

Dec 12, 2023

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Governor Eric Holcomb, Office of the Governor, Statehouse
Indianapolis, Indiana 46204-2797

CC: CC: Eric Koch, State Senator - District 44, Dave Hall Representative District 62, U.S.
Senator Todd Young, US Senator Mike Braun, Congresswoman Erin Houchin

Dear Governor Holcomb,

I have concerns with Indiana's statutes and policies regarding the management of Internal Controls. State and federal statutes provide guidance regarding the development, application, and review of controls. The purpose of internal controls is to help prevent waste, fraud, abuse, and mismanagement of taxpayer provided funds.

It is not evident that the State's internal control program as it applies to funding of a wastewater treatment project in Brown County Indiana, is at the level that provides citizens with assurance regarding the effective and efficient use of tax dollars.

Further, an inadequate internal control program at the state level may or should limit consideration of any funding provided by federal agencies. I have filed a formal inquiry with the USDA's Office of Inspector General questioning their internal control process for approving local wastewater related projects that have received state approval for funding.

Unlike the federal government, the State's Office of Inspector General (OIG) does not claim authority for managing inquiries or complaints against state agencies. The OIG directed my inquiry to the agency whose policies on internal controls I was questioning (Encl 1). The State Board of Accounts also stated they have no authority regarding this inquiry (Encl 2).

The Indiana Finance Authority (IFA) approved funding for projects submitted by the Brown County Regional Sewer District (BCRSD). The IFA could provide no documented evidence that their internal controls were adequate in determining the justification of need provided by the BCRSD (Encl 3). A thorough review and approval process in this case should include the input provided by other state agencies including the Indiana Department of Environmental Management (IDEM), Department of Local Government Finance (DLGF) and the Indiana Department of Health (IDOH). The relevance of IDEM and DOH include the following:

- IDEM has an administrative role pertaining to Regional Sewer Districts (RSD). Their mandate also includes water quality standards and sampling methodologies. The Department of Local Government Finance (DLGF) is also responsible for reviewing

compliance with financial related standards that apply to an RSD. Their review of administrative requirements regarding meeting administration and minutes would help identify and resolve issues with mismanagement and lack of transparency. For instance, although the BCRSD usually holds two meetings a month, as of Dec 9, 2023, the last meeting minutes were from July 11, 2023.

- DOH manages state policy that includes adequacy of soils, septic system permitting, and approval of septic system technologies.

The justification of need for state funding was identified in the BCRSD Brown County Wastewater Strategic Plan (WWSP) and Watershed Study that was referenced in their request for funding via their Preliminary Engineering Report (PER).¹ This WWSP was developed with *state funding* via a grant provided by the Regional Opportunity Initiative (ROI).

The BCRSD plan and study states that despite current state policy:

1. Brown County soil is *not* suitable for septic systems and residents in targeted areas will be required to abandon their functional septic systems and hook-up to a planned sewer system. For a resident with a functional system, the state only allows for a temporary waiver.
2. The useful life of septic systems was derived from speculation regarding the quality of record keeping and speculation as to the possible age of systems. No documentation that validated this theory has been provided.
3. Regarding water quality sampling, the BCRSD watershed study concluded that a few samples indicate a problem with human caused E. coli. Do these results validate the scope and extent of the perceived problem and proposed solution and its costs?

The BCRSD conducted the required public hearing on July 8, 2023. Responses to citizens questions were *not made publicly available* by the BCRSD until Oct 5, 2023.² There is no documented evidence that the relevant questions regarding the justification of need provided by citizens including myself and Lynda Sandow (Ph. D) were addressed by the IFA project review and approval process, See Encl 4, page 30-49.

At the hearing, citizens were given *two minutes* to comment or ask a question with the scope limited to the Preliminary Engineer Report (PER).³ The justification of need was provided in the BCRSD wastewater strategic plan and watershed study that has not been independently and objectively reviewed.

As stated previously, the Indiana Office of Inspector General (OIG) and the State Board of Accounts (SBOA) acknowledged that an independent review of IFA internal control regarding

¹ Brown County Wastewater Strategic Plan and Watershed Study.

<https://browncountyregionalsewerdistrict.wordpress.com/strategic-plan/>. Internet accessed Dec 10, 2023.

² BCRSD Responses to Questions and Comments Submitted to Funding Agencies (SRF).

<https://browncountyregionalsewerdistrict.wordpress.com/per/> Internet accessed Dec 10, 2023.

³ BCRSD – Preliminary Engineering Report (PER). March 31, 2023 – Initial Submission.

<https://browncountyregionalsewerdistrict.wordpress.com/per/> Internet accessed Dec 10, 2023.

their approval of the BCRSD project were outside of the scope of their responsibilities and both referred me to the IFA (Encl 1).

A few of the many questions that could be clarified through a more complete and transparent assessment of internal controls guiding the review and approval process. For instance, does IFAs approval of the BCRSD project also establish *new state precedents* in the following areas:

- Determining the *adequacy of soils* for septic systems in a county?
- Validating the methodology for determining the *useful life* of a septic system?
- Validating the conclusions from *water sampling results* provided in the BCRSD watershed study?
- Determining the *policy* regarding the use of septic systems in the state?

The State and IFA's actions can also have adverse economic and financial impacts on citizens. Current state guidance for approving septic systems and permits supports investments in septic systems that can range from \$20-30K and up. Manufacturers of these systems claim that their systems can have an indefinite life if properly maintained.

Residents in the area to be served by the BCRSD are being told they have to hook-up to a sewer. Although a temporary waiver is possible, hook-up costs later vs now may be significantly higher adding an additional financial burden onto residents.

Given the BCRSD standards (*a new state precedent?*), should any prospective buyer of a home with a system that may be older than 20-25 years consider it as failing? Should the seller and realtors disclose this policy, even though the system may be functional? Given the state involvement, will money be available by the State for residents who have to comply with the new standards developed by the BCRSD and approved by the State? Or are locally developed standards only applicable to the county?

What if the septic system is inspected and determined to be functional despite the age of the system? Are these tests/inspections no longer credible? What is the legal risk to the state and county by residents that challenge the new policies and methods without involvement of the legislature?

Given the BCRSD policy that soil in Brown County is not suitable for septic systems, does this imply that anyone with a septic system in Brown County is polluting the environment and the State is complicit in this pollution? Should state tourism and marketing efforts make people aware of the any risks of visiting, relocating, or investing?

Note that *locally developed* septic system standards included in ordinances **were voided** by the state in 2023 and now require an independent review and approval process. Why isn't this

process being applied to locally developed standards that are being used to justify the replacement of functional septic systems for a sewer system?⁴

Brown County cannot escape criticism for remaining ignorant of the value of internal controls. In the case of the county wastewater strategic plan and watershed study, the BCRSD Board refused to hold any public meetings to obtain citizens during its development. They also refused to hold public meetings to present the plan and to address questions. This refusal by the BCRSD was supported by the Presidents of the County Commissioners and County Council. The scope of the BCRSD strategic plan exceeds what has been approved in the County Comprehensive Plan.⁵ The development of this plan did require public meetings and a vote by commissioners.

In summary, I request that your office direct an independent and objective assessment of IFA's internal control program with respect to their review and approval of the BCRSD wastewater projects. I also request that this review clarify the role of the state vs the county in the clarification of state standards. This would include the adequacy of soils, soil testing, septic system permitting, RSD oversight, and clarification on methodologies regarding water sampling that justifies the level of funding that is provided.

If you have any questions or if I can provide additional information or clarification, please let me know.

Respectively,



Tim J. Clark

Enclosures:

1. Email: Indiana Office of Inspector General (OIG)
2. Email: Indiana State Board of Accounts (SBOA)
3. Email: Indiana Finance Authority (IFA), State Revolving Fund (SRF)
4. Extract pg. 30-49. BCRSD: Responses to Questions and Comments Submitted to Funding Agencies (SRF), Comments and questions provided by Lynda Sandow and Tim Clark. <https://browncountyregionalsewerdistrict.wordpress.com/per/>. Internet accessed Dec 10, 2023.

⁴ Indiana Dept of Health, 2023 Legislative Update – County Septic Ordinances Voided on July 1, 2023. <https://independentvotersofbrowncountyin.com/2023/06/20/indiana-dept-of-health-2023-legislative-update-septic-ordinance/>

⁵ Brown County Comprehensive Plan. 2011, 14 pages. <https://www.browncounty-in.gov/DocumentCenter/View/141/Brown-County-Comprehensive-Plan-PDF> Internet accessed Dec 10, 2023.