

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED JOINT PETITION OF LAKELAND )  
LAGOON SEWER CORPORATION AND )  
THE TOWN OF GEORGETOWN FOR THE )  
THE SALE AND TRANSFER OF SEWER ) CAUSE NO. 45407  
ASSETS TO THE TOWN OF GEORGETOWN )

TESTIMONY

OF

CARL N. SEALS – PUBLIC’S EXHIBIT NO. 1

ON BEHALF OF THE

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

August 27, 2020

Respectfully Submitted,



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Daniel M. Le Vay, Atty. No. 22184-49  
Deputy Consumer Counselor  
115 W. Washington St., Suite 1500 South  
Indianapolis, IN 46204

## CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Testimony of Carl N. Seals on Behalf of the Indiana Office of Utility Consumer Counselor* has been served upon the following counsel of record in the captioned proceeding by electronic service on August 27, 2020.

J. David Agnew  
**LORCH NAVILLE WARD LLC**  
506 State Street - P.O. Box 1343  
New Albany, IN 47151-1343  
E-mail: [dagnew@lnwlegal.com](mailto:dagnew@lnwlegal.com)

Kristi L. Fox  
**Fox Law Offices, LLC**  
409 Bank Street  
New Albany, IN 47150  
E-mail: [kfox@thefoxlawoffices.com](mailto:kfox@thefoxlawoffices.com)



---

Daniel M. Le Vay  
Deputy Consumer Counselor

**INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR**  
115 West Washington Street  
Suite 1500 South  
Indianapolis, IN 46204  
[infomgt@oucc.in.gov](mailto:infomgt@oucc.in.gov)  
317/232-2494 – Phone  
317/232-5923 – Facsimile

**OUCC WITNESS TESTIMONY OF CARL N. SEALS**  
**CAUSE NO. 45407**  
**LAKELAND LAGOON SEWER CORPORATION**  
**AND THE TOWN OF GEORGETOWN**

1   **Q:   Please state your name and business address.**

2   A:   My name is Carl N. Seals, and my business address is 115 West Washington Street, Suite  
3       1500 South, Indianapolis, Indiana 46204.

4   **Q:   By whom are you employed and in what capacity?**

5   A:   I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC") as  
6       Assistant Director of the Water/Wastewater Division. My qualifications and experience are  
7       set forth in Appendix A.

8   **Q:   What are Joint Petitioners Lakeland Lagoon Sewer Corporation and the Town of**  
9       **Georgetown seeking in their filing?**

10   A:   According to the Verified Joint Petition initiating this proceeding, the Town of Georgetown  
11       ("Georgetown" or "Town") and Lakeland Lagoon Sewer Corporation ("Lakeland  
12       Lagoon") (collectively "Joint Petitioners") are "seeking approval of the sale and transfer  
13       of Lakeland Lagoon's sewer assets to the Town of Georgetown." As a result of this  
14       proposed sale and transfer, Georgetown will begin charging Lakeland Lagoon's former  
15       customers a new set of rates and charges reflecting both the Town's current tariffs and a  
16       surcharge for future improvements to be made to Lakeland Lagoon's former territory.

17   **Q:   What is the purpose of your testimony?**

18   A:   I discuss the characteristics and a brief history of Lakeland Lagoon, the improvements that  
19       Georgetown intends to make as a result of the acquisition and the rates that will be charged  
20       to former Lakeland Lagoon customers as result of the acquisition. Finally, I recommend

1 approval of the acquisition of Lakeland Lagoon's assets by Georgetown and agree that the  
2 proposed transaction is in the public interest.

3 **Q: What have you done to prepare your testimony?**

4 A: I reviewed the Verified Joint Petition filed on July 29, 2020, as well as Joint Petitioner's  
5 case-in-chief filed on August 3, 2020, consisting of the Direct Testimony and Attachments  
6 of Robert L. Woosley, President of Heritage Engineering, LLC. I reviewed the  
7 Commission Order and pertinent OUCC testimony in Cause No. 44114-U, which was  
8 Lakeland Lagoon's most recent request for a rate increase. I reviewed the Commission's  
9 Orders in Cause No. 39549 which addressed Lakeland Lagoon's 1992 request to transfer  
10 its utility assets to Georgetown. I also drafted OUCC Data Requests to Joint Petitioners  
11 and reviewed the responses. Finally, I reviewed reports filed with and by the Indiana  
12 Department of Environmental Management's ("IDEM"), which I accessed on IDEM's  
13 Virtual File Cabinet.<sup>1</sup>

14 **Q: What documents have you attached to your testimony?**

15 A: My attachments are as follows:

- 16 • OUCC Attachment CNS-1: IDEM "Adoption of Amended Agreed Order and Issuance  
17 of Final Order," issued July 3, 2000;
- 18 • OUCC Attachment CNS-2: RLW Exhibit 3, Lakeland Lagoon system map, and
- 19 • OUCC Attachment CNS-3: Joint Petitioners' responses to OUCC Data Request No. 1.

20 **Q: Please describe Lakeland Lagoon's characteristics.**

21 A: Lakeland Lagoon Sewer Corporation received its Certificate of Territorial Authority in  
22 Cause No. 36285 on April 29, 1981. According to its 2016 Annual Report, Lakeland  
23 Lagoon is a not-for-profit wastewater utility with no plans for growth. Sewage is collected

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<sup>1</sup> IDEM Virtual File Cabinet available at <https://vfc.idem.in.gov/DocumentSearch.aspx>

from 38 homes through approximately 3,658 feet of 6-inch and 8-inch<sup>2</sup> vitrified clay pipe (“VCP”) and polyvinyl chloride (“PVC”) pipe, which goes to a pumping station owned by Georgetown, Indiana. Lakeland Lagoon receives one bill from Georgetown, Indiana which is divided among 38 residences based on water consumption. This collected money is passed through to Georgetown.<sup>3</sup> Although Lakeland Lagoon once operated its own treatment system, it was subsequently ordered by IDEM to close its sludge lagoon.<sup>4</sup> The following table lists current and previous Lakeland Lagoon cases before the Commission, and the cause numbers may be clicked on to reach available records in that Cause.<sup>5</sup>

Cause Number	Sub Docket Number	Industry	Petition Type	Case Status	Petition Date	Parties
<a href="#">45407</a>	NONE	Sewer	Merger/Acquisition	Pending	7/29/2020	Lakeland Lagoon Corp., Town of Georgetown
<a href="#">44114</a>	U	Sewer	Rates	Decided	11/2/2011	Lakeland Lagoon Corp.,
<a href="#">41597</a>	U	Sewer	Rates	Decided	11/15/1999	Lakeland Lagoon Corp.,
<a href="#">39549</a>	NONE	Sewer	CTA	Decided	9/9/1992	Lakeland Lagoon Corp.,

**Q: Were any conditions imposed upon Lakeland Lagoon when the Commission granted its Certificate of Territorial Authority?**

**A:** Yes. At the time Lakeland Lagoon was granted a Certificate of Territorial Authority, the Commission imposed a requirement, based upon an order from the Stream Pollution

<sup>2</sup> Joint Petitioners Exhibit RLW-2, page 2. 586’ (6”) + 3,072’ (8”) = 3,658’

<sup>3</sup> 2016 Annual Report, page E-2.

<sup>4</sup> See Attachment CNS-1, IDEM “Adoption of Amended Agreed Order and Issuance of Final Order,” issued July 3, 2000.

<sup>5</sup> Cause No. 36285, granting the CTA, does not appear in the table or on the Commission’s website.

1 Control Board (now IDEM), that Lakeland Lagoon connect its system to any governmental  
2 district or agency or community type facility that might later be formed to treat sewage in  
3 the area.<sup>6</sup>

4 **Q: Has Lakeland Lagoon previously sought to be incorporated into the Georgetown**  
5 **system?**

6 A: Yes, this appears to be the intent of Cause No. 39549, which was captioned "IN THE  
7 MATTER OF THE PETITION OF LAKELAND LAGOON SEWER CORPORATION  
8 FOR APPROVAL OF THE TRANSFER OF ALL UTILITY ASSETS TO THE TOWN  
9 OF GEORGETOWN, AND FOR RELATED RELIEF." This effort eventually failed when  
10 it was determined that the Commission did not have the authority to force the acquisition  
11 of Lakeland Lagoon by Georgetown,<sup>7</sup> but did provide for the setting of rates by and  
12 connection to Georgetown of the Lakeland Lagoon system.

13 **Q: What challenges does the Lakeland Lagoon system currently face?**

14 A: The Lakeland Lagoon collection system is approximately 40<sup>8</sup> years old and is constructed  
15 predominately of vitrified clay pipe ("VCP").<sup>9</sup> As shown in Exhibit RLW-3, included here  
16 as Attachment CNS-2, there are numerous structural problems throughout the system.

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<sup>6</sup> Cause No. 44114-U, Attachment OUCC 2, page 2 of 10.

<sup>7</sup> "In our Preliminary Order in this Cause, dated April 13, 1994, we concluded that the Commission lacks authority to force Georgetown to acquire the Lakeland system. For reasons set forth in that Order, which Order we hereby incorporate into today's Order, we again conclude that we lack authority to grant Lakeland's request." October 25, 1995 Order in Cause No. 39549, page 6.

<sup>8</sup> This is an estimate, based in part upon Lakeland's receipt of a CTA on April 29, 1981 in Cause No. 36285. However, Lakeland appears to have been in operation prior to receiving its CTA, and IDEM records indicate it receiving a National Pollutant Discharge Elimination System (NPDES) permit as early as 1975.

<sup>9</sup> As noted in Mr. Woosley's testimony, "VCP pipe is prone to cracking and root intrusion."

These problems include at least ten root intrusions,<sup>10</sup> eight broken or fractured pipes, three offset joints, and one separated pipe joint. Each of these may be considered a potential location for inflow and infiltration of rainwater or groundwater into the system or a potential source of pollution if the ground is dry. Much of the collection system is located in back yards and is adjacent to a body of water. In addition to the compromised pipes, there are six manholes that will require replacement.

**Q: How does Georgetown propose to address these challenges?**

A: As Mr. Woosley testified, Georgetown proposes to clean and line approximately 3,222 feet of main, replace another 130 feet and replace six manholes.<sup>11</sup> One manhole will also be adjusted, one point repair will be made and all customer laterals will be reconnected following the lining. The total cost of this project, including contingencies (10%) and engineering fees (8%), totals \$335,734. A breakdown of these costs by type of work is set out in the following table.

type of work	total quantity	total cost	percent tot cost
clean line	2,744	18,715	6.6%
manhole	6	30,000	10.6%
manhole adj	1	1,500	0.5%
new 8" pipe	130	8,450	3.0%
pipe lining	3,222	193,320	68.4%
point repair	1	2,500	0.9%
recon laterals	3	28,000	9.9%
subtotal	6,107	282,485	100.0%
contingencies		28,249	
		310,734	
engineering		25,000	
total budget		335,734	

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<sup>10</sup> Root intrusions may occur at the joints between the individual clay pipe sections. As these roots enter the pipe, they begin to inhibit flow and may eventually crack or break pipe as their diameter increases.

<sup>11</sup> See Exhibit RLW-4 detailing locations, type and cost of work.

**Q: How will former Lakeland Lagoon customers be charged for these improvements?**

A: Georgetown has agreed to cap the costs of improvements charged to former Lakeland Lagoon customers at \$315,000 and recover these costs over 40 years. The surcharge that Georgetown has agreed to charge is a maximum of \$16.50<sup>12</sup> per customer per month and this charge will not be subject to any future increases.<sup>13</sup>

**Q: What will former Lakeland Lagoon customers pay following the sale and transfer of Lakeland Lagoon's assets to Georgetown?**

A: The following table sets out current rates paid by Lakeland Lagoon customers, compared with rates that will be charged by Georgetown following the acquisition. For a customer using 5,000 gallons of water, the rates will increase from \$73.14 per month to \$93.84.<sup>14</sup>

Total Cost at 5,000 Gallons		
Rate category	Current	Future
Base Rate	\$ 18.00	\$ 24.39
Flow Charge (for 5,000 gallons)	42.80	52.95
Surcharge (Georgetown)	12.34	-
Surcharge (expires after 40 years)	-	16.50
Total cost for 5,000 gallons	\$ 73.14	\$ 93.84
Dollar increase		\$ 20.70
Percent increase		28.3%

**Q: How will current Lakeland Lagoon customers benefit from the sale and transfer of Lakeland Lagoon's assets to Georgetown?**

A: Although Lakeland Lagoon customers will see an increase in their monthly rates, the operation of the Lakeland Lagoon collection system will be handled by a more capable entity. Georgetown has the financial, managerial and technical capabilities to operate, repair and maintain the collection system, in a manner that is not economically feasible for Lakeland Lagoon due to its small size.

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<sup>12</sup> \$16.50 x 38 x 480 = \$300,960 total recovery.

<sup>13</sup> See response to OUCC DR 1-5 appearing in Attachment CNS-3.

<sup>14</sup> See response to OUCC DR 1-3 appearing in Attachment CNS-3.



1           Although the initial impact of this case will be an increase in rates to Lakeland  
2           Lagoon customers, the inclusion into a larger system should both enable future needed  
3           repairs and prevent future increases that would be necessary if Lakeland Lagoon were  
4           instead required to make improvements itself. The acquisition will not subject Lakeland  
5           Lagoon's customers or Georgetown's customers to any unusual or undue acquisition costs  
6           or recovery of any unreasonable purchase price to acquire the assets. Moreover, while  
7           former Lakeland Lagoon customers will be subjected to a surcharge, that surcharge is tied  
8           to a specific project, and it will expire once the associated debt has been satisfied.

9   **Q:   Do current Lakeland Lagoon customers support the proposed sale and transfer?**

10  A:   According to the results of a customer survey received in response to OUCC Data Request  
11       1-7, 28 of 39 (71.8%) survey respondents voted "yes" to the proposed transaction. It should  
12       be noted, however, that the increase shown on the document that was shared with  
13       customers compared rates using only *1,000 gallons* of usage and therefore indicated only  
14       a \$12.58 increase in rates. As noted above, a customer using 5,000 gallons would see an  
15       increase of approximately \$20.

16  **Q:   Do you believe the sale and transfer of Lakeland Lagoon's assets to Georgetown to be**  
17  **in the public interest?**

18  A:   Yes. For all the reasons stated above, I consider this transfer as proposed in the public  
19       interest. Simply put, despite the increase, it is the only practical option available to current  
20       customers of Lakeland Lagoon.

21  **Q:   Do you have any concerns about the proposed transaction?**

22  A:   No.

1   **Q:   Do you have any recommendations?**

2   A:   Yes, I recommend that the Commission approve Joint Petitioners' request for approval of  
3       the transfer and sale of Lakeland Lagoon to Georgetown, and the application of proposed  
4       rates to the former Lakeland Lagoon customers.

5   **Q:   Does this conclude your testimony?**

6   A:   Yes.

**I. APPENDIX A: QUALIFICATIONS**

**Q: Please describe your educational background and experience.**

**A:** In 1981 I graduated from Purdue University, where I received a Bachelor of Science degree in Industrial Management with a minor in Engineering. I was recruited by the Union Pacific Railroad, where I served as Mechanical Supervisor, Maintenance Supervisor and Industrial Engineer in both local and corporate settings in St. Louis, Chicago, Little Rock and Beaumont, Texas. I then served as Industrial Engineer for a molded-rubber parts manufacturer in Shelbyville, Indiana before joining the Indiana Utility Regulatory Commission ("IURC") as Engineer, Supervisor and Analyst for more than ten years. It was during my tenure at the IURC that I earned my Master of Health Administration degree from Indiana University. After the IURC, I worked at Indiana-American Water Company, initially in their rates department, then managing their Shelbyville operations for eight years, and later served as Director of Regulatory Compliance and Contract Management for Veolia Water Indianapolis. I joined Citizens Energy Group as Rate & Regulatory Analyst following the October 2011 transfer of the Indianapolis water utility and joined the Office of Utility Consumer Counselor in April of 2016. In March 2020 I was promoted to my current position of Assistant Director of the Water and Wastewater Division.

**Q: Have you previously testified before the Indiana Utility Regulatory Commission?**

**A:** Yes, I have testified in telecommunications, water and wastewater utility cases before the Commission.



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Frank O'Bannon  
Governor

July 3, 2000

OUCC Attachment CNS-1 *E-File*  
Cause No. 45407  
100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015  
(317) 232-8603  
(800) 451-6027  
[www.state.in.us/idem](http://www.state.in.us/idem)

VIA CERTIFIED MAIL 7099 3220 0003 6963 3648

Mr. Matt Eve, President  
Lakeland Lagoon Sewer Corporation  
1504 Pirtle Dr.  
Georgetown, Indiana 47122

Dear Mr. Eve:

Re: Adoption of Amended Agreed Order and  
Issuance of Final Order  
Commissioner, Indiana Department of  
Environmental Management  
v.  
Lakeland Lagoon Sewer Corporation  
Cause No. B-1667

This letter is to inform you that the Commissioner of the Indiana Department of Environmental Management (the Department) has approved the Amended Agreed Order negotiated between you and members of my staff and has issued same as the Department's Final Order. A copy of the executed Final Amended Agreed Order is enclosed.

You are familiar with the terms of the Amended Agreed Order to assure future compliance. Within thirty days of receipt of this notice, the Lakeland Lagoon Sewer Corporation is to submit its sludge lagoon closure plan as per paragraph 7 of the Order. By May 1, 2001, the Corporation is to have reimbursed the remaining amount due of \$4000 to the Hazardous Substance Response Trust Fund. Thank you for your cooperation. If there are any questions, please contact Mr. Paul Cluxton of my staff at 317/232-8432.

Sincerely,

Mark W. Stanifer, Chief  
Water Enforcement Section  
Office of Enforcement

Enclosure



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www.state.in.us/idem

STATE OF INDIANA            )  
                                      ) SS:       BEFORE THE INDIANA DEPARTMENT OF  
COUNTY OF MARION        )       ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT        )  
OF ENVIRONMENTAL MANAGEMENT,        )  
  )  
  )       Complainant,  
  )  
  )       v.       CAUSE NO. B-1667  
  )  
LAKELAND LAGOON SEWER CORPORATION,)       Respondent.  
  )

**AMENDED AGREED ORDER**

The Complainant and the Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law. Come now the parties to this cause, by counsel, and hereby stipulate and agree as follows:

1. Respondent is the Lakeland Lagoon Sewer Corporation (hereinafter referred to as "Respondent"), which operates a sanitary sewage collection system at Lakeland Estates Subdivision located near Georgetown, Indiana, in Floyd County.
2. The Lakeland Lagoon Sewer Corporation Agreed Order, Cause No. B-1667, was approved and adopted by the Indiana Department of Environmental Management on May 20, 1999, and is attached hereto as Exhibit A.
3. Paragraph 2 of the Agreed Order required Respondent to reimburse the Hazardous Substance Response Trust Fund in the amount of Eight Thousand One Hundred Ninety-Eight Dollars and Ninety-Nine Cents (\$8,198.99) in eight equal monthly installments of \$973 each and a final installment of \$414.99 due February 1, 2000.

Lakeland Lagoon Sewer Corporation  
Amended Agreed Order Cause No. B-1667  
Page 2

4. On May 23, 2000, Respondent made a payment of \$4,198.99 in regard to Paragraph 2 of the Agreed Order in Cause No. B-1667 which required reimbursement of the Hazardous Substance Response Trust Fund.
5. The Parties agree that Respondent shall, by May 1, 2001, reimburse the Hazardous Substance Response Trust Fund the \$4000 remaining due of the total of Eight Thousand One Hundred Ninety-Eight Dollars and Ninety-Nine Cents (\$8,198.99). This amount shall be made payable by Respondent to the "Hazardous Substance Response Trust Fund" and reference on the check the Cause No. B-1667. The payment is to be sent to the following address:

Hazardous Substance Response Trust Fund/Cashier  
Indiana Department of Environmental Management  
100 N. Senate Avenue  
P.O. Box 7060  
Indianapolis, Indiana 46207-7060
6. In February 2000, the Indiana Utility Regulatory Commission approved sewer rates for Respondent. On March 2, 2000, the IDEM land application permit became effective for Respondent to use in disposing of its lagoon sludge.
7. The Parties agree that Respondent shall develop and implement an IDEM approved sludge lagoon closure plan in lieu of payment of the civil penalty that was assessed in paragraph 3 of the Agreed Order. The Closure Plan shall include the schedule for the land application disposal of the sludge and closure of the lagoon with the least environmental impact as possible by associated equipment for the project. Within thirty (30) days of the Effective Date of this Amended Agreed Order, Respondent shall submit its closure plan for approval to the IDEM at the following address:

Paul Cluxton, Case Manager  
Office of Enforcement  
100 N. Senate Avenue  
P.O. Box 6015  
Indianapolis, IN 46206
8. Within ten days of completion of implementation of the approved Closure Plan, Respondent shall provide documentation of completion of the project to IDEM at address in Paragraph 7 above.

Lakeland Lagoon Sewer Corporation  
Amended Agreed Order Cause No. B-1667  
Page 3

9. In the event the following terms and conditions are violated, the Complainant may assess and the Respondent shall pay a stipulated penalty in the following amounts:

Violation

Penalty

Failure to comply with Paragraph 7

\$500 per week the plan is late or per week that Respondent is late in implementing the approved plan

Failure to comply with Paragraph 8

\$100 per week documentation late

Said stipulated penalty shall be due and payable within thirty (30) days after Respondent receives notice from IDEM that a stipulated penalty is due. Assessment and payment of said stipulated penalty shall not preclude Complainant from seeking any injunctive relief against the Respondent for violation of the Amended Agreed Order.

10. Any assessed stipulated penalties are payable by check to the "Environmental Management Special Fund". Checks shall include the Cause No. B-1667 and shall be mailed to the address in Paragraph 5 above.
11. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Amended Agreed Order.

Lakeland Lagoon Sewer Corporation  
Amended Agreed Order Cause No. B-1667  
Page 4

**TECHNICAL RECOMMENDATION**

By: Mark W. Stanifer by PCC  
Mark W. Stanifer, Chief ymw  
Water Enforcement Section  
Office of Enforcement  
Department of Environmental  
Management

Date: \_\_\_\_\_

**RESPONDENT**

By: Matt Eve  
Name Matt Eve  
Title President

Date: 6-19-00

**COUNSEL FOR COMPLAINANT**

By: Nancy Holloran  
Nancy Holloran  
Office of Legal Counsel  
Department of Environmental  
Management

Date: 6/13/00

**COUNSEL FOR RESPONDENT**

By: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT THIS 29 DAY OF June, 2000.

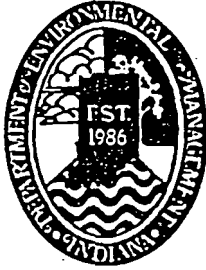
For the Commissioner:

Felicia A. Robinson  
Felicia A. Robinson  
Assistant Commissioner  
Office of Enforcement

*[Faint, illegible text at the bottom of the page, likely a stamp or additional notes.]*



EXHIBIT A



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Frank O'Bannon  
Governor  
Lori F. Kaplan  
~~XXXXXXXXXXXX~~  
Commissioner

100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015  
Telephone 317-232-8603  
Environmental Helpline 1-800-451-6027

May 21, 1999

VIA CERTIFIED MAIL: P 126 012 955

Mr. Rick Fox  
Fox & Cotner  
421 West Main Street  
New Albany, Indiana 47150

Dear Mr. Fox:

Re: Adoption of Agreed Order and  
Issuance of Final Order  
Commissioner, Indiana Department  
of Environmental Management  
vs.  
Lakeland Lagoon Sewer Corporation  
Cause No. B-1667

This letter is to inform you that the Commissioner of the Indiana Department of Environmental Management (the Department) has approved the Agreed Order negotiated between your client and members of my staff and has issued same as the Department's Final Order. A copy of the executed Final Agreed Order is enclosed.

Your client is no doubt familiar with the other terms of the Agreed Order necessary to ensure future compliance. If there are any questions, please contact Mr. Steven Judith, Senior Environmental Manager, of my staff at 317/232-8409.

Sincerely,

Mark W. Stanifer, Chief  
Water Enforcement Section  
Office of Enforcement

Enclosure

cc: Jim Filippini, Chief, Compliance Unit 2  
U.S. EPA, Region 5, Water Section (w/enclosure)  
Floyd County Health Department (w/enclosure)



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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John M. Hamilton  
Commissioner

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[www.iaind.gov/ide.htm](http://www.iaind.gov/ide.htm)

STATE OF INDIANA            )  
  )       SS:   BEFORE THE INDIANA DEPARTMENT  
COUNTY OF MARION        )       OF ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT    )  
OF ENVIRONMENTAL MANAGEMENT,        )

Complainant,

v.

CAUSE NO. B-1667

LAKELAND LAGOON SEWER  
CORPORATION

Respondent.

## AGREED ORDER

The Complainant and the 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.

### I. FINDINGS OF FACT

1. Complainant is the Commissioner (hereinafter referred to as "Complainant") of the Indiana Department of Environmental Management, a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is Lakeland Lagoon Sewer Corporation ("Respondent"), who operated a wastewater treatment plant (WWTP) under NPDES permit IN 0044041 (the "Permit") at Lakeland Estates Subdivision, located in Floyd County, Indiana.
3. The Indiana Department of Environmental Management ("IDEM") has jurisdiction over the parties and subject matter of this action.

LAKELAND LAGOON SEWER CORPORATION  
Agreed Order  
Cause No. B-1667  
Page 2

4. Pursuant to IC 13-7-11-2(b) (subsequently recodified as IC 13-30-3-3), IDEM issued a Notice of Violation on July 27, 1994, via Certified Mail to:

Mr. Matt Eve, President  
Lakeland Lagoon Sewer Corporation  
c/o Steven A. Gustafson  
421 West Main  
New Albany, Indiana 47150

5. The Notice of Violation issued on July 27, 1994, contained a typographical error regarding an inspection report. The inspection referenced as January 25, 1994, should be noted as January 25, 1993.
6. On January 25, 1993, April 28, 1994, and March 6, 1997, representatives from IDEM found that Respondent's WWTP, which serviced the Lakeland Estates Subdivision, had discharged sludge into a storm ditch and the receiving stream, in violation of IC 13-7-1-4 (subsequently recodified as IC 13-30-2-1), 327 IAC 2-1-6(a)(1) and the Permit.
7. On January 25, 1993, April 28, 1994, and March 6, 1997, representatives from IDEM observed a discharge from the broken effluent line from Respondent's WWTP, going into an adjacent storm ditch, in violation of 327 IAC 5-2-2.
8. On January 25, 1993, April 28, 1994, and March 6, 1997, representatives from IDEM inspected the WWTP and noted several operational problems including no aeration, broken influent and effluent lines, excessive sludge in the chlorine contact tank and clarifier, and unavailable Discharge Monitoring Reports (DMR) and Monthly Reports of Operation (MRO), in violation of 327 IAC 5-2-8 and the Permit.
9. On March 8, 1996, a follow-up inspection was conducted by IDEM staff. At this time it was observed that there continued to be a discharge of sludge from the WWTP into the lagoon as a result of severe sludge build-up in the WWTP, minimal operational or maintenance servicing of the WWTP, and severe erosion under the package plant created a threat of the WWTP sliding into the ravine below. Each of these conditions posed a serious threat of pollution to the waters of the state, and violated the Permit.
10. A phone conference was held on March 18, 1996, between IDEM representatives and Respondent. During this conference Respondent agreed that serious problems existed and agreed to correct the above noted deficiencies. Respondent stated that it was in the process of trying to negotiate terms for connecting onto the Georgetown collection

LAKELAND LAGOON SEWER CORPORATION  
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system, but understood that problems with the WWTP needed to be addressed immediately in order to resolve the current wastewater treatment deficiencies.

11. Respondent has not submitted or has been late in submitting DMRs and/or MROs to IDEM for the following periods in violation of 327 IAC 5-2-8 and the Permit:

NOT SUBMITTED		SUBMITTED LATE	
<i>MONTH</i>	<i>YEAR</i>	<i>MONTH</i>	<i>YEAR</i>
January	1994	May	1994
February	1994	June	1994
March	1994	July	1994
April	1994	August	1994
February	1995	September	1994
July	1995	October	1994
August	1995	November	1994
September	1995	January	1995
October	1995	March	1995
November	1995	April	1995
December	1995	May	1995
January	1996	June	1995
February	1996		
March	1996		

12. On May 5, 1998, the Lakeland Lagoon Sewer Corporation WWTP was connected by IDEM to the Town of Georgetown sanitary sewer collection system.

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## **II. ORDER**

1. This Agreed Order shall be effective ("Effective Date") when it is approved by the Complainant or his delegate, and has been received by the Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Under the authority of IC 13-25-4-10, Respondent shall reimburse the Hazardous Substance Response Trust Fund (HSRTF) in the amount of Eight Thousand One Hundred Ninety-Eight Dollars and Ninety-Nine Cents (\$8,198.99). This amount shall be made payable by Respondent to the "**HAZARDOUS SUBSTANCE RESPONSE TRUST FUND**". Said payment shall consist of eight (8) equal monthly installments in the amount of Nine Hundred Seventy-Three Dollars (\$973) and one (1) final installment in the amount of Four Hundred Fourteen Dollars and Ninety-Nine Cents (\$414.99). The first monthly instalment of \$973 shall be due and payable on or before June 1, 1999, and shall continue as consecutive installments due on the 1st day of each consecutive month until the HSRTF is reimbursed for the full amount allocated to this cause of action. Payments to the HSRTF shall be made to the address in paragraph 5.
3. Respondent is assessed a civil penalty of Twenty-Six Thousand Eight Hundred and One Dollars (\$26,801). This amount shall be made payable by Respondent to the "**ENVIRONMENTAL MANAGEMENT SPECIAL FUND**". Said payment shall consist of twenty-six (26) equal monthly installments in the amount of Nine Hundred Ninety-Three Dollars (\$993) and one (1) final installment in the amount of Nine Hundred Eighty-Three Dollars (\$983). The first monthly installment of \$993 shall be due and payable on or before March 1, 2000, and shall continue as consecutive installments due on the 1st day of each consecutive month until the entire civil penalty of \$26,801 is paid. Payments to the Environmental Management Special Fund shall be made to the address in paragraph 5.
4. In the event Respondent is late on any payment due as mentioned in the above paragraph II.2. or II.3., the full amount of the aforementioned paragraphs shall become immediately due and payable to Complainant.

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5. All payments in paragraphs 2 & 3, shall be made to the following address. **Checks shall include the Cause Number of this action** and shall be mailed to:

Cashier  
Indiana Department of Environmental Management  
100 N. Senate Avenue  
P. O. Box 7060  
Indianapolis, IN 46207-7060

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

Steven M. Judith  
Senior Environmental Manager  
Office of Enforcement  
Indiana Department of Environmental Management  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015

11. In the event that any civil penalty payment required by this Order is not paid within the periods set forth from the Effective Date, Respondent shall pay interest on the unpaid payment at the rate established by IC 24-4.6-1-101. The interest shall continue to accrue on the payment until the civil penalty is paid in full.
12. This Agreed Order shall apply to and be binding upon the. The signatories to this Agreed Order certify that they are fully authorized to execute and legally bind the parties they represent. No change in ownership, corporate, or partnership status of the Respondent shall in any way alter its status or responsibilities under this Agreed Order.
13. 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 the Agreed Order did not contain the invalid terms.
14. The Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred.
15. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order and complainant issues a close-out letter.

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**TECHNICAL RECOMMENDATION:**  
Department of Environmental Management

By: Mark W. Stanifer  
Mark Stanifer  
Section Chief  
Office of Enforcement

Date: 4-8-99

**LAKELAND LAGOON D SEWER  
CORPORATION**

By: Matt A. Eve  
Printed: MATT EVE

Title: Authorized By Corporate Resolution

Date: 5-6-99

**COUNSEL FOR COMPLAINANT:**  
Department of Environmental Management

By: Nancy A. McCowan  
Office of Legal Counsel  
Department of Environmental  
Management

Date: 4/9/99

**COUNSEL FOR RESPONDENT:**

By: [Signature]

Date: 5/6/99

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT THIS 20 DAY OF May, 1999.

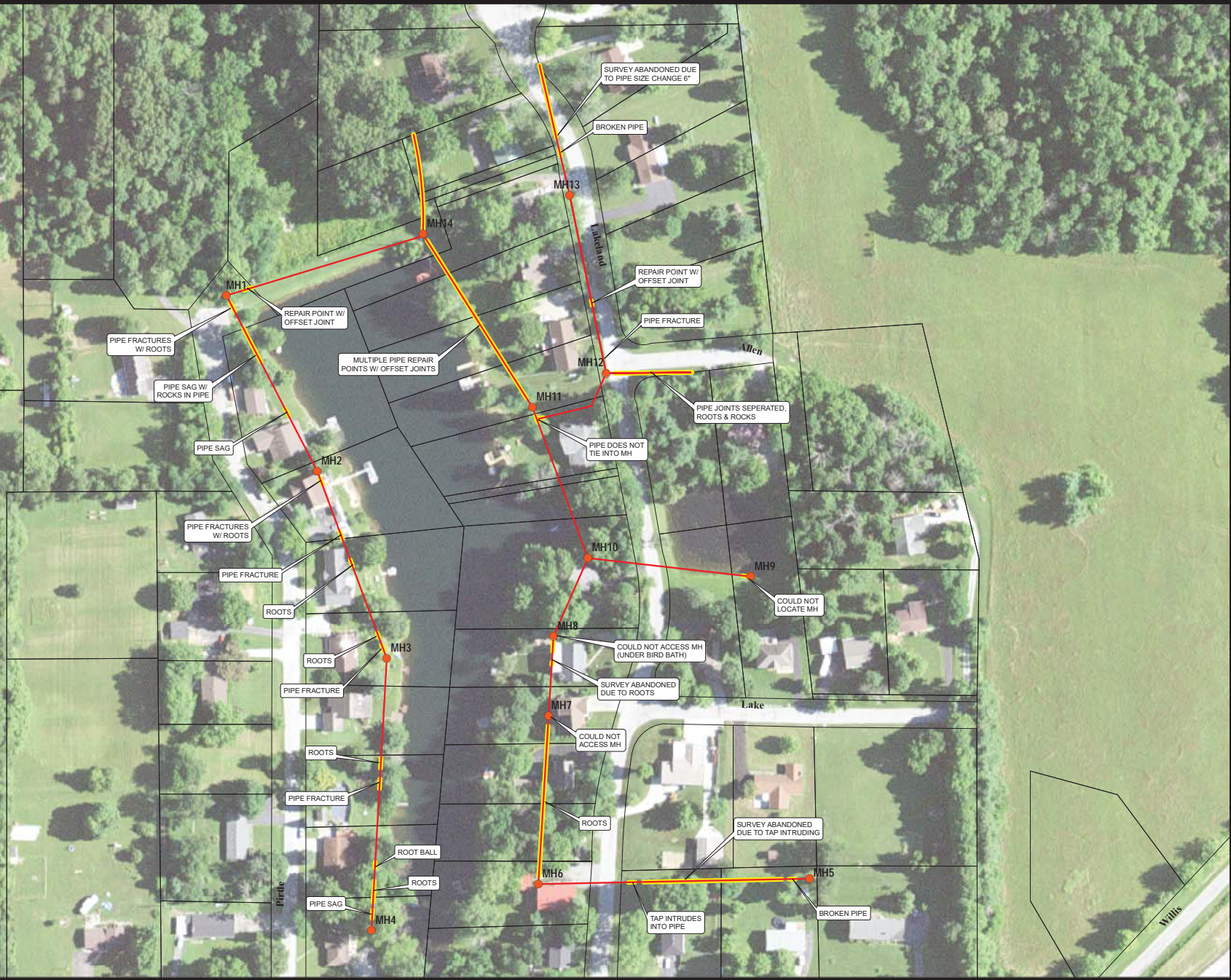
**FOR THE COMMISSIONER:**

[Signature]  
Felicia Robinson George  
Assistant Commissioner of Enforcement



Ex. RLW-3

X:\AA-Projects\06015-Georgetown Lakeland Lagoon Sewer Exhibit\Lakeland Sewer Exhibit 8-22-19.mxd



# Lakeland Sewer Exhibit

GEORGETOWN IN. 47122



**STATE OF INDIANA**  
**INDIANA UTILITY REGULATORY COMMISSION**

<b>PETITION OF LAKELAND LAGOON</b>	)	
<b>SEWER CORPORATION AND THE TOWN OF</b>	)	
<b>GEORGETOWN FOR THE SALE AND</b>	)	<b>CAUSE NO. 45407</b>
<b>TRANSFER OF SEWER ASSETS TO THE</b>	)	
<b>TOWN OF GEORGETOWN</b>	)	
	)	

**JOINT PETITIONERS' RESPONSES TO OFFICE OF UTILITY CONSUMER  
COUNSELOR'S FIRST SET OF DATA REQUEST**

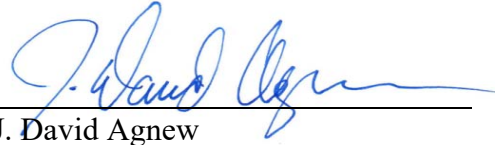
Lakeland Lagoon Sewer Corporation ("Lakeland Lagoon") and the Town of Georgetown ("Georgetown") (jointly, "Joint Petitioners") submit the following Objections and Responses to the First Set of Data Requests ("the Requests") of the Office of Utility Consumer Counselor.

**NOTES AND OBJECTION TO INSTRUCTIONS**

1. Joint Petitioners' responses reflect the information obtained up to this date by Joint Petitioners' staff and consultants pursuant to a reasonable and diligent search of the documents and records available to these representatives. Joint Petitioners have made a diligent effort to locate and identify all documents responsive to the Requests directed to them within the applicable discovery rules. To the extent that The Requests purport to require more than this reasonable and diligent search and investigation, Joint Petitioners object on the grounds that such a search would represent an undue burden and/or unreasonable expense.

2. Joint Petitioners object to the Instructions to the Requests to the extent they request or direct supplementation beyond what is required by Ind. Tr. R. 26(E).

Respectfully submitted,



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J. David Agnew  
LORCH NAVILLE WARD, LLC  
506 State Street  
P.O. Box 1343  
New Albany, IN 47151-1343  
(812) 949-1000 [Voice]  
(812) 949-3773 [Fax]  
[dagnew@lnwlegal.com](mailto:dagnew@lnwlegal.com)

## II. Data Requests.

**Q-1-1:** Please explain how customers' monthly rates and charges under Lakeland Lagoon's ownership will compare to the monthly rates and charges for those customers served by Georgetown. For each utility, please identify all rates and charges that make up a typical monthly bill (e.g. base charge, minimum usage charge, volumetric charge, flat rate).

**Response:**

The Future Lakeland Rates are based on the Town's current Ordinance No. G-18-11. The rates charged to the Lakeland customers will be those identified as Outside Town. In addition the Town will be financing all improvements needed to Lakeland's collection system and will impose a monthly surcharge up to (but not to exceed) \$16.50 that will expire after 40 years.

This chart shows a comparison of the current rates and the future rates:

Future Lakeland Rates	
Base Rate:	\$24.39
Flow Charge (per 1,000 gallons):	\$10.59
Surcharge (expires after 40 years):	\$16.50
Total:	\$51.48

Current Lakeland Rates	
Base Rate:	\$18.00
Flow Charge (per 1,000 gallons):	\$8.56
Surcharge (Georgetown):	\$12.34
Total:	\$38.90
<b>Difference:</b>	<b>Increase of \$12.58</b>

**Q-1-2:** Please provide Lakeland Lagoon's current schedule of rates and charges.

**Response:**

See Response 1-1.

**Q-1-3:** Please compare all rates and charges that will be imposed by Georgetown on a customer purchasing 5,000 gallons of water compared to the rates and charges imposed by Lakeland Lagoon.

**Response:**

Georgetown Rates to be charged to Lakeland (for 5,000 gallons)

Base Rate:	\$24.39
Flow Charge:	\$52.95
Surcharge:	<u>\$16.50</u>
Total:	\$93.84

Current Lakeland Rates (for 5,000 gallons)

Base Rate:	\$18.00
Flow Charge:	\$42.80
Surcharge:	<u>\$12.34</u>
Total:	\$73.14

**Q-1-4:** Paragraph 5 of the Asset Purchase Agreement states that “customers of seller shall pay Out of Town rates to Georgetown.” Exhibit RLW-5 states that “Lakeland customers proposed monthly charges shall be those for In-Town customers.” Will former Lakeland Lagoon customers be charged In-Town or Out-of-Town rates?

**Response:**

Lakeland Lagoon customers will be charged Out-of-Town rates.

**Q-1-5:** Will the proposed surcharge of \$16.50 per month be subject to any future increases by Georgetown?

**Response:**

No.

**Q-1-6:** What is the estimated termination date, if any, of the proposed surcharge of \$16.50? Please explain.

**Response:**

The \$16.50 will expire at the end of 40 years. The 40 years is the time it is estimated to take to reimburse the Town for the expenditure of funding necessary to rehabilitate the existing Lakeland collection system.

**Q-1-7:** What notification of the proposed acquisition and rates been provided to all current Lakeland Lagoon customers? Please provide this notification and proof of publication if available.

**Response:**

Lakeland's membership has been kept informed about the planned acquisition and the progress of the negotiations with the Town at member meetings. For final, official approval of the acquisition, Lakeland President Josh Stinson went door-to-door to obtain the votes and signatures of all Lakeland members. An overwhelming majority of the membership approved the transfer, as show on the attached document.

**Q-1-8:** Paragraph 5 of the Asset Purchase Agreement states in part that the "Georgetown Town Council hereby agrees to fund the construction costs up to \$315,000.00, with repayment by the Seller's customers over a period of 40 years." Exhibit RLW-5 further states that construction costs will be capped at \$315,000. Exhibit RLW-4 shows a total budget for Lakeland Lagoon improvements to be \$335,734. How will the "excess" over the capped amount of \$20,734 (335,734-315,000) in improvements be funded?

**Response:**

The Town of Georgetown has agreed to cover all costs in excess of \$315,000.

**Q-1-9:** Exhibit RLW-5 shows Pipe Lining at \$60.00 per foot. In MH-11a to MH-13a this exhibit shows "New 8" pipe" at \$65.00 per foot.

- a. What is the expected life of pipe lining?
- b. What is the expected life of new 8" pipe?

**Response:**

The estimate for the pipe lining is \$60.00 per foot. The expected life of the pipe lining is 50 years. The expected life of the pipe that has been lined is 50 years. Any new pipe installed will also have an expected life of 50 years.

**Q-1-10:** Please provide any detailed estimates, quotes, invoices or other support available for the Budget Estimate items shown in RLW-5, for example pipe lining, manhole (“MH”) adjust, point repair, reconnect laterals, etc.

**Response:**

See attached, updated cost estimate.