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June 17, 2021

Evan Fall, Permit Manager
Indiana Department of Environmental Management
Office of Water Quality/Permits Branch
100 North Senate Ave, IGCN Rm 1255
Indianapolis, IN 46204
Via U.S. Mail and Email to: efall@idem.in.gov

RE: Antidegradation Determination for the Ben Davis Conservancy District
Your Notice No. 20210518

Dear Mr. Fall:

I am the attorney for the Ben Davis Conservancy District (“the District”). Prior to my father’s death, he represented the District for as at least thirty years, if not longer. As such, I have been familiar with the Ben Davis Conservancy District in some capacity for as long as I can recall.

Up until the last few years, the operations of the District ran without the need for substantial change. There were, of course, the occasional detractors who opined that the District should be disbanded for the sake of “efficiency” or “consolidation,” but when it was demonstrated that the District operated about as efficiently as possible, these detractors generally became silent and chose another “controversial issue” upon which to hitch their political aspirations.

The current and future increases in the rates for sewage processing by Citizen’s Energy Group (“CEG”) require that the District now make substantial change to protect the interest of the residents and businesses within the District. Simply put, the vast majority of our residents found the implementation of the monthly user fee (which is currently \$28 per month per EDU plus the ad valorem tax of 0.1471%¹) to cause financial strain. The District’s financial analyst projects that a single household will be paying over \$70 per month by 2027 if the District continues to use CEG for the disposal of the sewage collected by the District. This does not even take into

¹ As such, this year, a house with an assessed value of \$50,000 would pay \$73.55 annually in ad valorem property taxes to the District, or \$6.13 per month

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consideration the impact on the businesses within the District. When the EDU user fee was implemented, some customers had to go on payment plans. The increases contemplated with CEG will likely drive certain necessary services such as laundromats out of business. This is extremely unfortunate as a washer and dryer in the home is a luxury that many of the District's residents cannot afford. Many of our residents are on a fixed income. An substantial increase in their sewer bill is not a mere "inconvenience" for many of these residents, but is the difference between being able to put gas in the car or not, being able to pay the light bill and the sewer bill, or being able to afford their medications.

CEG must raise rates to pay for the implementation of DigIndy Project. This need comes from decades of infrastructure neglect by the City of Indianapolis (who later sold the sewer system to CEG) and from the obvious perils of a 100 plus year old sewer system. To the contrary, the District system is newer and has consistently maintained its infrastructure while at the same time operating efficiently. The District was formed on March 10, 1950 and the sewer system was (to the best of my knowledge) completed in the early 1960's. So why then is it fair to force residents who already struggle financially (but who have maintained their system) to pay CEG an increased charge for improvements from which they do not receive a direct benefit? This is what will happen if the District is not granted the ability to build a treatment plant at a reasonable cost. In prior years, treatment costs paid to the City of Indianapolis and then CEG accounted for approximately 20% of the annual District Budget. This year alone, these costs account for 58% of the District Budget and are anticipated to account for 73% of the District Budget if the District is forced to continue to use CEG for treatment of sewage.

While it would be wonderful if the effluent discharged into Neeld Ditch would have no contaminants, we know this is not possible. However, the treatment plant as proposed by the District's engineering firm, Triad & Associates, is affordable to the District and its residents and will not cause any material adverse environmental impact as it would discharge into Neeld Ditch, which is a dry ditch. Any adverse environmental impact is outweighed by the dire economic impact that a \$70 plus monthly sewer bill would have on the residents in the District, not to mention the impact on businesses.

The District Board of Directors ("Directors") has thought long and hard about the construction of a treatment facility and explored all options presented to them. The Board could have sat and allowed rates to increase with CEG. Instead, they have continually invested their time and energy into exploring all options and attempting to keep rates affordable for the people they

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serve. After reviewing the options, financial projections, and speaking to the residents and business owners within the District, the Board truly believes this project is necessary to protect those they serve within the District and I agree with them.

I am requesting that you approve the Ben Davis Plan as proposed.

If you have any questions regarding this matter, please do not hesitate to contact me. I can be reached at 317-844-1377 or via email at Jen.Hess@HHDLegal.com

Very truly yours,

JENNIFER M. HESS

JMH/jmh

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