 **FOR THE ADEQUATE WASTEWATER CONVEYANCE**
13 **REQUIREMENTS OF THE DISPUTED AREA. HOW DO YOU**
14 **RESPOND?**

15 A Mr. Duffy and I both presented testimony describing in some detail how
16 Winfield plans to serve the Winfield Service Territory (including Disputed
17 Area). The specific testimony is on pages 7-8 of my Amended and Restated
18 Prefiled Direct Testimony (Petitioner's Exhibit 11). Additionally, on pages 10-
19 13 of my Amended and Restated Prefiled Direct Testimony, I explained the
20 infrastructure that would be needed to specifically serve the LBL Development.
21 As Mr. Beaver explained in his prefiled direct testimony and exhibits, Winfield
22 has made plans to provide service to the Disputed Area for two decades.

1 Winfield has created comprehensive and master plans to guide it in building and
2 developing a sewer system that can readily provide service in different
3 configurations to meet actual development, regardless of the development's pace
4 and geographic placement. Through this planning, the Town is confident that it
5 will be able to design projects on an as needed basis, as opposed to spending
6 resources predesigning projects that later may not be built because of a change
7 in growth patterns, are not needed until a distant future, or must be reconfigured
8 to meet changed development needs. Contrary to Mr. Stong's contentions,
9 Winfield can easily serve the Disputed Area. To serve the Disputed Area,
10 Winfield would, indeed, be required to complete a Main Extension with a
11 regional lift station. These types of projects, however, are done across the State
12 on a regular basis and are technically, financially, and operationally very feasible
13 to complete.

14 **38. Q IS MR. STONG ACCURATE THAT THE LOCATION OF CROWN**
15 **POINT'S WASTEWATER INFRASTRUCTURE CREATES A MORE**
16 **EFFICIENT MANNER OF SERVICE THAN WINFIELD'S**
17 **WASTEWATER INFRASTRUCTURE?**

18 A No. The location of the proposed WWTP does not necessarily create a more
19 efficient manner of service than Winfield's WWTP due to the fact that they will
20 need to run new utilities to this new location and plan, design, and finance sewer
21 infrastructure improvements. In comparison, the existing Winfield WWTP
22 would be efficient in providing wastewater capacity since all of the utilities are

1 already existing on site. Further, I do not understand how the proposed WWTP
2 and an existing WWTP with violation deficiencies would be more efficient than
3 the existing Winfield WWTP. The Winfield WWTP can be easily expanded to
4 accommodate additional flow for the disputed area while Crown Point would
5 need to construct an entirely new WWTP due to the lack of capacity and issues
6 with their existing facility.

7 **39. Q MR. STONG STATES, "EXCLUDING HIGHER DEMANDS THAT**
8 **MOST LIKELY RESULT FROM COMMERCIAL DEVELOPMENT,**
9 **LOOKING AT ONLY FULL BUILD-OUT RESIDENTIAL**
10 **DEVELOPMENT FOR THIS AREA, THE CORRESPONDING**
11 **WASTEWATER FLOW COULD REACH 1.43 MGD; (1840 ACRES X**
12 **2.5 HOMES/ACRE X 310 GAL/D/HOME = 1.43 MGD). BEST DESIGN**
13 **PRACTICE MANDATES A FACTOR OF 4 BE APPLIED (SAFETY**
14 **FACTOR) FOR PEAK PUMPING CAPABILITIES. CROWN POINT IS**
15 **THE ONLY UTILITY THAT HAS IDENTIFIED INFRASTRUCTURE**
16 **CAPABLE OF RECEIVING FLOWS OF THIS MAGNITUDE AND**
17 **TRANSPORTING THIS FLOW (VIA THE 146TH AVE HIGH**
18 **CAPACITY LIFT STATION AND/OR THE DEVELOPER PROPOSED**
19 **GRAVITY SEWERS) FOR TREATMENT." HOW DO YOU RESPOND?**

20 **A** I disagree. First, Crown Point will have to build infrastructure to accommodate
21 these flows. As I described above (particularly in response to Questions 30 and
22 31), Crown Point has already allocated all the available capacity at its existing

1 WWTP. Winfield, as Mike Duffy explains in his testimony, has sufficient
2 transmission and treatment capacity to serve the Disputed Area.

3 **40. Q MR. STONG STATES “THE EXTENSION OF EXISTING SEWER AND**
4 **TRANSPORT TO THE EXISTING WWTP ILLUSTRATED IN**
5 **EXHIBIT A WOULD PROVIDE PROMPT SEWER SERVICE TO**
6 **MEET ANY INITIAL DEMANDS FROM THE DISPUTED AREA. THE**
7 **NEW 129TH AVENUE LIFT STATION AND TRANSPORT MAIN TO**
8 **THE SE WWTP WILL PROVIDE LONG-TERM SERVICE AND**
9 **ACCOMMODATE SIGNIFICANT GROWTH POTENTIAL TO BOTH**
10 **THE EAST AND SOUTH (AS THE LIFT STATION IS RATED FOR 13.1**
11 **MILLION GALLONS PER DAY (“MGD”)). THE EXISTING**
12 **WESTERN COUNTY LIFT STATION ALREADY OFFERS SERVICE**
13 **TO THE WEST AND IS IN USE FOR EXISTING CUSTOMERS IN THE**
14 **CROWN POINT EXPANSION AREA TO THE WEST – READY TO**
15 **ACCEPT ALL CUSTOMERS AGREED UPON BETWEEN CITY AND**
16 **LAKE COUNTY (SEE EXHIBIT F).” HOW DO YOU RESPOND?**

17 **A Mr. Duffy described in detail the manner in which Winfield can provide prompt**
18 service to the Disputed Area in less than a year.

1 41. Q MR. STONG STATES “THERE ARE NO CONCERNS WITH RESPECT
2 TO CROWN POINT’S ABILITY TO TRANSPORT SIGNIFICANT
3 FLOW FROM THIS DISPUTED AREA TO THE NEW SE WWTP, NOR
4 ARE THERE ANY CONCERNS WITH CROWN POINT’S ABILITY TO
5 PROVIDE TREATMENT FOR SIGNIFICANT FLOWS FROM THIS
6 AREA AS IT DEVELOPS.” DO YOU AGREE?

7 A I disagree. Due to the documented history of the existing Crown Point WWTP,
8 a new WWTP might only complicate the issue. In addition, the existence of an
9 endangered species bird within 2 miles of the proposed SE WWTP causes
10 concern for ultimate approval of the antidegradation permit application. I have
11 not seen proof that Crown Point has complied with the December 3, 2021 letter
12 from the Indiana Department of Natural Recourses regarding threatened or
13 endangered species found within 0.5 miles of the SE WWTP site, specifically
14 the Marsh Wren bird. The letter states that the information provided in the
15 consultation does not preclude the requirement for further consultation with the
16 U.S. Fish and Wildlife Service as required under Section 7 of the Endangered
17 Species Act of 1973.

18 Due to the sensitive nature of the discharge stream, an anti-degradation report
19 was required. The existing Crown Point WWTP has shown a history of effluent
20 phosphorus violations over several years, and now they are proposing to
21 discharge even more wastewater effluent into a TMDL restricted stream. The
22 PER does not give any information that future phosphorus effluent violations

1 will be avoided. In comparison, the IDEM Preliminary Effluent Limitations
2 Determination (for Winfield) determined that the proposed WWTP expansion to
3 4.0 mgd would not result in a significant lowering of water quality, the
4 Antidegradation Standards and Implementation Procedures do not apply.

5 The PER also provided a schedule for the new SE WWTP in which Crown Point
6 would apply for a construction permit from IDEM by December 2024
7 (Petitioner's Exhibit 40, Appendix R at 75). I am not sure that milestone was
8 achieved due to the lack of response. This could potentially affect the IDEM
9 Compliance Plan to have the construction completed by December 2027. In
10 addition the PER document states that the construction commencement date is
11 October 2025 as identified in the 2007 Agreed Judgment and 2023 Agreed Order
12 (Petitioner's Exhibit 35 (to Duffy testimony), p. ES-9). We were not able to
13 determine if that was still the case due to the lack of response. In comparison,
14 Winfield is under no such compliance orders.

15 **42. Q DO YOU VIEW THE FACT THAT CROWN POINT HAS BOTH**
16 **WATER AND WASTEWATER UTILITIES PERSUASIVE IN**
17 **DETERMINING WHETHER CROWN POINT OR WINFIELD**
18 **SHOULD PROVIDE WASTEWATER SERVICE TO THE DISPUTED**
19 **AREA?**

20 A No. Crown Point purchases its water from Indiana-American. As such, it only
21 serves as a distributor of water. Conversely, Winfield residents may purchase
22 water directly from Indiana-American. To distinguish Winfield as inferior to

1 Crown Point because its residents can purchase water directly from Indiana
2 American rather than on a wholesale basis makes no sense to me and, quite
3 frankly, seems silly. Indiana American has been a long-time partner with the
4 Town and will serving the 400 acres of the LBL development that is currently
5 within the Town. It makes the most sense to have the same water provider
6 throughout the development.

7 **43. Q DO YOU AGREE WITH CROWN POINT'S ASSERTION THAT**
8 **CROWN POINT IS THE ONLY UTILITY THAT HAS PRE-**
9 **COORDINATED WITH THE MAJOR LAND DEVELOPER WITHIN**
10 **THE DISPUTED AREA AND PLANNED TO ACCOMMODATE FLOW**
11 **ALONG THE DEVELOPER'S TIMELINE?**

12 A No, I disagree with this statement for many reasons. First, Mr. Stong states that
13 LBL is the majority landowner within the Disputed Area. This is inaccurate.
14 As stated in Mr. Beaver's prefiled testimony and exhibits, the proposed LBL
15 Development is 1,200 acres, 400 acres of which is already within Winfield's
16 municipal limits. The remaining 800 acres is within the Disputed Area. There
17 is approximately 1,840 acres in the Disputed Area. Therefore, LBL is less than
18 one half of the Disputed Area. Second, Winfield has the exclusive right to
19 provide sewer service to the 400 acres within its existing municipal limits.
20 Winfield has repeatedly met with LBL and specifically stated that it has the
21 facilities and capacity necessary to provide service to LBL. In Winfield's
22 prefiled testimony and exhibits, Winfield described in great detail how service

could be provided not only to the 400 acres, but to the entire 1,200 acre development.

44. Q IN YOUR OPINION, WHY HAS LBL PURSUED SERVICE FROM CROWN POINT?

A I do not know for sure, but based upon the deposition testimony of Mr. Stong, it appears that LBL believes the cost of extending sewers to the new treatment plant for Crown Point would be less than the offsite sewer facilities to extend to Winfield. In his deposition, Mr. Stong testified as follows:

Q Are you aware of why LBL approached Crown Point and asked for service?

A We were told it was the most economical means to service the area.

Q From a month -- do you think it was from a monthly user rate, or was it from the off-site improvements for the developer?

A I don't know.

Q When you say "economical," do you think service from Winfield for the ultimate customer is cheaper from Winfield or from Crown Point?

A Could you repeat that question?

Q Sure. From an economical perspective, do you think it is cheaper to receive service from Crown Point or Winfield at this point?

A Based on my analysis regarding the improvements that are required by Winfield, I couldn't say. I don't know what the rate impact would be and how that would be paid for.

Q Okay. Have you read the testimony from Winfield?

A I don't believe so.

Q You have not read Winfield's testimony in preparation for this case?

A I perused it, but I focused more on Crown Point's information.

IV.
NPDES PERMIT

45. Q ARE YOU FAMILIAR WITH THE NPDES PERMITTING PROCESS
THAT CROWN POINT WOULD HAVE TO UNDERGO FOR IT TO
CONSTRUCT ITS PROPOSED SE WWTP?

A Yes. To construct the SE WWTP, Crown Point must submit an antidegradation
report, as well as apply for and obtain a construction permit and an NPDES
Permit. Crown Point may not construct nor operate the SE WWTP unless and
until it receives both the construction permit and NPDES permit.

46. Q HAS CROWN POINT APPLIED FOR EITHER THE CONSTRUCTION
PERMIT OR NPDES PERMIT FOR ITS PROPOSED SE WWTP?

A No. According to the INDOT Virtual Filing Cabinet, Crown Point has not
applied for either permit. If and when Crown Point submits its NPDES Permit
application, members of the public may offer comments opposing Crown
Point's application, including its antidegradation report. Further, IDEM may
request additional information from Crown Point and the agency IDEM may
conduct a contested hearing regarding Crown Point's NPDES application,
including its antidegradation report.

47. Q WHY IS IT IMPORTANT THAT CROWN POINT HAS NOT
OBTAINED THE CONSTRUCTION AND NPDES PERMIT
APPLICATION FOR ITS PROPOSED SE WWTP?

A This is important because if Crown Point does not obtain either permit, then it
cannot proceed forward with its SE WWTP plans. In particular, the NPDES

1 Permit application process is a key component for a utility to obtain IDEM's
2 approval for a new WWTP. If the proposed plant cannot meet designated
3 environmental quality standards, then the NPDES permit cannot be issued and
4 the WWTP cannot be constructed. Until the NPDES permit is issued, it is
5 speculative and dangerous to assume that the proposed plant will be approved.

6 **48. Q HAS CROWN POINT STATED THAT IT HAS FINAL APPROVAL OF**
7 **ITS ANTIDEGRADATION PERMIT FROM IDEM?**

8 A Yes, It has. In its testimony and, especially in its discovery responses, Crown
9 Point has specifically stated that it has all antidegradation approvals for the
10 proposed WWTP. In discovery, Crown Point specifically stated:

11 **Request No. 4.1:**

12 Please identify whether Crown Point has satisfied the Indiana
13 Department of Environmental Management's ("IDEM")
14 antidegradation requirements and whether there are any appeals
15 that can be brought or that are pending.

16
17 **RESPONSE:** Yes, the requirements have been met, no appeals
18 have been filed and the appeal period is closed.
19 (Petitioner's Exhibit 42, Crown Point June 24, 2025 Discovery Response)

20 Counsel for Winfield, however, contacted IDEM who stated that the
21 antidegradation process is not completed. A copy of the letter from IDEM so
22 stating is attached as Petitioner's Exhibit 43).

1 **49. Q DOES CROWN POINT'S APPARENT LACK OF CANDOR IN**
2 **RESPONDING TO DISCOVERY RESPONSES GIVE YOU SOME**
3 **CONCERN?**

4 A Yes, it does. As noted by Ms. Wilson and Mr. Beaver in their respective
5 testimonies, there has not been a great deal of transparency from Crown Point
6 on its territory, how it plans to serve the Disputed Area, the rates and charges
7 that will ultimately be imposed on the end-users within the Disputed Area, and
8 how those rates were calculated. The manner in which Crown Point proposes
9 to provide service has changed at least two times and, as noted by Mr. Duffy in
10 its testimony, Crown Point's proposed territory has changed at least four times.
11 In addition, the proposed rates have changed at least once and Crown Point
12 still does not have a plan for financing its IDEM-required improvements that
13 will be necessary to serve the Disputed Area. In short, Crown Point is not
14 ready to provide service to the Disputed Area and its request should be denied.

15 **50. Q WHAT IS YOUR RECOMMENDATION MR. LIN?**

16 A I would recommend that Winfield's Proposed Territorial Ordinance be
17 approved, in its entirety, which would include the Disputed Area.

18 **V.**
19 **CONCLUSION**
20

21 **51. Q DOES THIS CONCLUDE YOUR TESTIMONY?**

22 A Yes, it does.

VERIFICATION

I affirm under the penalties for perjury that the foregoing testimony is true to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'JCL', is positioned above a horizontal line.

Jeremy C. Lin

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the following by electronic mail
this _____ day of _____, 2025:

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J. Christopher Janak

Exhibit 38

STATE OF INDIANA)
)
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT

SS:

CAUSE NO.

49D06 07 09 CC 040349

COMMISSIONER, INDIANA DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT,)

Plaintiff,)

v.)

CROWN POINT,)

Defendant.)

FILED

SEP 27 2007

177

Christy A. Allen
CLERK OF THE MARION SUPERIOR COURT

AGREED JUDGMENT

WHEREAS, concurrent with the filing of this Agreed Judgment, Plaintiff, the Commissioner of the Indiana Department of Environmental Management ("IDEM") has filed a complaint (the "Complaint") in this civil action against the Defendant, the City of Crown Point ("The City"), in connection with the City's operation of its municipal wastewater and sewer system. The Complaint alleges that the City is in noncompliance with Title 13 of the Indiana Code, Title 327 of the Indiana Administrative Code Articles 2 and 5, and its National Pollutant Discharge Elimination System permit, including Attachment A (hereinafter collectively referred to as the "NPDES Permit") issued by IDEM pursuant to the Clean Water Act ("CWA"). IDEM seeks injunctive relief for the noncompliance.

WHEREAS, the City denies any liability to IDEM arising out of the transactions or occurrences alleged in the Complaint.

WHEREAS, the City, owns and operates a wastewater collection system comprised of combined and sanitary sewers, which includes five combined sewer overflow ("CSO") outfalls, and the 5.2 million gallon per day activated sludge system wastewater treatment plant located at

06-07-09
a

1321 Merrillville Road, Crown Point, Lake County, Indiana ("Site"). The City is authorized by NPDES Permit No. IN0025763 to discharge wastewater to the receiving waters, Beaver Dam Ditch, in accordance with effluent limitations, monitoring requirements, and other conditions contained in the NPDES Permit.

WHEREAS, the NPDES Permit identifies five CSO outfalls in the City's sewage collection system, identified as Outfall Nos. 002 Outfall for Plant Ponds, 003 North of Plant, 004 Indiana Street & Merrillville Road, 005 Wirtz Road at Main Beaver Dam Ditch, and 006 Plant Emergency Bypass.

WHEREAS, IDEM records for the three year period between October 2003 and October 2006 indicate that the City discharged from designated CSO Outfalls listed in the NPDES Permit. Such discharges were not provided with treatment, and therefore violated or threatened to violate the narrative effluent limitations contained in the NPDES Permit.

WHEREAS, pursuant to the NPDES Permit, the City was required to submit to IDEM, a CSO Long-Term Control Plan ("LTCP") that contains, among other elements, the following:

- a. a description of the control/treatment measures that will be implemented by the City in order to ensure that discharges from its CSO outfalls comply with the water quality-based and technology-based requirements of the CWA and State law, along with a schedule, that includes specific milestone dates, for implementation of the control/treatment measures; and
- b. a description of the post-construction compliance monitoring program that will be implemented by the City in order to determine whether the control/treatment measures, upon implementation, are adequate to ensure compliance with the water quality-based and technology-based requirements of the CWA and State law, along with a schedule, that includes specific milestone dates for implementation of the post-construction compliance monitoring program.

WHEREAS, the City has submitted to IDEM, for approval, a LTCP that contains the elements specified in Attachment 1 to this Agreed Judgment. The LTCP contains a control approach that will be implemented over an eight-year period in three phases. Full implementation of the LTCP is expected to provide full treatment of the 1 year/1 hour design storm as well as primary treatment and disinfection up to and including the 10 year/1 hour design storm. Flows beyond the 10 year/1 hour design storm will be treated to the extent possible by facilities designed for lesser flows. The schedule is attached to this Agreed Judgment, designated as Attachment 1.

WHEREAS, the Parties agree and the Court, by entering this Agreed Judgment, finds, that settlement of these matters, without protracted litigation, is fair, reasonable, and in the public interest.

NOW THEREFORE, before the taking of any testimony, without any admission by the City of any facts beyond those that the Parties have explicitly agreed to in this Agreed Judgment, and with the consent of the Parties, it is hereby ORDERED:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to Ind. Code §§ 13-30-4-1 and 13-14-2-6. The Complaint states claims upon which relief can be granted under Title 327 of the Indiana Administrative Code, Articles 2 and 5. Venue is proper in this Court as IDEM is located in Marion County.

APPLICABILITY

2. The provisions of this Agreed Judgment shall apply to and be binding upon the State of Indiana, and the City and its officers, directors, agents, employees, successors, contractors and assigns and any person having notice of this Agreed Judgment who is, or will be

acting on behalf of or in concert or participation with the City. The City shall provide a copy of this Agreed Judgment to any successor in interest at least thirty (30) days prior to transfer of that interest, and simultaneously shall verify in writing to IDEM that such notice has been given. Any sale or transfer of the City's interests in its wastewater treatment facilities shall not in any manner relieve the City of its responsibilities for meeting the terms and conditions of this Agreed Judgment. In any action to enforce this Agreed Judgment, the City shall not raise as a defense the failure by any of its officers, directors, agents, employees, successors, assigns or contractors to take actions necessary to comply with the Agreed Judgment.

OBJECTIVE

3. All plans, measures, reports, construction, maintenance, operational requirements and other obligations in this Agreed Judgment or resulting from the activities required by this Agreed Judgment shall have the objective of causing the City to achieve and maintain full compliance with applicable State law and the terms and conditions of the City's NPDES Permit.

COMPLIANCE AND LONG TERM CONTROL PLAN IMPLEMENTATION

4. The City shall comply with 327 IAC 5-2-8(1), 327 IAC 2-1-6(a)(1), IC 13-18-4-5, IC 13-30-2-1, and all parts of the NPDES Permit.

5. During implementation of the LTCP pursuant to this Agreed Judgment, the City shall, at all times, operate its sewage collection system and wastewater treatment system as efficiently and effectively as possible.

6. The City shall implement the LTCP in accordance with the schedule set forth in Attachment 1.

IDEM APPROVAL OF SUBMISSIONS

7. The City shall notify IDEM, in writing, within ten (10) days of completion of each

action or milestone contained in the Schedule in Attachment 1 and any plan approved by IDEM pursuant to this Agreed Judgment. The notification shall include a description of the action completed and the date it was completed.

8. Within sixty (60) days after completion of each phase of the LTCP, the City shall submit to IDEM, for review and approval, a report that contains a summary of the data gathered as a result of the post-construction compliance monitoring and an evaluation of the success of the phase in meeting the goals of the LTCP. The City shall adequately address any IDEM comments regarding the report, within the timeframe mutually agreed to by IDEM and the City.

9. In the event that data resulting from CSO monitoring or other information indicates that the three (3) phases of the LTCP are not adequate to provide full treatment of the 1 year/1 hour design storm as well as primary treatment and disinfection up to and including the 10 year/1 hour design storm, and treatment and disinfection of combined sewage flows generated during storms in excess of the 10 year/1 hour storm to the extent possible with facilities designed for lesser flows, the City shall, within ninety (90) days of becoming aware of such inadequacy, develop and submit to IDEM, for approval, a CSO Compliance Plan (CP) that identifies (a) the additional measures that will be implemented by the City; and (b) the post-construction compliance monitoring program that will be implemented by the City in order to determine whether the additional measures, upon implementation, are adequate, along with a schedule, that includes specific milestone dates.

10. The CSO CP is subject to IDEM approval. Following receipt of the CSO CP, IDEM may, in writing (a) approve all of or any portion of the CSO CP; (b) approve all or a portion of the CSO CP upon specified conditions; (c) disapprove of all or any portion of the CSO CP, notifying the City of deficiencies in the CP and granting the City additional time within

which to correct the deficiencies; (d) modify the submission to correct deficiencies; or (e) reject all or any portion of the CP.

11. The City, upon receipt of written notification from IDEM of approval of the CSO CP, shall immediately implement the approved CSO CP and adhere to the schedules contained therein. The approved CSO CP shall be incorporated into this Agreed Judgment and shall be deemed an enforceable part thereof.

12. The provisions of Order Paragraphs 9, 10, and 11 shall continue to apply until post-construction monitoring indicates to IDEM that attainment of the performance goals of paragraph 9 are being met.

FUNDING

13. The City intends to seek Federal and State grant funding assistance. However, compliance with the terms of this Agreed Judgment is not conditioned on the receipt of Federal or State funds. In addition, failure to comply is not excused by the lack of Federal or State funds, or by the processing of any applications for the same.

COMMUNICATIONS

14. All submittals required by this Order, unless notified otherwise in writing, shall be sent to:

Enforcement Section Chief
Indiana Department of Environmental Management
Office of Enforcement – Mail Code 60-02
100 North Senate Avenue
Indianapolis, IN 46204-2251

and

Wet Weather Section Chief
Indiana Department of Environmental Management
Office of Water Quality – Mail Code 65-42
100 North Senate Avenue
Indianapolis, IN 46204-2251

STIPULATED PENALTIES

15. In the event the terms and conditions of the following Judgment paragraphs are violated, the IDEM may assess and the City shall pay a stipulated penalty in the following amount:

Order Paragraph Number	<u>Violation</u>	Penalty Amount
6	Failure to implement the LTCP and adhere to the milestone dates set forth in the schedule in Attachment 1.	\$500 per each week or part thereof late
7	Failure to notify IDEM, in writing, within 10 days of completion of each action contained in the LTCP and any plan approved by IDEM pursuant to this Agreed Judgment.	\$250 per each week or part thereof late
8	Failure to timely submit report.	\$500 per each week or part thereof late
8	Failure to timely address any IDEM comments within the mutually agreed to timeframe set.	\$500 per each week or part thereof late
9	Failure to timely submit a complete and sufficient CSO CP.	\$500 per each week or part thereof late
10	Failure to timely revise and resubmit the CSO CP in accordance with written notice by IDEM.	\$500 per each week or part thereof late
11	Failure to comply with any milestone date contained in the schedule set forth in the approved CSO CP.	\$500 per each week or part thereof late

16. Stipulated penalties shall be due and payable within thirty (30) days after the City receives written notice that the IDEM has determined a stipulated penalty is due. Assessment and payment of stipulated penalties shall not preclude IDEM from seeking any additional relief against the City for violation of the Agreed Judgment. In lieu of any of the stipulated penalties given above, but only after utilization of the informal dispute resolution process outlined in this Agreed Judgment, then the IDEM may seek any other remedies or sanctions available by virtue of the City's violation of this Agreed Judgment, or Indiana law, including but not limited to civil penalties pursuant to IC 13-30-4.

and 16 is not paid within thirty (30) days of notice that it is due, the City shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1-101. The interest shall continue to accrue until the stipulated penalty is paid in full.

FORCE MAJEURE

19. If any event occurs that causes or may cause the City to violate any provision or requirement of this Agreed Judgment, the City shall notify IDEM in writing within fourteen (14) days from the date the City first knew, or in the exercise of reasonable diligence should have known, that compliance with the Agreed Judgment would be prevented or delayed. The notice shall reference this Section of the Agreed Judgment and shall describe in detail the anticipated length of time the violation may persist, the precise cause or causes of the violation, the measures taken or to be taken by the City to prevent or minimize the violation and the timetable by which those measures will be implemented. The City shall adopt all reasonable measures to avoid or minimize any such violation. The City shall make all reasonable efforts to identify events that cause or may cause a violation of this Agreed Judgment. Failure by the City to comply with the notice requirements of this Paragraph shall constitute a waiver of the City's rights to obtain an extension of time or other relief under this Section based on such incident.

20. If IDEM agrees that the violation has been or will be caused by circumstances beyond the control of the City or any entity controlled by it, including its consultants and contractors, and that the City could not have prevented such violation, the time for performance of the requirement in question shall be extended for a period not to exceed the actual delay resulting from such circumstance, and stipulated penalties shall not be due for such delay or non-compliance. In the event IDEM does not agree that the violation was caused by circumstances beyond the control of the City and notifies the City of such determination, the City may invoke

the dispute resolution provisions in this Agreed Judgment.

21. If the City invokes dispute resolution and IDEM or the Court determines that the violation was caused by circumstances beyond the control of the City or any entity controlled by it, and that the City could not have prevented such violation, the City shall be excused as to that violation, but only for the period of time the violation continues due to such circumstances.

22. The City shall bear the burden of proving that any delay or violation has been or will be caused by circumstances beyond its control, and that the City could not have prevented such violation, as set forth above. The City shall also bear the burden of establishing the duration and extent of any delay or violation attributable to such circumstances, that such duration or extent is or was warranted under the circumstances and that, as a result of the delay, a particular extension period is appropriate. An extension of one compliance date based on a particular circumstance beyond the City's control shall not automatically extend any subsequent compliance date or dates.

23. Changed financial circumstances, unanticipated, increased costs or expenses associated with implementation of this Agreed Judgment shall not serve as a basis for excusing violations or granting extensions of time under this Agreed Judgment, except as expressly provided in Force Majeure. This does not preclude the City from requesting extensions of time.

24. Failure to apply for a required permit or approval or to provide in a timely manner all information required to obtain a permit or approval that is necessary to meet the requirements of this Agreed Judgment shall not, in any event, serve as a basis for excusing violations of or granting extensions of time under this Agreed Judgment. However, a permitting authority's failure to act in a timely manner on an approvable permit application may serve as a basis for an extension under the force majeure provisions of this Agreed Judgment.

25. The City shall make a showing of proof regarding the cause of each delayed incremental step or other requirement for which an extension is sought. The City may petition for the extension of more than one compliance date in a single request.

DISPUTE RESOLUTION

26. This Court shall retain jurisdiction of this matter for the purposes of implementing and enforcing the terms and conditions of this Agreed Judgment and for the purpose of adjudicating all disputes among the Parties that may arise under the provisions of this Agreed Judgment. Any dispute that arises with respect to the meaning, application, implementation, interpretation, amendment or modification of this Agreed Judgment, or with respect to the City's compliance herewith (including the adequacy of the City's performance of the control measures and adequacy of the submittals required by this Agreed Judgment) or any delay hereunder, the resolution of which is not otherwise expressly provided for in this Agreed Judgment, shall in the first instance be the subject of informal negotiations. If any Party believes it has a dispute with any other Party, it shall notify all the other Parties in writing, including notice to the Indiana Attorney General, setting forth the matter(s) in dispute, and the Parties will proceed initially to resolve the matter in dispute by informal means. Such period of informal negotiations shall not exceed thirty (30) days from the date the notice was sent, unless the Parties agree otherwise. The Parties may agree to the extension of any time periods within the dispute resolution process.

27. If the informal negotiations are unsuccessful, the position of the IDEM shall control unless, within twenty (20) days after the conclusion of the informal negotiation period, the City invokes the formal dispute resolution procedures of this Section by serving on IDEM a written statement of position on the matter in dispute, including any supporting factual data, analysis, opinion, or documentation. In the event that formal dispute resolutions are invoked, the

Parties may engage in discovery pursuant to the Indiana Rules of Trial Procedure.

28. Within thirty (30) days of receiving the City's statement of position under Paragraph 27, the IDEM will serve on the City its written statement of position, including any supporting factual data, analysis, opinion, or documentation.

29. An administrative record of the dispute shall be maintained by IDEM and shall contain all statements of position, including supporting documentation, submitted pursuant to Paragraphs 27.

30. IDEM's statement of position shall be binding upon the City unless the City files a petition with the Court describing the nature of the dispute and a proposal for its resolution. The City's petition must be filed no more than twenty (20) days after receipt of IDEM's statement of position. IDEM shall then have thirty (30) days to file a response setting forth their position and proposal for resolution. In any such dispute, the petitioner shall have the burden of proof, and the standard of review shall be that provided by applicable law.

28. Submission of any matter to the Court for resolution shall not extend any of the deadlines set forth in this Agreed Judgment, unless the Parties agree to such extension in writing or the Court allows the extension upon motion.

29. Stipulated penalties with respect to any disputed matter (and interest thereto) shall accrue in accordance with Paragraphs 15 and 16; however, payment of stipulated penalties, and any accrued interest, shall be stayed pending resolution of the dispute, as follows:

(a) If the dispute is resolved by informal agreement before appeal to this Court, accrued penalties (and interest), if any, determined to be owed shall be paid within sixty (60) days of the agreement or the receipt of IDEM's final position in writing.

(b) If the dispute is appealed to this Court and the IDEM prevails in whole or in

part, the City shall pay all accrued penalties (and interest) determined by the Court to be owed within sixty (60) days of the Court's decision or order.

(c) In the event of an appeal, the City shall pay all accrued penalties (and interest) determined to be owed by the final reviewing Court within sixty (60) days after a final decision no longer subject to judicial review has been rendered.

(d) The Parties may agree to waive penalties and interest accrued under this Agreed Judgment, in whole or in part, as part of an informal agreement to resolve a dispute or as part of a settlement agreement at any time an appeal is pending before this Court or a higher court.

RIGHT OF ENTRY

30. IDEM, and its representatives, contractors, consultants, and attorneys shall have the right of entry into and upon the City's wastewater treatment facility and sewer system, at all reasonable times, upon proper presentation of credentials, for the purposes of:

- (a) Monitoring the progress of activities required by this Agreed Judgment;
- (b) Verifying any data or information required to be submitted pursuant to this Agreed Judgment;
- (c) Obtaining samples and, upon request, splits of any samples taken by the City or its consultants. Upon request, the City will be provided with splits of all samples taken by the IDEM; and
- (d) Otherwise assessing the City's compliance with this Agreed Judgment, the City's Current Permits, the CWA or applicable State law.

This Section in no way limits or affects any right of entry and inspection held by IDEM pursuant to applicable Federal or State laws, regulations, or permits.

CERTIFICATION

31. Any report, plan, or other submission that the City is required by this Agreed Judgment to submit, including reports, plans or other submissions that the City is also required to submit by its Current Permits, shall be signed by an official or authorized agent of the City and shall include the following certification:

I certify under penalty of law that the document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated 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.

32. The City and IDEM shall not object to the admissibility into evidence of any report, plan, or other submission prepared in accordance with this Paragraph or the information contained in said reports in any proceeding initiated by any of the Parties to this Agreed Judgment to enforce this Agreed Judgment. Notwithstanding the above, the City or IDEM may seek in accordance with applicable law to submit any contradictory or other evidence as to any matter affected by the evidence referred to in the preceding section in any proceeding to enforce this Agreed Judgment.

NOT A PERMIT/COMPLIANCE WITH OTHER STATUTES/REGULATIONS

33. This Agreed Judgment is not and shall not be construed as a permit, or a modification of any existing permit, issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, or State law, nor shall it in any way relieve the City of its obligations to obtain permits for its wastewater treatment facilities, sewer system, or modifications thereto, and to comply with the requirements of any NPDES permit or with any other applicable Federal or State law or regulation, including the obligation to obtain facility construction permits pursuant to Title 327

of the Indiana Administrative Code, Article 3. Any new permit, or modification of existing permits, must be complied with in accordance with applicable Federal and State laws and regulations.

34. Nothing herein, including the incorporation of the CSO Control Measures specified in Attachment 1 into this Agreed Judgment, or IDEM's review or approval of any plans, reports, policies or procedures formulated pursuant to this Agreed Judgment (including any Revised CSO Control Measures Plan), shall be construed as relieving the City of the duty to comply with the CWA, the regulations promulgated there under, and all applicable permits issued there under, or as relieving the City of its duty to comply with applicable state law.

EFFECT OF COMPLIANCE

35. IDEM does not, by its consent to the entry of this Agreed Judgment, warrant or aver in any manner that the City's complete compliance with this Agreed Judgment will result in compliance with the provisions of the CWA, 33 U.S.C. §§ 1251 et seq., applicable state law, or the City's NPDES Permit.

EFFECT OF AGREED JUDGMENT AND NON-WAIVER PROVISIONS

36. Nothing contained in this Agreed Judgment shall be construed to prevent or limit IDEM's rights to obtain penalties or further or additional injunctive relief under State statutes or rules, including, but not limited to, criminal punishment under applicable State laws and rules respectively except as expressly specified herein.

37. This Agreed Judgment resolves the civil claims of IDEM for injunctive relief for the violations alleged in the Complaint filed herein through the date of entry of this Agreed Judgment.

38. IDEM further reserves all rights against the City with respect to any violations by

the City that occur after the date of lodging of this Agreed Judgment, and/or for any violations of applicable state law not specifically alleged in the Complaint filed herein, whether they occurred before or after the date of lodging of this Agreed Judgment.

39. The Parties agree that the City is responsible for achieving and maintaining complete compliance with all State laws, rules, and permits, and that compliance with this Agreed Judgment shall be no defense to any actions commenced by IDEM pursuant to said laws, regulations, or permits, except as set forth herein.

40. This Agreed Judgment does not limit or affect the rights of the Parties as against any third parties that are not Parties to this Agreed Judgment. The Parties recognize that this Agreed Judgment resolves only matters between IDEM and the City and that its execution does not preclude the City from asserting any legal or factual position in any action brought against it by any person or entity not a Party to this Agreed Judgment.

41. IDEM reserves any and all legal and equitable remedies available to enforce the provisions of this Agreed Judgment.

42. This Agreed Judgment shall not limit any authority of IDEM under any applicable statute or regulation, including the authority to seek information from the City, to require monitoring, to conduct inspections, or to seek access to the property of the City; nor shall anything in this Agreed Judgment be construed to limit the authority of IDEM to undertake any action against any person, including the City, in response to conditions that may present an imminent and substantial endangerment to the environment or to the public health or welfare.

43. Obligations of the City under the provisions of this Agreed Judgment to perform duties scheduled to occur after the signing, but prior to the date of entry, shall be legally enforceable from the date this Agreed Judgment is signed by the City. Liability for stipulated

penalties, if applicable, shall accrue for violation of such obligations and payment of such stipulated penalties may be demanded by the IDEM as provided in this Agreed Judgment. The contempt authority of this Court shall also extend to violations of such obligations.

COSTS OF SUIT

44. Each Party shall bear its own costs and attorneys' fees with respect to matters related to this Agreed Judgment.

MODIFICATION

45. Except as provided below, there shall be no material modification of this Agreed Judgment, Exhibits attached to this Agreed Judgment, or the submittals approved under this Agreed Judgment without written approval by the Parties and the Court. Any non-material modification of this Agreed Judgment, its Exhibits, or approved submittals shall be in writing and signed by the Parties. Any modifications to the attached Exhibits or subsequently approved submittals that are specifically allowed under the terms of those Exhibits or submittals may be made in accordance with the terms of those Exhibits or approved submittals. All modifications, whether material or non-material, shall be deemed an enforceable part of this Agreed Judgment.

CONTINUING JURISDICTION

46. The Court shall retain jurisdiction to enforce the terms and conditions and achieve the objectives of this Agreed Judgment and to resolve disputes arising hereunder as may be necessary or appropriate for the construction, modification, implementation or execution of this Agreed Judgment.

TERMINATION

47. Upon motion filed with the Court by IDEM or the City, the Court may terminate the terms of this Agreed Judgment after each of the following has occurred:

(a) The City has achieved compliance with all provisions contained in this Agreed Judgment, and subsequently has maintained satisfactory compliance with each and every provision for twelve consecutive months;

(b) The City has paid all penalties and other monetary obligations due hereunder and no penalties or other monetary obligations due hereunder are outstanding or owed to IDEM; and

(c) At least one hundred twenty (120) days prior to filing the motion, the City has certified to IDEM that it has complied with the terms of this Agreed Judgment and has provided sufficient documentation to IDEM to support its certification.

SIGNATORIES/SERVICE

48. The Indiana Deputy Attorney General signing this Agreed Judgment, on behalf of the State of Indiana and IDEM, and the undersigned representative of the City each certifies that he or she is authorized to enter into the terms and conditions of this Agreed Judgment and to execute and bind legally such Party to this document.

49. The Parties agree that The City need not file an answer to the Complaint in this action unless or until the Court expressly declines to enter this Agreed Judgment.

FINAL JUDGMENT

50. Upon approval and entry of this Agreed Judgment by the Court, this Agreed Judgment shall constitute the final judgment of the Court between IDEM and the City.

THE UNDERSIGNED PARTIES enter into this Agreed Judgment:

FOR THE STATE OF INDIANA

STEVE CARTER

Attorney General of Indiana

By: Sierra L. Cutts

Sierra L. Cutts, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, Indiana 46204

DATED: 9-21-2007

FOR IDEM

Thomas W. Easterly

THOMAS W. EASTERLY, Commissioner
Indiana Department of Environmental Management
100 North Senate Avenue, IGCN 1301
Indianapolis, Indiana 46204

DATED: 9-21-2007

FOR THE CITY

Daniel M. Klein

DANIEL M. KLEIN, Mayor
City of Crown Point
101 N. East Street
Crown Point, IN 46307

DATED: 9-18-07

The Court finds there is no just reason for delay and therefore approves and enters this Agreed Judgment as a final judgment.

SO ORDERED this _____ day of SEP 27 2007, 2007.

[Signature]
Judge, Marion Superior Court

Distribution:

Sierra L. Cutts, Indiana Attorney General's Office, 302 West Washington Street, IGCS, 5th
Floor, Indianapolis, Indiana 46204

Daniel M. Klein, Mayor, City of Crown Point, 101 N. East Street, Crown Point, IN 46307

Attachment 1

Description

The components of the plan to control the combined storm and sanitary sewers will include the following three phases:

Phase I

- 1 Construct expansion of the wastewater treatment plant from 4.1 to 5.2 MGD. (completed)
- 2 Construct new 8.7 MGD lift station, and install new sewer parallel to existing sewer from regulator 003-1 to the new lift station. (completed)
- 3 Construct expansion of the Anderson Pond from 3.42 to 5.26 MG of CSO storage.
- 4 Eliminate CSO Outfall 003.
- 5 Construct floatable solids controls at CSO Outfalls 002, 004, and 005.

Phase II

- 1 Construction of a peak flow treatment system for CSO Outfall 002 consisting of screening, pumping, high rate clarification and ultraviolet disinfection.

Phase III

- 1 Construction of transport and diversion of the CSO points from CSO 004 and 005 to a new storage pond south of the WWTP. The nine CSO points of CSO 004 will be collected with a new gravity sewer and main lift station. CSO 005 force main will be rerouted from the Beaser storm sewer to the new combined sewer overflow interceptor.
As additional monitoring data is generated during post-construction monitoring periods of previous phases, Phase III may be revised.

Schedule

<u>TASK</u>	<u>COMPLETION DATE</u>
Complete construction of Anderson Pond	November 30, 2007
Begin construction Phase I floatable solids control	March 31, 2008
Complete construction of Phase I	August 30, 2008
Post-construction monitoring of Phase I	August 30, 2008 – August 30, 2009
Submit Phase II Preliminary Engineering Report	March 31, 2009

Submit Phase II construction permit application	September 30, 2009
Begin Phase II construction	February 28, 2010
Complete construction of Phase II	March 31, 2011
Post-construction monitoring of Phase II	March 31, 2011 – March 31, 2012
Submit Phase III Preliminary Engineering Report	March 31, 2012
Submit Phase III construction permit application	August 30, 2013
Begin Phase III construction	February 28, 2014
Complete construction of Phase III	March 31, 2015
Post-construction monitoring of Phase III	March 31, 2015 – Dec. 31, 2015
Update LTCP to address resulting phase	February 28, 2016

Exhibit 39



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

May 25, 2023

Via Certified Mail No.:
7017 0190 0000 9502 4975

Honorable Peter D. Land, Mayor
City of Crown Point
101 North End Street
Crown Point, IN 46078

Dear Mayor Land:

Re: Adoption of Agreed Order
Commissioner, Indiana Department
of Environmental Management
v.
City of Crown Point
NPDES No. IN0025763
Case No. 2022-28739-W
Crown Point, Lake 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 (Effective Date). The invoice for payment of the civil penalty is attached. Payment should be made payable to the "Environmental Management Special Fund" and include the Case Number 2022-28739-W for processing.

If you have any questions, please contact Ryan Julian, Environmental Manager, Water Enforcement Section, at (317) 234-3123 or rjulian@idem.in.gov.

Sincerely,

Amari Farren, Chief
Water Enforcement Section
Office of Water Quality

Enclosures

Adoption of Agreed Order Cover Letter
Case No. 20XX-28739-W
City of Crown Point
NPDES No. IN0025763
Crown Point, Lake County
Page 2

cc: Lake County Health Department
<http://www.in.gov/idem>

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

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. 2022-28739-W
)
CITY OF CROWN POINT,)
)
Respondent.)

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code (IC) 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner (Complainant) of the Indiana Department of Environmental Management (IDEM), a department of the State of Indiana created by IC 13-13-1-1.
2. The City of Crown Point (Respondent), owns/operates the Crown Point Wastewater Treatment Plant (WWTP), located at 1321 Merrillville Road, Crown Point, Lake County, Indiana (the Site).
3. Respondent is authorized by its National Pollutant Discharge Elimination System (NPDES) Permit No. IN0025763 (the Permit), to discharge wastewater treated in accordance with the terms and conditions of the NPDES Permit from its WWTP into Main Beaver Dam Ditch from Outfall 001.
4. IDEM has jurisdiction over the parties and the subject matter of this action pursuant to IC 13-30-3.



5. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation (NOV) via Certified Mail/personal service to:

Peter D. Land, Mayor
City of Crown Point
101 North End Street
Crown Point, IN 46078

6. During an investigation conducted by a representative of IDEM, violations were found, as described below.
7. 327 Indiana Administrative Code (IAC) 5-2-8(1), states the permittee shall comply with all terms and conditions of the Permit. Any permit noncompliance constitutes a violation of the Clean Water Act and Indiana Code (IC) 13 and is grounds for enforcement action by IDEM.
8. Pursuant to Part I.A.1 of the Permit, the permittee is required to comply with the monitoring requirements contained in the Permit, including effluent limitations.

Discharge Monitoring Reports (DMRs) and Monthly Reports of Operation (MROs) submitted by Respondent for the period of October 2019 through May 2022 revealed violations of effluent limitations contained in Part I.A.1 of the Permit as follows:

- A. The weekly maximum average concentration limitation for total suspended solids (TSS) was exceeded during January and December 2020, April, June and August 2021, and April and May 2022.
- B. The monthly average concentration limitation for TSS was exceeded during December 2019, January 2020, June and August 2021, and May 2022.
- C. The monthly average loading limitation for TSS was exceeded during January 2020.
- D. The weekly maximum average loading limitation for TSS was exceeded during January 2020 and April 2021.
- E. The daily maximum concentration limitation for ammonia (as nitrogen) was exceeded during December 2019, and February and March 2021.
- F. The monthly average concentration limitation for ammonia (as nitrogen) was exceeded during December 2019, January, February and March 2021, and May 2022.
- G. The daily maximum loading limitation for ammonia (as nitrogen) was exceeded during March 2021.
- H. The monthly average concentration limitation for Phosphorus was exceeded during June, July, and September 2021.

Respondent failed to comply with the effluent limitations from Outfall 001 contained in the Permit, in violation of Part I.A.1 of the Permit.

9. Pursuant to 327 IAC 5-2-8(9) and Part II.B.1 of the Permit, the permittee shall at all times maintain in good working order and efficiently operate all facilities and systems (and related appurtenances) for the collection and treatment which are installed or used by the permittee, and which are necessary for achieving compliance with the terms and conditions of the permit.

During the inspection on November 23, 2021, IDEM staff observed and documented inadequate maintenance and operation of the facilities, specifically:

- A. problems with the media disk filters, including general breakdowns and torn media in December 2020 and April 2021, which can be attributed as the cause of the Ammonia-Nitrogen exceedences;
- B. problems with the blowers which contributed to Ammonia-Nitrogen exceedences; and
- C. problems with the influent control panels causing erratic influent sewage flows, which may have contributed to the Phosphorus exceedences in May 2021 through September 2021.

Each in violation of 327 IAC 5-2-8(9) and Part II.B.1 of the Permit.

10. On October 29, 2020, June 3, 2021, and December 2, 2021, IDEM sent Inspection Summary and/or Noncompliance Letters to Respondent outlining violations at the WWTP. The letters required a response detailing actions taken to correct the violations. IDEM received responses to the letter(s) explaining compliance actions Respondent took or would take to address the violations. However, the responses did not adequately address the violations noted above at the WWTP.
11. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective (Effective Date) when it is adopted by Complainant or Complainant's delegate (as evidenced by signature), and the adopted Agreed Order has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date. In addition to addressing the violations cited in Paragraphs 8 through 9 of the Findings of Fact above, this Agreed Order also addresses any additional violations of these same rules that may have occurred subsequent to the issuance of the NOV and prior to the Effective Date.
2. Respondent shall comply with rules and statutes listed in the findings above at issue.

3. Within 30 days of the Effective Date, Respondent shall develop and submit to IDEM for approval a Compliance Plan (CP) which identifies actions that Respondent will take to achieve and maintain compliance with its Permit, specifically including the actions Respondent will take to:
 - A. Achieve and maintain compliance with effluent limitations contained in the Permit, specifically TSS, ammonia (as nitrogen), and phosphorus.
 - B. Address Operation and Maintenance issues identified at the facility by developing a maintenance Standard Operating Procedure (SOP) and/or an engineering study to determine source of ammonia and phosphorus exceedances.;

The CP shall include an implementation and completion schedule, including specific milestone dates.

Respondent shall notify IDEM in writing of variations to the approved CP.

4. Respondent shall, after completion of the work required pursuant to the approved CP from Paragraph 3 above, demonstrate 12 consecutive months of compliance (Compliance Demonstration) with the terms and conditions of the Permit.
5. In the event that violation(s) occur during the Compliance Demonstration, within 30 days of the violation, Respondent shall develop and submit to IDEM, for approval, an Additional Action Plan (AAP) which identifies the additional actions that Respondent will take to achieve and maintain compliance with the terms and conditions of the Permit. The AAP, if required, shall include an implementation and completion schedule, including specific milestone dates.
6. The plans required by Order Paragraphs 3 and 5 are subject to IDEM approval. In the event IDEM determines that any plan or any modified plan submitted by Respondent is deficient or otherwise unacceptable, Respondent shall revise and resubmit the plan to IDEM in accordance with IDEM's notice. After three submissions of such plan by Respondent, IDEM may seek civil enforcement of this Order.
7. Respondent, upon receipt of written notification from IDEM, shall immediately implement the approved plan(s) and adhere to the milestone dates therein. The approved CP and AAP shall be incorporated into the Agreed Order and shall be deemed an enforceable part thereof.

Following completion of the actions included in the AAP, the 12-month Compliance Demonstration, as specified in Paragraph 4 above, will re-start. Failure to achieve compliance at the conclusion of work under an AAP may subject Respondent to additional enforcement action.

8. Beginning upon receipt of approval of the CP or AAP and continuing until the successful completion of implementation of the approved CP or AAP, Respondent shall submit to IDEM regular progress reports identifying compliance actions

implemented and completion of each required milestone in the CP or AAP. The frequency of progress report submittals shall be specified in IDEM's written notification to Respondent of the plan approval and will be based on the proposed milestones in the approved plan(s).

9. Beginning on the Effective Date and continuing until the successful completion of the approved CP, Respondent shall, at all times, operate its existing WWTP as efficiently and effectively as possible.
10. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Ryan Julian, Enforcement Case Manager
Office of Water Quality – IGCN 1255
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

11. Respondent is assessed and agrees to pay a civil penalty of Seven Thousand Seven Hundred and Fifty Dollars (\$7,750). Said penalty amount shall be due and payable to the "Environmental Management Special Fund" within 30 days of the Effective Date, the 30th day being a "Due Date."
12. In the event the terms and conditions of the following paragraphs are violated, IDEM may assess, and Respondent shall pay the corresponding stipulated penalty:

Paragraph	Violation	Stipulated Penalty
3	Failure to submit the CP within the required time period.	\$250 per week late, or part thereof.
4	For violations of terms and conditions of the Permit during the Compliance Demonstration.	\$400 per violation
5	Failure to submit the AAP, if required, within the given time period.	\$500 per week late, or part thereof.
6	Failure to modify the CP and/or AAP, if required, within the given time period.	\$500 per week late, or part thereof.
7	Failure to meet and/or implement any milestone date set forth in the approved CP or AAP.	\$500 per week late, or part thereof.
8	Failure to submit to IDEM a written progress report as specified in the CP or AAP approval letter.	\$150 per week late, or part thereof.
9	Failure to operate the WWTP as efficiently and effectively as possible prior to Compliance Demonstration.	\$200 per violation.

13. Stipulated penalties shall be due and payable no later than the 30th day after Respondent receives written notice that IDEM has determined a stipulated penalty is due, the 30th day being a "Due Date." IDEM may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive IDEM's right to collect such stipulated penalty or preclude IDEM from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude IDEM from seeking additional relief against Respondent for a violation of this Agreed Order. Such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
14. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number 2022-28739-W of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, Indiana 46204
15. This Agreed Order shall apply to and be binding upon Respondent, its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
16. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance and any accrued interest at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. The interest shall continue to accrue on the first of each month until the civil penalty and any interest accrued are paid in full. Such interest shall be payable to the "Environmental Management Special Fund," and shall be payable to IDEM in the manner specified above.
17. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
18. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred.

Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.

19. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permits or any applicable Federal or State law or regulation.
20. Complainant does not, by his approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
21. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to seek additional civil penalties for the same violations specified in the Notice of Violation.
22. Nothing in this Agreed Order shall prevent IDEM (or anyone acting on its behalf) from communicating with the United States Environmental Protection Agency (US EPA) or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the US EPA or any other agency or entity.
23. This Agreed Order shall remain in effect until Respondent has complied with the terms and conditions of this Agreed Order and IDEM issues a Resolution of Case (close out) letter to Respondent.

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TECHNICAL RECOMMENDATION:
Department of Environmental Management

By: Amari Farren

Amari Farren, Chief
Water Enforcement Section
Office of Water Quality

Date: October 12, 2022

RESPONDENT:
City of Crown Point

By: Peter D. Land

Printed: PETER D. LAND
Title: Mayor

Date: MAY 16 2023

COUNSEL FOR RESPONDENT:

By: James H. Muhl

Date: May 16, 2023

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS 24th DAY OF May, 2023

For the Commissioner:

Martha Clark Mettler

Martha Clark Mettler
Assistant Commissioner
Office of Water Quality

INVOICE

Please Remit To:

INDIANA DEPT. OF ENVIRONMENTAL MANAGEMENT
PO BOX 3295
INDIANAPOLIS IN 46206-3295

Page: 1
Invoice No: 000355261
Invoice Date: 05/24/2023
Customer Number: CST100010226
Bill Type: 075
Payment Terms: NET 30
Due Date: 06/23/2023

Bill To:

CITY OF CROWN POINT
PETER D LAND
101 NORTH EAST STREET
CROWN POINT IN 46307

AMOUNT DUE: 7,750.00 USD

Amount Remitted

☐ Note Address Changes Above

☐ Email Address: _____

Write the invoice number on your check and return the upper portion of this invoice.

For billing questions, please email us at BILLING@IDEM.IN.GOV

Line	Adj	Identifier	Description	Quantity	UOM	Unit Amt	Net Amount
1		2022-28739-W	AGREED ORDER	1.00	EA	7,750.00	7,750.00
<p>- Accounts Receivable is accepting payments online by e-Check, MasterCard, Visa, American Express or Discover. Please visit www.in.gov/idem. Under Online Services, click Online Payment options and follow the prompts.</p> <p>-You may also call us at 317-234-3099 to pay by MasterCard, Visa, American Express or Discover.</p> <p>-A processing fee of \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments.</p> <p>- Pursuant to the Agreed Order for the Case Number noted above in the identifier field, please remit payment immediately.</p>							
TOTAL AMOUNT DUE :						7,750.00	

Please write the invoice number on your check and return the upper portion of this invoice with remittance.

PeopleSoft BI
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Page No. 1
Run Date 05/24/2023
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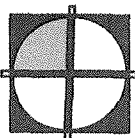
<u>Business Unit</u>	<u>Number of Bills</u>	<u>Total Invoice Amount</u>	<u>Currency</u>
00495	1	7,750.00	USD

Total number of bills printed: 1

Exhibit 40

City of Crown Point

Wastewater Utility Improvements
Preliminary Engineering Report
February 2021; Rev. March 2025



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B. Existing WWTP Required Improvements

Along with the increased demand for wet weather conveyance and treatment, several existing processes at the existing WWTP were deficient in operations capabilities. This manifested itself through chronic violations of the existing WWTPs NPDES permitted wastewater effluent quality and resultant AO for improvements. These existing facility improvements were incorporated into the Phase 1 Improvements Project at the existing WWTP and include:

- An anaerobic digester cover replacement,
- Anaerobic digesters repairs and code compliance corrections,
- Improvements to the existing blower facilities,
- EQ Pond liner repair,
- Gate Actuators (4 & 5) replacement at the hydraulic flow diversion structure,
- Anderson Pond Pump Station Controls Improvements,
- New return activated sludge pumps,
- SCADA system improvements - to maximize wet weather treatment capabilities (Part of the originally conceived Phase 1 project),
- Sludge loading equipment, and
- UV System replacement parts.

C. WWTP Improvements Costs

Table ES-3 contains a summary of the capital costs for the WWTP Improvements. Construction on these improvements began in June 2023 and was completed in March 2025.

Table ES-3
Implemented Wastewater Treatment Plant Improvements
Construction Cost

Description	Construction Cost
Existing WWTP Improvements	\$22,025,985

D. Western County Lift Station and Force Main

The Western County Lift Station and Force Main was constructed to receive flows from the new county customers accepted by the city via interlocal agreement. Costs for this infrastructure as it relates to county flows were reimbursed to the city by Lake County.

The Western County Lift Station was initially designed with a capacity of 0.44 MGD and made readily expandable to a future capacity of 1.0 MGD. The Western County Lift Station and Force Main reached substantial completion on November 8, 2024. Construction costs for the Western County Lift Station and Force Main

Section 6 – Recommended Project

6.1 Introduction

As detailed in **Sections 3 and 4**, significant infrastructure is needed to accommodate the rapidly occurring development and long-term growth that is occurring in Crown Point to prevent non-compliance with the City's LTCP due to excessive CSO overflows. This section of the report contains a summary of the recommended alternatives, which will mitigate capacity limitations throughout the collection system and adequately convey and treat peak wet weather flows to the WWTP. Recommended project components include estimated costs, phasing consideration, permits, potential project financing sources, and potential impacts to rates. The selection of the most feasible alternative for the long-term project is based upon both the cost-effective analysis and non-monetary impacts of each alternative.

6.2 Phase 1: Recommended Existing WWTP Improvements

The existing WWTP has been improved over the last 20 years to maximize its capabilities to manage wet weather flow as well as address existing facility deficiencies as they arose. The most recent round of improvements included in the afore referenced Phase 1 project were completed in March 2025.

To increase wet weather management capabilities, physical improvements and the addition of facilities were required. The additional facilities incorporated primary treatment and disinfection capabilities for flows ranging from the 1-year, 1-hour storm event up to and including the 10-year, 1-hour storm event. General WWTP Improvements required, as well as specific WWTP Improvements necessary to achieve this function are detailed below and shown in **Figure 6-1**.

- Maximization of the Wastewater Treatment Plant Ponds: The Anderson Pond Pump Station facilities have been upgraded to maximize pumping capabilities. This provides much needed flexibility in directing influent flow to either the existing EQ Pond or the existing Anderson Pond.
- New Wet Weather CSO Treatment Facility: A 25 MGD chlorination and de-chlorination facility was constructed inclusive of CSO pumping, influent mechanical screening, chlorine contact tank, and chemical feed equipment. Further pumping improvements were incorporated to ensure ability to discharge from the EQ Pond. These improvements were required due to an update to the 100-year flood plan map indicative of flow discharge restriction potential at the revised 100-year flood elevation. This alteration to the 100-year flood plain map being the result of changing climate conditions.

Rehabilitation of Existing Infrastructure: Along with the increased demand for wet weather conveyance and treatment, several existing processes at the existing WWTP were deficient in operations capabilities. This manifested itself through chronic violations of the existing WWTPs NPDES permitted wastewater effluent

be able to convey wet weather flow from future growth and will continue to be in non-compliance with the CSO LTCP as approved growth is built.

Additionally, approximately 4,226 EDUs were associated with denied connections in 2020 due to insufficient capacity in the existing collection system. Denying new wastewater connections is likely to make the development of new neighborhoods and additional housing more difficult. Because building the proposed SE WWTP would expand the City's wastewater service area and allow for the creation of new housing, this would also likely expand employment opportunities in the community as well as lead to expansion of current City provisions such as additional fire stations, police stations, health care facilities, schools, and other supporting infrastructure. These additional provisions have the potential to increase the quality of life for City of Crown Point residents.

In summary, the 2018 Master Plan solution would likely not meet the long-term capacity demand as the City increases connections to its sewer system. This is due to the limited capacity available before another solution is required, increasing the capital and operations and maintenance costs of those improvements constructed beyond what has been proposed in the 2018 Master Plan. The 2021 PER recommended project, inclusive of the proposed SE WWTP, presents a cost viable solution to providing water quality that meets state and federal criteria while also allowing long-term socio-economic development.

IDEM CSO compliance plan requires design and construction to be completed by the provided dates. The proposed project schedule is summarized in **Table 8-3** and is in compliance with the IDEM required dates (shown in red).

Table 8-3
Proposed Project Schedule & Deadlines

Milestone	Date
City Authorizes Design	June, 2024
City Applies for Required Permits (Including Construction Permit from IDEM)	December, 2024
Completion of Final Design	December, 2025
City Obtains Required Permits (Including Construction Permit from IDEM)	February, 2025
City Advertises for Construction Bids	February, 2025
City Receives Construction Bids	April, 2025
City Closes on SRF Loan	May, 2025
City Authorizes Construction	May, 2025
City Substantially Completes Construction	September, 2027
Final Inspection (Final Completion)	November, 2027
IDEM Compliance Plan: Completion Date	≤ December 2027
IDEM Compliance Plan: Post Construction Monitoring Commencement	≤ February 2028
IDEM Compliance Plan: Post Construction Monitoring Completion	≤ January 2030

Note: Red rows reflect compliance plan required dates.

Exhibit 41

1 Q Was that a capacity issue, or was that a
2 transmission issue?

3 A It definitely was a transmission issue. I don't
4 recall if there were any capacity concerns
5 associated with that or not.

6 (Deposition Exhibit 2 was presented for
7 identification.)

8 Q You have in front of you what's been labeled as
9 Exhibit 2. Can you identify this for me.

10 A It's entitled The PER Presentation. PER and
11 Wastewater Utility Improvements Meeting,
12 March 25, 2021.

13 Q Great. Was this an appendix to your 2021 PER?

14 A I don't know if it was or was not. We had
15 voluminous appendices in that report.

16 Q Okay. If you look at midway down, paragraph B
17 to Current Situation. Paragraph B, it says:

18 "2500 approved equivalent dwelling units
19 have yet to be built."

20 That's A; correct?

21 A Correct.

22 Q B says:

23 "4,226 EDUs have recently been denied
24 connection due to capacity restraint on
25 wastewater system."

1 Is that correct?

2 A That's correct.

3 Q So dating back to 2021 -- well, this was March,
4 so four and a half years ago, you denied at that
5 time 4,226 EDUs. Who was that for?

6 A Well, we know one of them was for the Ryland
7 development. I would have to go back and
8 identify who the other ones were.

9 Q Okay. Was it all Ryland, or were there others?

10 A I don't know. The primary one that comes to
11 mind is Ryland.

12 Q Were these inside or outside the city, or do you
13 know?

14 A I don't know.

15 Q Have there been denials since this time?

16 A I don't recall any significant denials in recent
17 years, but I would have to go back to my notes
18 and see.

19 Q Do you know how many total developments or
20 customers have been denied over the last ten
21 years?

22 A The best information I have is what you handed
23 me where it identifies the 4,226 EDUs.

24 Q Okay. Is it safe to say that the -- back on
25 Exhibit 1, Table 1, it says:

1 "Requested in the past but denied due to
2 the lack of capacity."

3 It says 1.17; is that correct?

4 A That's what the table indicates.

5 Q Let me check my math here. Mr. Stong, in 2021,
6 you denied 4,226. At 310 gallons a day, would
7 that be more than 1.17?

8 A Would you like me to check?

9 Q Yeah, please.

10 MR. GLENNON: May I have the question
11 reread, please.

12 (The requested text was read by the
13 reporter.)

14 A That's 1.31 million gallons per day.

15 BY MR. JANAK:

16 Q And there have been others in addition to that.
17 The 4,226, there were -- there's been more
18 denials other than the ones listed in '21. So
19 there's been more denials since 2021; is that
20 correct?

21 A Yes. But many of these are the same properties,
22 different requests for different components of
23 the property. So there's repeat.

24 Q Would you agree, then, that the 4,226 referenced
25 on Exhibit 2 for denials does not -- is

1 Q Are you aware of why LBL approached Crown Point
2 and asked for service?

3 A We were told it was the most economical means to
4 service the area.

5 Q Did you help --

6 Did you assist with the discovery responses
7 that Crown Point provided in this case?

8 A I assisted.

9 Q One of the discovery responses suggests that LBL
10 was tired of dealing with Winfield and came to
11 Crown Point. Is that your understanding as
12 well?

13 A I'm not aware of that. I know that they would
14 like service from Crown Point and felt they
15 could have more economical service.

16 Q From a month -- do you think it was from a
17 monthly user rate, or was it from the off-site
18 improvements for the developer?

19 A I don't know.

20 Q When you say "economical," do you think service
21 from Winfield for the ultimate customer is
22 cheaper from Winfield or from Crown Point?

23 A Could you repeat that question?

24 Q Sure. From an economical perspective, do you
25 think it is cheaper to receive service from

1 Crown Point or Winfield at this point?

2 A Based on my analysis regarding the improvements
3 that are required by Winfield, I couldn't say.
4 I don't know what the rate impact would be and
5 how that would be paid for.

6 Q Okay. Have you read the testimony from
7 Winfield?

8 A I don't believe so.

9 Q You have not read Winfield's testimony in
10 preparation for this case?

11 A I perused it, but I focused more on
12 Crown Point's information.

13 Q Okay. So are you aware --

14 A Sorry, can I correct that? I did read the
15 engineer's testimony.

16 Q You have not read the accounting testimony?

17 A No. I focused on the engineering issues.

18 Q Okay. From -- are you aware of what Winfield's
19 user rate is?

20 A I'm not.

21 Q So when you say you understood from an
22 economical perspective that the developer
23 preferred Crown Point, you don't know if it was
24 for user rates or the cost of their off-site
25 improvements; is that right?

Exhibit 42

Request No. 4.1:

Please identify whether Crown Point has satisfied the Indiana Department of Environmental Management's ("IDEM") antidegradation requirements and whether there are any appeals that can be brought or that are pending.

RESPONSE: Yes, the requirements have been met, no appeals have been filed and the appeal period is closed.

Request No. 4.2:

Please identify the date of the Agreed Order referenced in Mr. Stong's direct testimony prefiled on April 21, 2025 ("Agreed Order").

RESPONSE: May 24, 2023.

Request No. 4.3:

Please identify how many times Crown Point has been cited for failing to follow or meet the requirements in the Agreed Order.

RESPONSE: None.

Request No. 4.4:

Is Crown Point proposing to extend sewers to the development that LBL Development, LLC describes in its Response to Winfield's Request No. 1 of Winfield's First Set of Data Requests ("LBL's Development")?

RESPONSE: The donation agreement describes how Crown Point will make sewer service available to LBL in the Disputed area.

Request No. 4.5:

What is the estimated cost of the facilities that Crown Point will need to install, upgrade, or modify to extend sewer service to the LBL's Development?

Objection: The request is vague, ambiguous and lacks necessary specificity as it does not define "facilities" e.g. treatment plant expansion, lift stations, transmission lines, computer equipment or other items. The request also does not specify the level of the progression of LBL's actual development process for which it seeks cost estimates. and the request seeks a study or compilation not previously performed by Crown Point.

RESPONSE: Without waving the forgoing objections, the costs of Crown Point's 4-

Exhibit 43

Janak, J. Christopher

From: Klein, Alyce <AKlein@idem.IN.gov>
Sent: Friday, July 25, 2025 6:28 AM
To: Schroeder, Jackson L.
Cc: Janak, J. Christopher
Subject: RE: Crown Point attempted antidegradation demonstration / interested party Winfield

Good morning,

I confirmed with our construction section that we have not yet received a construction permit application; they will need a construction permit prior to submitting a NPDES permit application. As far as I am aware, we have also not received any other documents relating to the proposed WWTP.

You are correct that the antidegradation process is not complete until the final permit is issued. Should we get a NPDES permit application, we would public notice our tentative determination to approve the new discharge concurrently with the draft permit, and would take comments on both the tentative determination and the draft permit language. The antidegradation process is not complete until we have processed all comments received, held a hearing if warranted/requested, requested additional information from the permittee if needed, and made our final determination on the demonstration to either approve the new discharge (which would be noticed along with the final permit, and is subject to appeal) or not approve the new discharge (which would mean no final NPDES permit is issued).

I hope this helps; antidegradation is a confusing process, so don't hesitate to let me know if you have any further questions!

Sincerely,

Alyce



Alyce Klein
Technical Environmental Specialist
OWQ Permits Branch

(317) 233-6728 • aklein@idem.IN.gov



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Scan the QR code to leave your feedback.



We appreciate your input!