

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

SCOTT COUNTY REGIONAL SEWER
DISTRICT

Plaintiff,

vs.

CITY OF SCOTTSBURG, INDIANA, and
CITY OF AUSTIN, INDIANA

Defendants.

Civil Action No. 4:21-cv-148

**Complaint for Declaratory Judgment, Injunctive Relief, Breach of Contract, and
Attorneys' Fees**

Plaintiff, Scott County Regional Sewer District (“District”), by counsel, respectfully files its Complaint for Declaratory Judgment, Injunctive Relief, Breach of Contract, and Attorneys’ Fees (“Complaint”), against Defendants, City of Scottsburg, Indiana (“Scottsburg”), and City of Austin, Indiana (“Austin”), and states as follows:

PARTIES, JURISDICTION, AND VENUE

1. The District is a regional sewer district that was created in 1973 under Indiana law.
2. When the District was created, its service area was defined as all of Scott County, Indiana, except the incorporated areas of Scottsburg and Austin. *See*, Ind. Code §§ 13-26-2-3(4), 8(c) (current statutory cites for creation of sewer district and its service area).
3. Scottsburg and Austin are municipalities located in Scott County, Indiana.
4. Venue is proper in the Southern District of Indiana, 28 U.S.C. § 1391(b), and in the New Albany Division.

5. The United States government has lent the District funds under 7 U.S.C. § 1926(a)(1).

6. As will be detailed, Scottsburg and Austin have violated the District's rights under 7 U.S.C. § 1926(b).

7. This Court has federal question jurisdiction under 28 U.S.C. § 1331.

8. The Complaint also alleges that Scottsburg and Austin have breached contracts.

9. This Court has supplemental jurisdiction over these claims. 28 U.S.C. § 1367.

FACTUAL BACKGROUND

Scottsburg wastewater agreement and amendment

10. In 1988, Scottsburg and the District entered into a wastewater service agreement ("Scottsburg Agreement") that provides that Scottsburg will treat .0378 million gallons of sewage per day on average for the District, but Scottsburg reserved up to .075 million gallons per day of capacity for the District. A true and accurate copy of the Scottsburg Agreement is attached as Exhibit 1.

11. The United States Department of Agriculture lent the District money under 7 U.S.C. § 1926(a) to construct sewage works ("Federal Debt").

12. In 1995, Scottsburg and the District amended the Scottsburg Agreement ("Scottsburg Amendment") because the District had obtained the Federal Debt. A true and accurate copy of the Scottsburg Amendment is attached as Exhibit 2.

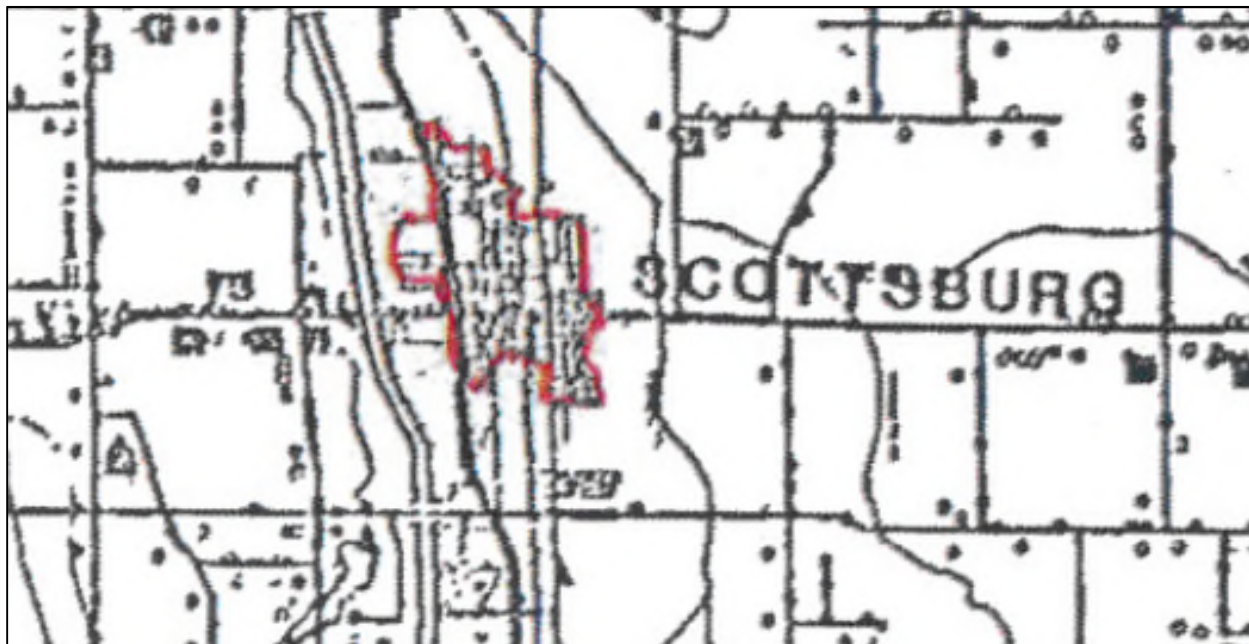
13. The Scottsburg Amendment provided the following regarding Scottsburg and the District's service areas:

Service Areas. The parties agree that the planning and service areas for each party are reflected upon the map attached hereto as Exhibit "E" and may be changed by agreement of the parties. Unless a planning and service area is changed by agreement of the parties, neither party shall infringe on the other party's planning and service area. Scott County agrees not to object to Scottsburg's attempts to annex territory adjacent to said sewer line which is agreed to be constructed herein.

If Scottsburg annexes territory served by Scott County's sewer line, Scottsburg and Scott County may agree upon Scottsburg purchasing the sewer line in the territory annexed at a price and on terms to be then negotiated by the parties. Purchase by Scottsburg, however, is not mandatory and shall occur only upon mutual agreement of the parties. Scott County shall have the option of continuing to operate and maintain the sewer line within the annexed territory.

(Scottsburg Amendment p.2.)

14. Exhibit E to the Scottsburg Agreement limited Scottsburg's service area to its municipal boundaries:



(Exhibit E-1.)

15. At the time of the Scottsburg Amendment, Scottsburg's municipal boundaries were east of Interstate 65, and Scottsburg did not extend west of Interstate 65.

16. The Scottsburg Amendment also extended the term of the Scottsburg Agreement to forty years because that is the term of the District's Federal Debt, meaning the Scottsburg Agreement is in effect until 2028. (Scottsburg Amendment p.1.)

Austin wastewater agreement

17. In 1996, Austin and the District entered into a wastewater service agreement ("Austin Agreement") that provides that Austin will treat .075 million gallons of sewage per day on average from the District. A true and accurate copy of the Austin Agreement is attached as Exhibit 3.

18. The Austin Agreement provides the following regarding service areas:

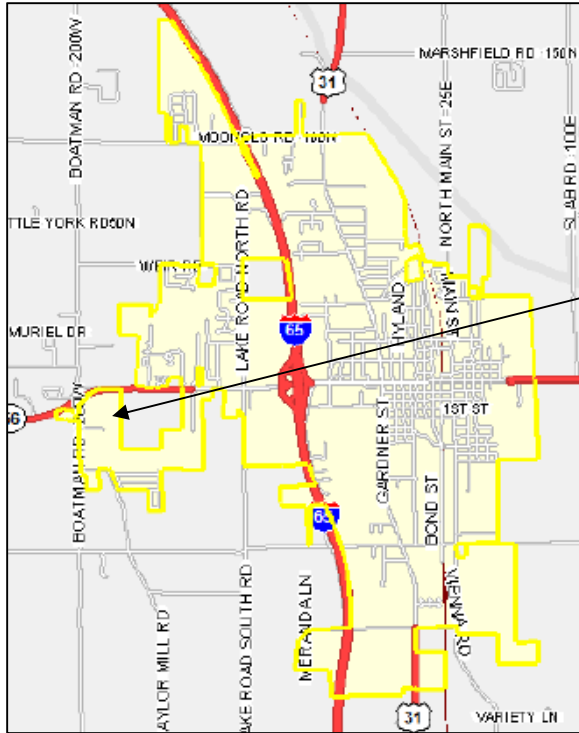
SERVICE AREAS. The parties agree that the planning and service areas for each party are reflected upon the map attached hereto as Exhibit "C" and may be changed by agreement of the parties. Unless a planning and service area is changed by agreement of the parties, neither party shall infringe on the other party's planning and service area.

(Austin Agreement p.13.)

19. Exhibit C to the Austin Agreement reflects that Austin's service area is limited to its corporate boundaries.

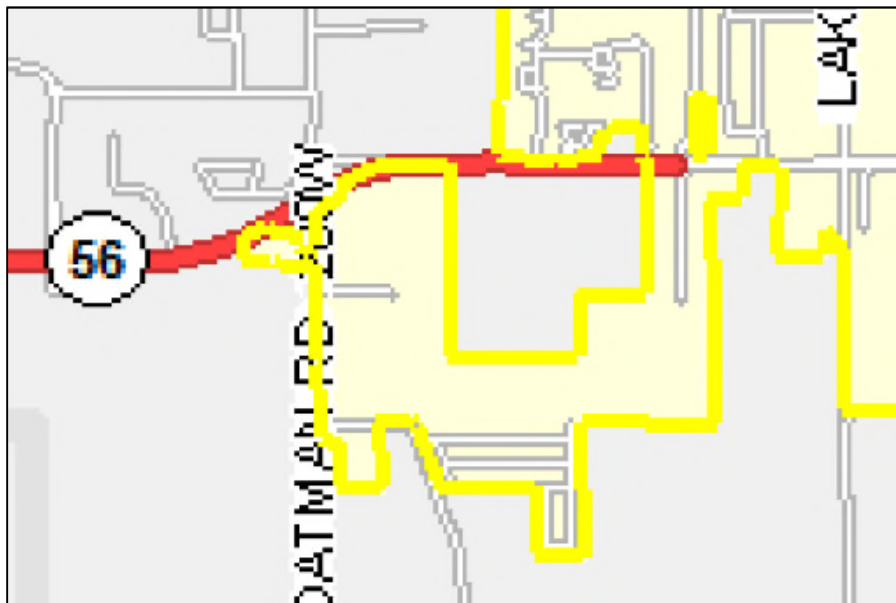
Scottsburg annexes west of Interstate 65

19. Since Scottsburg and the District entered the Scottsburg Agreement, Scottsburg has annexed territory west of Interstate 65:



Scottsburg has annexed areas west of Interstate 65.

20. The areas Scottsburg has annexed are immediately adjacent to the District's sewer main along State Road 56, and the annexed area is in the District's service area:



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