

Members

Rep. Scott Pelath, Chairperson
Rep. Dennie Oxley
Rep. Phil Hinkle
Rep. Michael Murphy
Sen. Joseph Zakas
Sen. Michael Young
Sen. Lindel Hume
Sen. Richard Young



ADMINISTRATIVE RULES OVERSIGHT COMMITTEE

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Allen Morford, Attorney for the Committee
Chuck Mayfield, Fiscal Analyst for the Committee

Authority: IC 2-5-18

MEETING MINUTES¹

Meeting Date: August 22, 2007
Meeting Time: 9:30 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Scott Pelath, Chairperson; Rep. Dennie Oxley; Rep. Phil Hinkle; Rep. Michael Murphy; Sen. Joseph Zakas; Sen. Michael Young; Sen. Lindel Hume; Sen. Richard Young.

Members Absent: None.

I. Call to Order.

Rep. Scott Pelath, Chairperson, called the meeting to order at 9:30 A.M. Rep. Pelath then summarized the agenda for the meeting and members of the committee introduced themselves.

II. BP's NPDES Permit.

Rep. Pelath recognized Thomas Easterly, Commissioner of the Indiana Department of Environmental Management (IDEM), to testify before the committee. Commissioner

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Easterly gave a PowerPoint presentation entitled "IDEM Approval of BP's NPDES Permit". (See Exhibit A). He discussed IDEM's role in protecting the environment. Commissioner Easterly then discussed BP's need for a National Pollutant Discharge Elimination System (NPDES) permit and the permit requirements. He also discussed IDEM's public outreach during the NPDES permit process. Commissioner Easterly described BP's wastewater treatment process. He then discussed the amount of mercury, ammonia, and total suspended solids (TSS) that BP is allowed to discharge.

The committee then discussed the following issues with Commissioner Easterly:

- The health risk to salmon from the release of ammonia into Lake Michigan.
- The composition of TSS.
- The use of the Environmental Protection Agency's (EPA) guidelines when reviewing a NPDES permit application.
- Indiana's water based standards in conjunction with the EPA's technical based standards for determining the amount of effluents that may be released.
- A comparison of similar NPDES permits of industries located in Indiana or other states bordering Lake Michigan.
- The accumulative effect to Lake Michigan from the release of ammonia, TSS, and mercury by various industries with permits.
- Indiana's standards for a NPDES permit in comparison with standards of surrounding states.
- The number of refineries in Indiana.
- Indiana's requirement for a mixing zone.
- The public meeting held in Whiting on April 26, 2007.
- IDEM's outreach for community input during the development of the NPDES permit.
- The length of time needed for ammonia released into Lake Michigan to break down.
- The effect on water quality standards in Lake Michigan from non-point discharges.

Rep. Pelath next recognized Dan Sajkowski, the Refinery Manager of the BP Whiting Refinery. Mr. Sajkowski submitted his testimony in writing (See Exhibit B). He discussed the economic benefit to Indiana as a result of the modernization project. Mr. Sajkowski also discussed BP's compliance with the permit process. He then described how BP determined that other technologies used to avoid increased discharges were not feasible.

The committee's discussion with Mr. Sajkowski focused on the following areas:

- BP's ability to invest additional resources to avoid increased discharges.
- The U. S. House of Representatives' Concurrent Resolution 187.
- Indiana's requirement for a mixing zone.
- The discharge of mercury into Lake Michigan.
- The amount of fuel produced by the Whiting refinery.
- The amount of ammonia discharged into Lake Michigan in other states.
- BP's community outreach.

Rep. Pelath recessed the meeting at noon and stated that testimony would resume at 12:30 p.m.

After reconvening the meeting at approximately 12:40 p.m, Rep. Pelath introduced Tom

Anderson, Executive Director of the Save the Dunes Council. Mr. Anderson submitted his testimony in writing (See Exhibit C). Mr. Anderson began his testimony by describing the mission of the Save the Dunes Council. Mr Anderson then discussed the environmental impact resulting from BP's discharge into Lake Michigan. He also discussed alternatives to the current permit. The committee then discussed the following issues with Mr. Anderson:

- Save the Dunes Council's level of involvement in the permit process.
- The amount of public scrutiny during the permit process.
- The space required by BP to provide alternative treatment to the wastewater.
- The discharge of mercury into Lake Michigan.
- The impact of federal and Indiana law on the quality of Lake Michigan.
- The effect on water quality standards in Lake Michigan from non-point discharges.
- Public understanding of the permit process.
- The accumulative effect to Lake Michigan from the release of ammonia, TSS, and mercury by various industries with permits.

The committee then discussed the following issues with Commissioner Easterly:

- The streamlined mercury variance procedure.
- IDEM's response to the public during the public comment period of the permit process.

Rep. Pelath introduced Jeanette Neagu of the League of Women Voters of Indiana. Ms. Neagu submitted her testimony in writing. (See Exhibit D). Ms. Neagu gave a PowerPoint presentation entitled "Problems with IDEM Permit for BP to Increase Discharges into Lake Michigan". (See Exhibit E). She discussed the League of Women Voters role in protecting natural resources. Ms. Neagu also discussed the accumulated effects from the discharge of pollutants into Lake Michigan from all the permit holders.

The committee discussed the following issues with Ms. Neagu:

- The accumulated discharge of pollutants into Lake Michigan.
- The amount of chemical discharge required for ammonia to be considered toxic to Lake Michigan.

Rep. Pelath then recognized Kevin Brinegar representing the Indiana State Chamber of Commerce. Mr. Brinegar discussed BP's investment in Indiana and its compliance with existing Indiana law during the permit process.

Rep. Pelath recognized Pete Rimsans, Associate Director of the Indiana Building Trades Council. He discussed BP's investment in Indiana. He also discussed BP's compliance with existing Indiana law during the permit process.

Rep. Pelath then recognized Glenn Pratt, Vice Chair of the Indiana Sierra Club. Mr. Pratt discussed the lack of progress in Indiana's environmental laws regarding combined sewer overflow. Mr. Pratt discussed the lack of input by the public in the permit process. He then discussed BP's environmental record in the past.

Rep. Pelath then recognized Nicholas Noe of the Hoosier Environmental Council. Mr. Noe discussed IDEM's need of a new database to assist with the NPDES permit process. He also discussed the possibility of mitigation.

The committee then discussed with Dan Sajkowski the feasibility of reusing the water in the refining process.

Rep. Pelath announced that he will be conferring with committee members regarding the next meeting date. He then adjourned the meeting at approximately 2:30 P.M.