



Indiana Department of Natural Resources

Division of Water  
402 W. Washington St., Room W264  
Indianapolis, Indiana 46204  
Ph: (317) 232 - 4160  
Ph: (Toll Free) 877-928-3755  
Fax: (317) 233 - 4579

February 1, 2012

Alan M. Hux, Attorney  
Taft Stettinius & Hollister LLP  
One Indiana Square  
Suite 3500  
Indianapolis, Indiana 46204-4609

Re: South Richland Conservancy District

Dear Mr. Hux:

The Department of Natural Resources, Division of Water, has approved the District Plan for the South Richland Conservancy District under the powers delegated to the Director of the Division of Water by the Natural Resources Commission [Information Bulletin #36, (7<sup>th</sup> Amendment) posted to the Ind. Reg. as 20110928-IR-312110566NRA (October 1, 2011)]. The enclosed signed document constitutes the approval of the District Plan.

The approval of the District Plan or any of the conditions or limitations, which it contains, may be appealed by applying for administrative review. Such review is governed by the Administrative Orders and Procedures Act, IC 4-21.5, and the Department's rules pertaining to adjudicative proceedings, 312 IAC 3.

In order to obtain a review, a written petition must be filed with the Division of Hearings within 18 days of the mailing date of this notice. The petition should be addressed to:

Mr. Stephen L. Lucas  
Natural Resources Commission  
Division of Hearings  
100 North Senate Avenue, Room N-501  
Indianapolis, Indiana 46204

The petition must contain specific reasons for the appeal and indicate the portion or portions of the approval to which the appeal pertains. If an appeal is filed, the final agency determination will be made by the Natural Resources Commission following a legal proceeding conducted before an Administrative Law Judge. Legal counsel will represent the Department of Natural Resources.

If you have questions concerning the enclosed document or this letter, please call me at 317-234-1081 or toll free at 877-928-3755.

Sincerely,

Terri Curlee Price  
Water Resource Planner  
Division of Water

Enclosure

**DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER  
INDIANAPOLIS, INDIANA**

**SOUTH RICHLAND CONSERVANCY DISTRICT  
APPROVAL OF THE DISTRICT PLAN  
JANUARY 31, 2012**

**Background**

South Richland Conservancy District is located north of Rochester; specifically in portions of Sections 19, 28, and 29 Michigan Road Lands, Richland Township, Fulton County. The boundaries originally proposed for the Conservancy District contained 47 freeholds; however, five (5) freeholders south of the Tippecanoe River requested that their property be withdrawn. Modifications have been made to the description of the area included in the District.

Currently the area of the South Richland Conservancy District is on private water wells. Textron, a manufacturer of metal fasteners operated a plant on Old State Road 31 on the north side of Rochester for many years. This manufacturing plant was sold in 2006 and subsurface investigations identified contamination in the groundwater. Contamination migrated from the facility towards the south and southeast area properties. Eight (8) of the residential water wells were impacted. Working with the Indiana Department of Environmental Management (IDEM) and the United States Environmental Protection Agency (USEPA), Textron is supplying potable water to the area through the extension of an existing water main from the City of Rochester. The City is willing to sell water to the Conservancy District from its system but declined to provide the service because the affected area is outside the city limits.

The majority of the properties in the district are residential and in a semi-rural setting. A few of the properties have ongoing agricultural operations including crop production and livestock. Existing well connections to the homes will be disconnected and it is anticipated that the wells may continue to be used for outdoor purposes such as landscaping, irrigation, and livestock watering. Textron has provided whole house granular activated carbon filtration systems to all of the homes in the affected area.

On July 7, 2011 under Cause No. 25C01-1101-MI-1, the Fulton Circuit Court established the South Richland Conservancy District for the purpose of providing water supply, including treatment and distribution, for domestic, industrial, and public use. The District will not provide fire protection. It was envisioned that water for outdoor use would not be included but there may be limited circumstances where it may need to be provided. Approval from the IDEM has not been obtained for that use by wells impacted with contaminants or where challenges exist in the separation of indoor and outdoor connections.

A Water Purchase Agreement has been prepared and indicates that the City of Rochester possesses the capacity to supply water from its existing system and is also willing to supply water to the Conservancy District. The Conservancy District will construct and maintain a water main and distribution system within the boundaries that connects to the City's water main at the delivery point. Additionally, a master meter at the delivery point will be installed to measure the volume of

water purchased by the Conservancy District. The Agreement indicates the City will have no responsibilities for any mains or distribution system beyond the delivery point.

The Board of Directors signed Resolution No. 2011-1214-2 on December 14, 2011 that preliminarily approved the District Plan. The attorney for the South Richland Conservancy District submitted the District Plan to the Division of Water on January 4, 2012.

### **Authority**

According to the Indiana Conservancy Act (IC 14-33-6-2), the district plan consists of an engineering report that sets forth the general, comprehensive plan for the accomplishment of the purpose(s) for which the district was established. A district plan must contain the following:

- (1) Descriptions of the following:
  - (A) The physical nature of the district.
  - (B) The problems confronting the district.
  - (C) The works of improvement needed.
  - (D) The location of the works of improvement.
  - (E) The benefits to be derived from the improvements.
- (2) Maps, preliminary drawings, and estimates of costs based upon preliminary engineering surveys and studies.
- (3) Copies of agreements or other arrangements with other persons or governmental agencies with respect to the financing, construction, maintenance, and operation of any of the works of improvement proposed in the plan.

According to the nonrule policy document developed by the Natural Resources Commission [Information Bulletin #36, (7<sup>th</sup> Amendment) posted to the Indiana Register as 20110928-IR-312110566NRA (October 1, 2011)], the authority to approve or disapprove a district plan has been delegated from the Natural Resources Commission to the Director of the Division of Water. Pursuant to the nonrule policy document, the following guidelines are established for the Division of Water review:

1. The Division will assist the board in identifying licenses likely to be required to implement the district plan.
2. The Division will review and give due consideration to comments and alternative proposals, which may be submitted by other interested parties.

Under the Conservancy Act, IC 14-33-6-4, the Division shall approve a plan if the following conditions are met:

1. Any other state agency having administrative jurisdiction over certain purposes of the district has approved that part of the plan.
2. The Division finds the plan will accomplish in an economical manner the purpose or purposes for which the district is established.

### **Findings**

The District Plan for South Richland Conservancy District contains maps, drawings, and estimated costs.

The conservancy district was established for the purpose of providing a water supply including treatment and distribution because of contamination identified in the groundwater. For several years Textron operated a metal fastener manufacturing plant until it was sold in 2006. Subsurface

investigations found contaminated groundwater leaving the facility and migrating south and southeast onto area properties. Eight (8) residential water wells have been impacted.

In the short term Textron provided individual treatment systems to the properties located within the boundaries of the District. Working with the USEPA, Textron will fund the installation of a distribution system that supplies public water to the area.

The two (2) manufacturing facilities within the District will continue to meet their industrial water needs by utilizing their on-site water wells. Potable water will be provided by the District and measures will be taken so there is no possibility for cross contamination. All costs associated with the hook-up at these facilities will be paid by Textron.

An Agreement with the City of Rochester allows the South Richland Conservancy District to purchase water. The Conservancy District and Textron will construct a water main and distribution system that will connect to the City's water main at a delivery point. A master meter at the delivery point will be installed to measure the volume of water purchased by the Conservancy District. The Conservancy District will operate and maintain the distribution system beyond the delivery point.

Measures will be in place to ensure the water is sufficient, safe and reliable. A duplex booster pump station will be installed downstream of the connection point to be certain the pressure is adequate. Equipment to adjust the chlorine residual and a backup generator to provide emergency power will also be included in the new system. A storage building will be constructed to house the booster pump and chlorine addition equipment.

In order to operate and maintain the facility properly, a contract operator with a knowledgeable and licensed staff will be retained by the Conservancy District.

From construction plans submitted, it appears that the six (6) inch water main will be placed in the right-of-way along Old U.S. Highway 31.

Water service from the main for the residential connections will be installed using trenchless technology to minimize disruption to homeowners. According to the district plan the construction costs include the service connection to the residences and the disconnection of the existing service.

The estimated construction costs to install a water main, master meter, distribution lines, booster pump, a chlorine adjustment system, backup generator, equipment enclosure and residential connections \$2,268,807. Costs for all of the work will be paid by Textron.

The estimated cost for operation and maintenance of the system is \$95,935 annually. All costs will be paid for by Textron.

Textron will have an agreement with South Richland Conservancy District for the operation, maintenance, and replacement of the collection/transportation system. The District has negotiated the terms of an agreement with the City of Rochester for the long term supply of potable water to the District.


Costs for the administration of the District will be the responsibility of Textron. Future costs of the District will also be funded by the by the issuance of a Letter of Credit in the amount of \$2,000,000 which will be adjusted periodically for inflation.

It is anticipated that all of the properties within the District's boundaries will benefit from a reliable source of clean water which will also have positive impacts on the real estate values.

The Water Purchase Agreement was signed by the Rochester Water Works Board on January 9, 2012 and by the Mayor of Rochester on January 10, 2012. Textron representatives signed the Agreement on January 26, 2012.

**Approval of the District Plan for the South Richland Conservancy District is granted this January 31, 2012 with the following findings:**

1. The District Plan meets the requirements of IC 14-33-6-2 of the Indiana Conservancy Act.
2. The District Plan has been reviewed by the Division of Water of the Department of Natural Resources.
3. In order to coordinate with other agencies, a copy of South Richland's District Plan was delivered to the Indiana Department of Environmental Management on January 5, 2012. No comments were received in time to be included in this report.
4. This approval is only granted under IC 14-33, the Indiana Conservancy Act, and as such does not relieve the Conservancy District of the responsibility of obtaining future permits, approvals, easements, etc. as required by other federal, state, or local regulatory agencies.
5. The District should be aware that after January 1, 2002, certain utility line crossing projects may be exempt from the permitting requirements of IC 14-28-1 if certain technical and environmental criteria are met. If the project qualifies for the general license under 312 IAC 10-5-2, then notification to the Department of Natural Resources is not required. It is the District's responsibility to determine if a project qualifies for the general license.
6. Permission from the Fulton County Highway Department will need to be obtained in order for the water main to be placed in the right-of-way along Old State Highway 31.
7. Once the Water Purchase Agreement is signed by Textron, a copy should become a part of the District Plan. Additionally a copy should be forwarded to the DNR, Division of Water for inclusion in the file.
8. Once the Conservancy District Operation Agreement is signed by all parties, a copy should become a part of the District Plan. Additionally a copy should be forwarded to the DNR, Division of Water for inclusion in the file.

  
Michael W. Neyer, P.E.  
Director  
Division of Water

MWN/TCP