

Members

Rep. David Cheatham, Chairperson
Rep. Steven Stemler
Rep. Peggy Welch
Rep. William Friend
Rep. Jack Lutz
Rep. Richard Dodge
Sen. Phil Boots
Sen. Ed Charbonneau
Sen. Sue Landske
Sen. James Lewis
Sen. Robert Deig
Sen. Richard Young



WATER RESOURCES STUDY COMMITTEE

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

LSA Staff:

Irma Reinumagi, Attorney for the Committee
Bernadette Bartlett, Fiscal Analyst for the Committee

Authority: IC 2-5-25

MEETING MINUTES¹

Meeting Date: September 23, 2008
Meeting Time: 1:00 p.m. P.M.
Meeting Place: State House, 200 W. Washington St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Rep. David Cheatham, Chairperson; Rep. Steven Stemler; Rep. Peggy Welch; Rep. William Friend; Rep. Jack Lutz; Rep. Richard Dodge; Sen. Phil Boots; Sen. Ed Charbonneau; Sen. James Lewis; Sen. Robert Deig; Sen. Richard Young.

Members Absent: Sen. Sue Landske.

The Chairperson called the meeting to order at 1:10 p.m. and asked the Department of Natural Resources (DNR) to present information concerning the 2008 floods.

Adam Warnke, DNR general counsel, explained that the Wabash River had created a new channel during the June floods, separating a new island from the existing riverbank. Legally, this island still belongs to the landowner from whose fields the island was separated, although the landowner may find it difficult to use the land productively. The new channel of water belongs to the state, as the Wabash is a navigable stream. The channel is unlikely to revert to its previous course naturally.

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.

Ron McAhron, DNR, distributed a handout concerning the three flood events that have occurred thus far during 2008 and dams (Exhibit A). The heavy rainfall events occurred on January 8, affecting primarily the northern third of the state; June 6-7, affecting primarily the middle third of the state; and September 12-15, affecting primarily northwest Indiana. Following the June storms, DNR worked with the Army Corps of Engineers to make site assessments of over 100 high hazard dams in affected counties. Many dams were identified as having been overtopped with possible damage; seven were categorized as "Emergency Action Required". DNR is continuing to work with the owners of these dams.

Concerning confined feeding operations (CFOs) and concentrated animal feeding operations (CAFOs), Bruce Palin, assistant commissioner, Indiana Department of Environmental Management (IDEM), presented information concerning IDEM's monitoring of the 2,211 operations that are subject to IDEM permitting and inspection (Exhibit B). Mr. Palin explained improvements that IDEM has made to the permitting and inspection process, including the reassignment of inspectors to increase monitoring, the implementation of compliance assistance inspections for new operations, a reduction of the backlog of staff review of manure management plans, and a consolidated database. In response to a question from the Committee, Mr. Palin said that while manure spills may impact groundwater, they are more likely to impact surface water, and thus could have a possible impact on drinking water.

Several members of the public presented testimony concerning CFOs and CAFOs:

- Nick Ellis, of Jefferson County, expressed concern over the impact of CAFOs on groundwater. His observations have shown that CAFOs are not following their manure management plans, and are not being held responsible for the wastes produced by the operations. He also presented a letter from Bill Grant, a retired Lagrange County health official, which stated that IDEM has not fulfilled its groundwater protection mandate and does not follow its own rules in granting permits (Exhibit C).

- Gina Hartman, Union County, explained that a large dairy operation may locate in Union County on property that borders on a stream that flows into the East Fork of the White River, which flows into the Brookville Reservoir. Union County does not currently have zoning concerning CAFOs, but officials are in the process of adopting an ordinance.

- Krista Carr, Union County, explained that the two reservoir lakes in the county are fishing lakes, which bring in a great deal of tourism. Her concern is the impact the proposed dairy operation could have on tourism, as spills could flow into the Brookville Reservoir. However, she sees the problem as larger than the local situation, and would propose that the Committee consider legislation establishing a three mile setback from the boundaries of state parks and reservoirs for CFOs and CAFOs. Iowa has similar legislation.

- Barbara Sha Cook, Randolph County, stated that she is a taxpayer who wishes to protect state property and save money on clean-ups; thus, she would like to see a setback around state-owned properties. She also expressed concern over draglines and couplings that run through streams and culverts, creating a great potential for spills.

- Glenn Pratt, Sierra Club, stated that CAFOs are industries, and should be held to the highest standards.

- Rae Schnapp, Hoosier Environmental Council, expressed concern over a lack of coordination between IDEM programs. She cited a lack of testing of groundwater and surface water near CAFOs; in addition, manure management plans do not consider the pathogen content of the manure. She would prefer that livestock waste be treated in the same manner as municipal waste.

- Michael Platt, Indiana Pork Producers, stated that the number of manure spills does not merit a change in statute yet; about 1% of pork producers have had spills.

- Bob Kraft, Indiana Farm Bureau, found the IDEM report reassuring, as no major problems with CFOs and CAFOs were identified. He stated that the operations are generally well conducted in Indiana, and that farmers almost need to operate on a large scale to be successful, as size is needed to be able to be environmentally responsible.

Pat Carroll, IDEM, distributed information concerning the Indiana Wellhead Protection Program (Exhibit D). The Program is administered by the state under the federal Safe Drinking Water Act. Unlike the rest of the United States, in which approximately two-thirds of the population receives drinking water from surface waters, in Indiana approximately 60% of the population receives drinking water from ground water sources. The Wellhead Protection Program is designed to protect wells from contamination. Under the Program, local planning teams are established to develop delineations (aquifer mappings that show the boundaries of the protection area), inventory potential sources of contamination, and develop management and contingency plans. Currently, there are 638 approved protection plans in Indiana.

Mr. Pratt commented that local followup is needed for wellhead protection plans, as uses change over time. In addition, the impact of uses on downstream users needs to be considered, as well as water rights in wells.

Following Committee discussion, the meeting was adjourned at 4:25 p.m. The final meeting of the Committee is scheduled for Wednesday, October 29, at 1:00 p.m.