

INDIANA LAKES MANAGEMENT WORK GROUP
Natural Resources Education Center (NREC), Fort Harrison State Park
5753 Glenn Road, Indianapolis, Indiana
Wednesday, June 9, 2010, 9:00 am to 3:00 pm EST

NOTES

Members Present:

Representative Nancy Dembowski, District 17, Chair
Representative Richard Dodge, District 51
Pete Hippensteel, Steuben County Lakes Council
Lee Bridges, IDEM
Bill Jones, IU SPEA
Jeff Krevda, Dredging Technologies
Larry Coplen, member at large
Bob Meyers, CD2
Jim Hebenstreit, IDNR Division of Water
Dave Tyler, Lake Tippecanoe & ILMS
Felix Hensley, DNR Division of Law Enforcement
Doug Nusbaum, DNR Division of Fish & Wildlife
Robert Meeks, retired State Senator, CD3
Bob Madden, CD9

Guests and staff:

Richard Miller, Sierra Club, retired professor Butler University
Steve Lucas, Natural Resources Commission
Sara Peel, Wabash River Enhancement Corporation & ILMS
Dave Scott, Office of the Indiana State Chemist
Matt Pearson, Office of the Indiana State Chemist
Steve Tennant, Tennant Industrial Dredging
Brian Jones, Lake James Association
Jeff Bell, Lake James Association
Sandy Clark-Kolaks, IDNR Division of Fish & Wildlife
Nate Thomas, IDNR Division of Fish & Wildlife
John Goss, Indiana Wildlife Federation
Glenn Pratt, Sierra Club
Justin Schneider, Indiana Farm Bureau
Chris Smith, IDNR Legislative Liaison
Sara Christensen, ISDA
Kent Tracey, IDNR LARE
Greg Biberdorf, IDNR LARE
Angela Sturdevant, IDNR LARE, recorder

ACTIONS

Next Meeting

- Indiana Lake Management Work Group meeting, Wednesday, **Sept. 8**, 10am-3pm, at the Natural Resources Education Center, Ft Harrison State Park, Indianapolis, Indiana.

Other Actions

- Hebenstreit will make sure revised language is included in group pier proposed rule.
- Hippensteel will draft two separate letters with the group's recommendations for the aerator and group pier proposed rules, send to Dembowski for approval, and email to NRC (Steve Lucas) by June 17th.
- Members should notify Chris Smith of potential donors of stone mason labor.
- Biberdorf will work with Rep. Dembowski to set up a meeting with trade group representatives and other interested parties to get input on the proposed draft legislation.
- Members should send any updates for the 2011 Update of Recommendations to Biberdorf.
- Biberdorf will revise Interim Report to include discussion of LARE funding. Members should send any other comments or revisions to Biberdorf ASAP. Interim Report will be submitted to LSA and Senate Natural Resources Committee by June 30.

NOTES

I. The Chair convened the meeting at 9:00 am with introduction of those present. The two subgroups, structures/density/recreation and biology, broke off for separate meetings. Subgroup notes are provided as attachments.

II. The full group convened at 11:10 am, with reports from the subgroups.

III. Biology Subgroup report

Bill Jones reported on the discussion from the biology subgroup. ISDA technical staff cuts were discussed and there is still a need for technical assistance that isn't being met. The Indiana Conservation Partnership is looking at agricultural practice recommendations and how these can be modified to reduce the impact on water quality. For example, for grassed waterways the recommended rate of fertilizer application for initial establishment was 1000 lbs/acre, now recommending 400 lbs/acre.

Discussion followed on topic of combined sewer overflows (CSOs) as point sources of pollution. Municipalities have long-term agreements, usually a 20-year plan, so it will take long time to address. CSOs result in overflows of sewage to waterways during rain events. It is very expensive (millions of dollars) to make infrastructure improvements.

Phosphorus (P) in Lawn fertilizers issue was revisited. John Goss and the Indiana Wildlife Federation (IWF) have been working with various groups to encourage the voluntary reduction of P in lawn fertilizers. Scotts Fertilizer Company has about 60% of the market and they are changing to almost totally P-free, as well as having joined the Alliance for the Great Lakes. TruGreen Company has gone P-free in their products. The State Chemist's office at Purdue University is incorporating education about P in lawn fertilizers in the certification and education program for pesticide and lawn fertilizer applicators. Reduction of P in lawn fertilizers has been achieved largely through regulation in seven other states, similar to the ban on Phosphorus in automatic dishwashing detergent. This puts pressure on industry to comply. Senator Gard is encouraged and wants to move forward with a regulation proposal, working in conjunction with Reps. Dembowski and Dodge. The language of the draft legislation suggested by IWF still needs to be "tweaked". For example the ten-foot fertilizer-free buffer along lakeshores may need to be increased, along with increasing the amount of non-turf vegetation along lakeshore to provide natural habitat and discourage Canada geese.

IV. Structures Subgroup report

Pete Hippensteel reported on the subgroup for structures, density, and recreation. There are two proposed rules on the Natural Resource Commission (NRC) agenda for a public hearing on Friday, June 14 at the North East Regional Office of DNR at Columbia City.

1) Group piers:

Guidelines for group pier permits are in last section of the proposed rule. A significant modification from the current rule is that the pier must not extend more than one-half the width of the applicant's shoreline. The Subgroup recommends full support of the proposed rule as written.

Motion by Rep. Dodge, seconded by Meeks to fully support the adoption of this rule as presented.

Discussion:

There was a question on what a permanently mounted structure is (Sec. 3 (f) (7) on pg 4) and the consensus was that this wording needs to be modified. DNR will work on tweaking language.

There was concern that the language in Sec. 8(c) (6) was unclear, specifically, the "pier must not extend more than ½ width of the applicant's shoreline." This could be interpreted that it cannot extend out into lake more than ½ the width of the shoreline. It was suggested that it should be written that the pier cannot extend "along" shoreline more than ½ the width. This was discussed at the previous meeting and all agreed that language change needs to be made for better clarification.

Motion carried, with amendments.

ACTION ITEM: Jim Hebenstreit is to make sure revised language is included.

2) Aerators:

There are currently no guidelines for a general permit. At the March 24, 2010 meeting, the group had recommended three items for modification of proposed rule. After discussion, the subgroup decided that they would not support a general license for aerators, and to recommend that all aerators should be required to get individual permits.

Motion by Jones, seconded by Meeks, the Work Group does not support the proposed rule for aerators under a general license.

Discussion:

Meeks noted that DNR will develop guidelines for individual permits. Hippensteel noted that this is just a recommendation to NRC. They will take comments at the hearing and make a decision in July.

Jones noted that the definition of aerator was a concern. Aeration is a legitimate lake management tool, for hypolimnetic aeration, as an example. The proposed rule as written could allow aerator installation wherever, with no hard data to back it up. Before and after photos are not data. He supports the subgroup's decision.

Hebenstreit noted that the decision was mostly based on safety issues. DNR would welcome input on this, as this issue has been a struggle in terms of how to deal with aerators. Most recent applications are for keeping a pier in year-round.

Motion carried.

ACTION ITEM: Hippensteel will draft two separate letters; send to Rep. Dembowski for approval, to be provided by e-mail and hard copy to NRC (Steve Lucas) by June 17th. (Note: this was accomplished and copies of the letters are attachments #1 and #2)

V. Full group discussion

a. Indiana Lake Management Work Group Vacancies:

Rep. Dodge has contacted the Governor's office, and received this response: Recommendations for CD6 and at-large positions have been vetted and are ready for approval. They are still working on filling two other vacant positions (CD's 4 and 8).

Doug Nusbaum was introduced as the new DNR representative to the work group, filling Jed Pearson's spot. Doug is a LARE program specialist in the Division of Fish and Wildlife and has worked for DNR since 1991.

b. Chair of workgroup until June 30, 2011:

Hippensteel noted that we have not had attendance from Senators. Is there something we can do to encourage that? The Chair noted that the chairmanship was not amended in the re-authorization of the work group (HEA 1040). The Chair will discuss this with Senate leadership to determine how to proceed. Meeks is meeting with Sen. Long next week, and will plan to discuss the need for active Senate involvement. It was suggested that Senator Ryan Mishler (Chair of Natural Resources committee) might be appropriate.

Following a break for lunch, the meeting reconvened at 1:00 pm.

c. Ralph Taylor Memorial:

Chris Smith distributed photo of the stone with plaque that was utilized for a memorial to the late Senator Harold "Potch" Wheeler. The proposed Memorial for Ralph Taylor will look similar. The proposed wording for the plaque is:

In memory of ...
Lt. Ralph E. Taylor
Indiana Conservation Officer, public servant,
advocate for public access to natural resources,
angler, hunter, conservationist,
and true friend of the great outdoors.

The stone has been donated, and Smith is working with vendor to try to get a plaque donated. He has quote from vendor (around \$200-300) and donations will be solicited if it is not possible to get it donated. This will leave just the need for labor to set the plaque in stone. Transportation of stone has been donated. Chris Smith is looking for donation of stone mason's labor. The proposed location will be at Marsh Lake in Steuben County, near the boat ramp. An appropriate dedication ceremony will be scheduled when the plans are in place.

ACTION ITEM: Notify Chris Smith of potential donors of stone mason labor.

d. Phosphorus-free fertilizer draft legislation:

In discussions held prior to the meeting, the Chair noted that Senator Gard wants to have this issue brought before the summer study committee.

The Chair had invited reps from the fertilizer-trade group to make presentation to meeting to ensure that both sides are listened to. She suggested having a subgroup meet with them before next the full meeting.

John Goss and Glenn Pratt would like to join subgroup in setting this up. They noted that they have already met with representative of the Scotts Company.

ACTION ITEM: Biberdorf will work with Rep. Dembowski to set up a meeting with trade group representatives and other interested parties to get input on the proposed draft legislation.

John Goss passed out Phosphorus-free Lawn Fertilizer Draft Concepts handout (attachment #3). He noted that professional applicators and residential fertilizer companies are moving in this direction already. The Office of the State Chemist, in cooperation with Purdue University, is incorporating education about phosphorus in lawn fertilizers in the pesticide certification and education program. According to communication with Dave Scott, they will also be revising the 3B certification to incorporate fertilizer applications as part the training program for pesticide and lawn fertilizer applicators. Goss noted that it's an education process to help homeowners understand that they do not necessarily need phosphorus in fertilizer. Changes included in the current version of Draft Concepts are a definition of organic fertilizer; restriction of sale language was not included before; defining a "P-deficient" area as determined by soil test in last 36 months (but this may need to be changed to 24 months). He stressed that this legislation would only apply to turf maintenance and that agricultural usage is clearly exempted.

There followed discussion of whether the fertilizer-free zone adjacent to waterbodies should be 20 feet, which is standard for NRCS buffer guidelines, instead of 10 feet.

Meeks questioned the rationale of punishing retailers for selling lawn fertilizer with phosphorus. Should the state just ban it altogether without a permit? If farmer wants to use within 200 ft, they could apply for a permit. Retailers cannot know where people are going to use it. However, this would create the need to create a huge bureaucracy to handle permitting, placing a new burden on taxpayers.

The proposed legislation does not prohibit people from using fertilizer with phosphorus for gardening, flowers, or food production.

Goss noted that next phase is continuing education, working with conservation groups statewide, talking to legislators, and contacting three summer study committees (Water Resources Study Committee, the Environmental Quality Service Council, and the Natural Resources Study Committee).

VI. Review of summary of actions on recommendations in 1999 Final Report

The final report of the Lake Management Work Group is due by July 1, 2011. An updated draft of a 2005 document on the status of recommendations from the 1999 report was distributed. Biberdorf proposed this as a framework to develop the final report, with inclusion of new recommendations, accomplishments, and notes on issues that are no longer issues (such as phosphorus in automatic dishwashing detergent). The goal is to have this report finalized by March 2011. Biberdorf and the LARE staff will continue working on the document, with input from staff from other divisions of IDNR, IDEM, NRCS, ISDA, and other partner agencies that are referenced in the recommendations. They welcome input from work group members.

Lee Bridges noted that IDEM contacts need be updated due to retirements and reorganization since 2005.

ACTION ITEM: Members should send any updates for the 2011 Update of Recommendations to Biberdorf.

VII. Annual Interim report to LSA and Senate Natural Resources Committee – due July 1

A draft of the Annual Interim Report for the Lake Management Work Group was presented and comments were solicited. There was the question of whether this report needs to be presented in person.

No meetings were scheduled for any of the study committees at this time according to the LSA website. It was suggested that the Work Group propose this as an agenda item to Senator Mishler as the current Chair of the Natural Resources Study Committee. It was proposed to do so at the same time as the discussion on ban of phosphorus in lawn fertilizer.

Jeff Krevda suggested including the concern about the lack of LARE funding for sediment removal and aquatic vegetation control as a “topic under discussion.”

ACTION ITEM: Biberdorf will revise Interim Report to include discussion of LARE funding. Members should send any other comments or revisions to Biberdorf ASAP. Interim Report will be submitted to LSA and Senate Natural Resources Committee, as well as the House Agriculture and Rural Affairs Committee, by June 30.

VIII. LARE Program Update

Chris Smith provided an update on the LARE grant funds and noted that new LARE grants have been suspended indefinitely, as of June 9, 2010. Ongoing projects that were previously awarded grants will continue. Smith warned that the state budget may be in the same situation for the next fiscal year (2011-2012). The Governor and State Budget Agency will make final decision as to disposition of funds.

Discussion ensued regarding current LARE staff responsibilities, use of dedicated funds for other purposes, whether to continue collecting the LARE fee, potential protests by boat owners, and how LARE funds stimulate the local economy.

Of the total Lake and River Enhancement Fee that is collected by Bureau of Motor Vehicles and transferred to IDNR:

1/3 goes to IDNR Division of Law Enforcement, of which 20% then goes to county sheriff departments as grant program. This part is not affected by the suspension.

2/3 goes to IDNR Division of Fish and Wildlife for LARE program operations and grants for Watershed Land Treatment, Aquatic Vegetation Management, Sediment Removal, and “Traditional” Biological and Engineering projects. These grants are currently suspended.

Meeks suggested a bill to suspend the payment of these fees.

Madden noted that the LMWG has to be the advocate for the boaters of Indiana.

Question as to distribution of funds to southern portion of state and why LARE funds are not spent on state-owned lakes. Biberdorf noted that LARE has funded, and is currently funding, projects on river watersheds in southern Indiana, including watershed diagnostic studies, watershed land treatment projects, and engineering projects. Pete Hippensteel, as former Chairman of the State Soil Conservation Board, explained that when that Board was responsible for the distribution of LARE funds, the Board made the conscious decision not to routinely use funds on DNR-owned lakes. A greater demand existed for the funds than was available and the decision was made to work with as many lake associations as possible. While the State Soil Conservation Board no longer oversees funds, that policy has been continued to this day. The law currently specifies that the Director of the Department of Natural Resources is the administrator of the funds. Biberdorf also noted the philosophical question that with \$7 million in requests for funding, even if LARE could have provided grants at the same level as last year, only about 25% of requests could have received grants. If the funds were targeted towards DNR-owned lakes, the perception would be that we were utilizing it only for DNR properties rather than spreading it out to multiple water bodies.

The question was posed as to who boat owners should contact to express their concern. Chris Smith noted that he would provide the e-mail addresses for Governor Daniels and the Director of the State Budget Agency, Chris Ruhl. (Note: Governor Daniel's e-mail address is mdaniels@gov.in.gov Chris Ruhl's e-mail address is cruhl@sba.in.gov.)

IX. Other items

Brian Jones suggested an idea for way to make more money for LARE. Currently there are no LARE fees for non-motorized boats (canoes, kayaks). He suggested a LARE sticker that boaters with non-motorized craft could purchase. Maybe it would be something to look into in the future, once economy has improved.

It was noted that there are currently DNR permits for state-owned lakes with categories for motorized and non-motorized (\$10). The issue with LARE fee for non-motorized boats would be how to collect it. Would it be a scale in relation to the value of the boat? Since the DNR currently is a user-pays system, this would seem to make sense.

Larry Coplen asked if this is something that should be addressed at the next meeting of the LMWG. He questioned what the LMWG costs the state. Biberdorf noted that the travel expenses for non-legislator members of the LMWG come out of LARE budget (Note: in 2009 this amounted to a total of about \$2,000) as does the staff support to assist the work group.

It was also noted that the legislation concerning the Lake Management Work Group would need to be updated again to authorize the LMWG to continue beyond July 1, 2011.

ACTION ITEM: Biberdorf agreed to send the link to the Public Freshwater Lake Listing to the members of the LMWG (link is: <http://www.in.gov/legislative/iac/20091125-IR-312090920NRA.xml.pdf> and was provided to LMWG members by e-mail on June 16, 2010).

Hippensteel mentioned his discussion with Steve Lucas over lunch. Lucas noted that the first section of proposed aerator rule (discussion of riparian use) is very useful and that he hoped that the LMWG would support section 1, even if it is opposed to sections 2, 3, and 4.

Motion made by Jones, seconded by Meeks to not support the proposed rule for aerators under a general license.

Motion made by Jones, seconded by Madden to revise letter to NRC to support section 1 and oppose remaining sections. Motion carried.

ACTION ITEM: Hippensteel will draft a letter detailing the work group's recommendation on the proposed aerator rule, as amended, send to Dembowski for approval and will email to NRC by June 17th (attachment #2).

X. Public Comment – None

XI. Next meeting – scheduled for Wednesday, September 8 from 10 am to 3 pm at the Natural Resources Education Center at Fort Harrison State Park in Indianapolis, Indiana.

XII. Chair adjourned the meeting at 2:30 pm

Attachments to the Meeting notes include the following:

#1 is the letter from the Lake Management Work Group to Steve Lucas, Hearing Officer for the Natural Resource Commission regarding the proposed rule on Group Piers.

#2 is the letter from the Lake Management Work Group to Steve Lucas, Hearing Office for the Natural Resource Commission regarding the proposed rule on Aerators.

#3 is the letter regarding the LMWG Interim Report from the Chair of the Lake Management Work Group provided to Senator Mishler, Chair of the Senate Natural Resources Committee and Rep. Bischoff, Chair of the House Agriculture and Rural Affairs Committee as well as to the Legislative Services Agency for posting to the state's website for the LMWG.

#4 is the copy of the June 30, 2010 Interim Report of the Lake Management Work Group

#5 is the notes of the Biology/Chemistry/Watersheds Subgroup meeting held on June 9, 2010.

#6 is the notes of the Structures and Density Subgroup meeting held on June 9, 2010.



**STATE OF INDIANA
HOUSE OF REPRESENTATIVES**

THIRD FLOOR STATE HOUSE
INDIANAPOLIS, INDIANA 46204

NANCY DEMBOWSKI
ASSISTANT MAJORITY CAUCUS CHAIR
200 WEST WASHINGTON STREET
INDIANAPOLIS, IN 46204

COMMITTEES:
COURTS AND CRIMINAL CODE, VICE CHAIR
LOCAL GOVERNMENT
NATURAL RESOURCES
ROADS AND TRANSPORTATION

June 15, 2010

Mr. Steve Lucas, Hearings Officer
Natural Resource Commission
100 North Senate Avenue, Room N501
Indianapolis, IN 46204-2200

Dear Mr. Lucas:

In response to the proposed rule on "Group piers" the Lakes Management Work Group has reviewed the document creating standards and amendments for Group Piers.

We strongly support the adoption of the proposed rule as presented in LSA Document #09-856.

Respectively,

Nancy Dembowski
State Representative
House District 17
Chair, Lake Management Work Group



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NATURAL RESOURCES
ROADS AND TRANSPORTATION

June 15, 2010

Mr. Steve Lucas, Hearings Officer
Natural Resource Commission
100 North Senate Avenue, Room N501
Indianapolis, IN 46204-2200

Dear Mr. Lucas;

The Indiana Lake Management Work Group has reviewed the proposed rule on Aerators and other subjects.

We support the adoption of Section 1 related to the determination of riparian zones within LSA Document #09-806.

The Lake Management Work Group does not support the adoption of Sections 2 and 3. This proposed creation of a general license for aerators is not warranted because of the multiple safety and environmental issues that are involved. Each proposed aerator should be evaluated on its own merits and individually licensed.

Respectively,

Nancy Dembowski
State Representative
House District 17
Chair, Lake Management Work Group

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INDIANAPOLIS, IN 46204

COMMITTEES:
COURTS AND CRIMINAL CODE, VICE CHAIR
LOCAL GOVERNMENT
NATURAL RESOURCES
ROADS AND TRANSPORTATION

July 1, 2010

To All Interested Parties:

Enclosed please find the Interim Report for the Lake Management Work Group as required by statute.

As you know, the group meets quarterly and we have had great participation from all involved. We do have some vacancies that the legislation requires to be appointed by the Governor that have not yet been made but we have been assured that his office is working on them.

Our intent has been to be a forum for discussion of many of the high priority subjects that affect Indiana's freshwater lakes and, in some cases, make recommendations for rules or legislation. The report will indicate the varied subjects that have been undertaken by this group.

If you have any questions in regard to the report, please do not hesitate to contact me.

Sincerely,



Nancy Dembowski
State Representative
House District 17
Chair, Lake Management Work Group

LAKE MANAGEMENT WORK GROUP

Interim Report

June 2010

H.E.A. 1040 was signed by the Governor in March 2010 as P.L. 59-2010 to continue the 26-member Lake Management Work Group until July 1, 2011, whose activities are to be directed to problems and issues associated with public freshwater lakes. Since its inception in 1997, similar work groups have existed in various forms previously, either as the result of statutory creation or on an *ad hoc* basis under the auspices of the Department of Natural Resources.

This report fulfills the legislative requirement to provide an interim report before July 1, 2010. Complete notes from all meetings are available upon request. Work group members as of May 2010 are listed below.

The work group met four times since the previous interim report was submitted (August 6, 2009; October 21, 2009; March 24, 2010; June 9, 2010). Task-related subgroups met informally between these sessions to prepare for meetings of the work group. The next meeting for the work group is tentatively planned for September of 2010.

Since the interim report was submitted in June 2009, topics under discussion include but are not limited to the following issues:

- Proliferation of piers, shore stations, aerators, and other structures.
- Mandatory seasonal removal of “temporary” structures (piers, boat lifts)
- Lake level and dam maintenance and impacts on ecological systems
- Control of aquatic nuisance (invasive) species
- Toxic bluegreen algae impacts on recreational use and drinking water supplies
- Restricting phosphorus in lawn fertilizer
- Conservation of palustrine wetlands adjacent to lakes
- Promoting the economic value of lakes in Indiana
- Communicating with other entities to implement work group recommendations
- Education and outreach to lake property owners, users, realtors, and others
- Updating the Indiana Lakes web site as a resource for work group actions
- Public trust doctrine
- Effectiveness of soil and water conservation districts in implementing conservation practices
- Midwest Glacial Lakes Fish Habitat Partnership strategic planning in Indiana
- Status and use of Lake and River Enhancement (LARE) grants and funds
- Memorial to honor retired Lt. Ralph Taylor, former LMWG committee chair

The work group developed formal recommendations for a number of topics, some of which resulted in legislation that was introduced (HB 1101 on lowering of 10-acre lakes). Non-rule policy was developed as a result of other recommendations (dredging guidelines, NRC Information Bulletin #60; listing of public freshwater lakes, NRC Information Bulletin #61; group piers on public freshwater lakes, emergency rule filed 12/17/09; aerators on public freshwater lakes, emergency rule filed 11/18/09).

Lake Management Work Group Members

HEA 1040 (2010) -- Effective June 1, 2010

Membership as of June 2010

Position	Name	Title & Affiliation	Address	Phone	Email
Legislator	Sen. Marlin Stutzman	Senate R	250 W. 600 North, Howe, IN 46746	260-562-3303	s13@in.gov
Legislator	Sen. Jim Arnold	Senate D	5698 W. Johnson Rd., LaPorte, IN 46350	219-326-5826	s8@in.gov
Legislator	Rep. Richard Dodge	House R	555 W. Parkway Dr., Pleasant Lake, IN 46779	260-475-5585	h51@in.gov
Legislator	Rep. Nancy Dembowski	House D	902 S. Pearl St., Knox, IN 46534	574/772-3876	h17@in.gov
DNR	Doug Nusbaum	Division of Fish & Wildlife	1353 S. Governors Dr., Columbia City, IN 46725	260-244-6805	dnusbaum@dnr.in.gov
DNR	James Hebenstreit	Division of Water	402 W. Washington St., Room W264, Indianapolis, IN 46204	317-232-4165	jhebenstreit@dnr.in.gov
DNR - Law Enforcement	Maj. Felix Hensley	Division of Law Enforcement	402 W. Washington St., Room W264, Indianapolis, IN 46204		fhensley@dnr.in.gov
IDEM	C. Lee Bridges	Office of Water Quality		317-308-3183	lbridges@idem.in.gov
Indiana Lakes Management Society	David Tyler	ILMS	3776 E. Armstrong Rd, Leesburg, IN	574-453-3560	dtyler@kconline.com
NRCS	Shannon Zezula	State Resource Conservationist	6013 Lakeside Blvd., Indpls., IN 46278	317-290-3200 x388	shannon.zezula@in.usda.gov
Soil & Water Conservation Districts	Darci Zolman	Kosciusko SWCD	217 E. Bell Dr., Warsaw, IN 46582	574-267-7445 x118	darci.zolman@in.nacdnet.net
CD1	Robert Gross	Pine Crest Marine	14415 Lauerman Rd., Cedar Lake, IN 46303	219-374-5771	bobg@pcmarine.com
CD2	Robert Meyers	Simonton Lake	51587 Woodthrush Dr., Granger, IN 46530	574-675-0970	spriii@aol.com
CD3	Robert Meeks		5840 E. 25 North, LaGrange, IN 46761	260-463-3198	senbob@embarqmail.com
CD4	Vacant				
CD5	Jeffrey Krevda	Dredging Technologies	4896 East 200 South, Marion, IN 46953	765-674-6815	jkrevda@aol.com
CD6	Vacant				
CD7	Ryan Hoff	BAGI	P.O. Box 44670, Indianapolis, IN 46244	317-236-6340	ryanh@bagi.com
CD8	Vacant				
CD9	Robert Madden	Lake Lemon Conservancy District	7599 North Tunnel Rd, PO Box 59, Unionville, IN 47468	O: 812-334-0233, H: 317-251-5971	llcdmadden@aol.com
CD-at large	Peter Hippensteel	Lake James	155 LN 200 FA Lake James, Angola, IN 46703	260-833-2016	pdhipp@mchsi.com
Army Corps of Engineers	Deborah Snyder	Indpls. Regulatory Office	9799 Billings Rd, Indianapolis, IN 46216	317-532-4197	deborah.d.snyder@usace.army.mil
Agriculture organization	Michael Baise	Dir. of Ag Development, Indiana Farm Bureau	PO Box 1290, 225 S. East St, Indianapolis, IN 46206	317-692-7833	mbaise@infarmbureau.org
Environmental organization	William Jones	School of Public & Environmental Affairs, Indiana University	1315 East Tenth St, Bloomington, IN 47405	812-855-4556	joneswi@indiana.edu
At-large	Lawrence Coplen	Coplen Construction, Inc.	PO Box 1749, Warsaw, IN 46581	574-269-1673	coplenconst@kconline.com
At-large	Vacant				

INDIANA LAKES MANAGEMENT WORK GROUP

Biology/Chemistry/Watersheds Subgroup

Natural Resources Education Center (NREC), Ft. Harrison State Park

5753 Glenn Road, Indianapolis, IN

June 9, 2010, 9am to 11am EST

NOTES

Members Present:

Bill Jones, IU-SPEA, chair
Jeff Krevda, Dredging Technologies
Lee Bridges, IDEM
Doug Nusbaum, IDNR

Others Present:

Richard Miller, Sierra Club
Glenn Pratt, Sierra Club
John Goss, TWF
Sara Peel, ILMS, WREC
Matt Pearson, State Chemists office
Justin Schneider, Farm Bureau
Angela Sturdevant, DNR, recorder

Discussion of Agricultural Conservation Practice effectiveness

Through ICP, Conservation Cropping System Initiative (CCSI), Nutrient Pest Management, EQIP – is partnering with NRCS to pursue new ways to establish grassed waterways that don't use as much fertilizer. Studies have shown a loss of N&P if rain events occur before waterway is fully established, due to heavy fertilizer used to get grass established quickly. Over the years, have reduced fertilizer recommendation from 1000 to 500 lbs/acre without a soil test and looking at reducing it further or doing split applications.

Schneider – lots of grant money available, not a lot of tech assistance from state anymore. Not a lot of studies to show what the actual reductions are from different conservation practices. Push to try to get better data.

Trying to target watersheds, rather than scattering practices all over. Get critical mass, should see more visible water quality improvement that way.

Pratt – editorial in Indy Star yesterday. Need to better fund ag practices. Emphasis on Great Lakes and Lower Mississippi/Gulf.

Jones - Need small field runoff studies. Lot of research funding has been cut, loss of staff. Solution for that in these tough economic times?

Krevda – last meeting talked about getting somebody from ag at meeting to discuss these issues. Nusbaum has been in contact with Jarod Chew; Sarah Simpson was going to be here. She had another meeting to be at today.

Combined Sewer Overflows

Krevda – CSOs are a big issue. Especially this year with so many large rainfall events, CSOs are dumping sewage straight into streams. We have more problems than just agriculture.

Pratt – most cities now are under agreed orders to address CSOs. Years ago there were big grants to address (deep tunnel in Chicago, Milwaukee, etc). Indiana didn't take advantage, didn't want to come up with state match, and lost opportunity.

Lee – largest municipalities have entered into agreed orders with state. Medium-size municipalities have developed long-term control plans (mostly 20-year plans), but no funding to implement. Before LTCP, most municipalities dealt with it on neighborhood basis. Could have a bad WWTP operator, things may be so fouled up that the sewage gets to plant but then it bypasses plant – usually license enforcement problem. Can be slow process – up to a year. Anything group can do to help? Those people should be part of watershed management planning process. Will need to go out and borrow money (state revolving loan fund or other sources), but money is limited. Like other forms of infrastructure, not always the glitziest projects.

Pratt – Dave Sherman, city of Indy, went back and looked at plans from previous administration, re-engineered, cut costs by \$300 million and just as effective. E.g. 32 foot tunnel through loose, uncompacted material, reworked smaller tunnel thru bedrock. Failing septic systems are also big problem in Indy, lots of people don't know about that. Set up Septic tank elimination program – made it much more affordable.

Jones – given Indy's CSO problems, switching people from septic systems to sewers may not help much. Pratt – human health issue with people swimming in raw sewage. Jones – same problem in lakes, very little beach sampling (responsibility of county health depts.).

Algal Toxins

Bridges – IDEM's doing pilot beach monitoring program for algal toxins this summer – have funding, ordered equipment. Jones will be doing for Clean Lakes – 80 lakes, sampling microcystin. May not get contract signed in time for 2010 sampling season. IDEM sampling 10 beaches. First step – only getting one snap shot in time, only sampling microcystin. Lots of other programs we could model after – Jones especially likes Washington State program – any citizen can call state office, collect sample and submit for analysis. Could use Clean Lakes volunteers in Indiana.

ACOE is doing similar thing with reservoirs – e.g. Salamonie Reservoir – training property managers to take samples. Meeting a month ago in Bedford with ACOE (Lisa Underwood) – reservoir program to monitor microcystin. Bill, Lenore, DNR and IDEM all present. Open to discussion of how to do this the right way.

Krevda – so many colleges in Indiana with environmental programs. Why can't they coordinate efforts to develop sampling program? Jones – small colleges are mostly undergrads, doing more basic science. Grace College (Kosciusko Lakes and Streams) is an exception – sponsoring Northern Indiana Lakes Festival, applied for \$1 million grant from a foundation to do work in Kosciusko lakes. Have better chance of getting funding to do basic research than to do work to solve problems.

Phosphorus in Lawn fertilizer

Statement in March notes that majority of P runoff is from lawns, with very little attributed to agricultural use of fertilizer. Which study is this from? IDEM study from 10 years ago.

Jones would caution statements like this, without hard data. Most lake watersheds, annual nutrient budgets have most P coming from agriculture. Even if lawn fertilizer is over-applied. Concentration may be higher from lawns, but as far as overall land use agriculture has bigger impact than residential.

Krevda – it's an economic issue for agriculture producers, spending money on fertilizer. More conscious of that now than a few years ago. Lawn care companies don't seem to be concerned about this – proper application rates, weather.

John Goss – progress: met with Scotts in Columbus, OH at home office, have about 60% of market in Midwest. Converted two of their product lines to P-free. By 2012, all lines will be P-free, except for one for new lawns (below ~5% P). Scotts has joined Alliance for Great Lakes. Have in-store poster and tear-off for consumers. Committed to P-free in Great Lakes basin. Goss talking with them to get same statement for state of Indiana, hopefully before fall applications – next step for in-store education:

- leave clippings on lawn
- mow high
- probably don't need P fertilizer
- clean up – keep clippings and fertilizer off hard surfaces

www.lawnsandlakes.com

It helps that cost of fertilizer is going thru roof right now. Scotts won't oppose legislation.

Professional applicators are quickly coming around too. TruGreen and Engledow are now P-free. They all offer it, but question of how much they're actually recommending. If have a service area, will they send different trucks – one P-free and one not?

Pratt – current Veolia contract gives more incentive for building new infrastructure rather than promoting water conservation. Legislation last year that failed to require moisture sensors in new irrigation systems.

State Chemists office working on training and certification for lawn fertilizer applicators – anyone applying fertilizer for hire will need to get same certification as pesticide applicators (3b license). Required to show experience or take training class and exam. Will require continuing education or have to take exam again. Should go into effect this winter. State Chemists office is hoping education of applicators will solve problem without legislation.

Schneider – working on certification for agricultural users. If applicator's doing something they shouldn't be, can pull certification.

7 or 8 states now have rule or statute for P-free fertilizer. Sen. Gard still favors legislation that says we're ending the use of P fertilizer. We have a great education program now; a statute will formalize Indiana's commitment. Goss has slightly updated version of proposed statute, with these exemptions:

- For new turf
- Soils without certain level of organics
- Problem areas that need reseeding
- Golf courses – working with them to determine level that's actually needed.

Difference between lawns and agriculture that many lay people don't understand – in agriculture you're removing P and other nutrients with harvest. With lawns you shouldn't be removing nutrients if you're leaving grass clippings, shouldn't need to add nutrients. Hopefully education will go a long way to addressing this.

Role of LMWG? Goss – would be good if LMWG would make statement that they support a statute. Certification can go a long way, but for individual property owners that fertilize their own lawn, a P ban is needed. Need to make distinction that food production and agriculture need P, but lawn maintenance does not. Farm Bureau is concerned that if a statute is proposed, someone might try to add agriculture to it, even though it doesn't belong.

Pratt – IDEM needs to regulate “bad eggs” (e.g. those that apply manure to frozen ground the day before it rains). Schneider – if done correctly, it's not a problem; problem is having an intelligent discussion about the nuances.

Schneider – studies on legacy P in sediments? If do conservation practices but don't see marked improvements. Implemented idle zone only within 200 feet of shore to reduce resuspension of sediments in lakes due to boating. Once you address inputs, can work on removing sediments within lakes. Krevda – problem is migrating sediments in lakes. Pratt – need to look at solutions (aerators) to prevent anaerobic conditions and P-release from sediments.

Many LARE studies look at how to reduce P in sediments (alum, dredging).

Schneider – concerned that if ban P in lawn fertilizer and don't see improvement in 3-5 years, and then they'll look for something else to fight.

Nusbaum – that may be an issue on a select few lakes, but most lakes get the big picture now. They're taking initiative to address in-lake issues (hot spots on lakes – swimming at sand bars)

Jones – when passed idle zone within 200 ft, proposed basing it on depth (no high speed boating in less than 10 ft of water). Was squashed by boaters on Wawasee because so much area of lake was less than 10 ft. More boats on Wawasee than were in the Normandy invasion (5400 registered boats, not including sailboats). But same group in 1991 acknowledged that they wanted to work with farmers, not against.

P statute – includes 10 ft set-back. In agriculture, minimum set-back is 20 ft. Should this be wider for lawns?

Nusbaum-Literature from the mid-90s to current based on nationwide information on buffer strips. Approximately 15-20 ft – 75 ft width of buffer there is no real difference in nutrient concentration. May be suspended solids based?

Jones – soluble removal increase up to 300 ft across the buffer – increased retention time results in decreased soluble P/N.

Goss – if NRCS standards are 20 ft, then we should recommend the same. Is this appropriate?

Jones – additional opportunity for education – convert 20 ft adjacent to the lake to natural buffers rather than creating a separate strip of grass along the lake. Others agree with this recommendation.

Nusbaum – 393 indicates 20 ft, so that should be the number.

Group agreed.

Other questions:

Nusbaum- pesticides are mentioned in (3) d. This is the only mention of pesticides. Why is this here?

Goss- present to push OISC to move forward.

Krevda-Is there a paragraph about the natural buffer? Goss- would like to see an addition (3) e to address this; possibly include information locations and that the implementation of a natural buffer is recommended, not required.

(aside) NPDES permit requirement for application of pesticides to water will be required beginning April 2011 (via EPA). Indiana is handling this through the OISC.

Jones – Mulching clippings returns P to lawn. Many lake residents direct side shoot out into the lake without thought to the impact on the lake. The statute isn't written solely for lake, stream residents; however, it would be beneficial to include recommendations for mulching versus direct discharge. Goss- this could be included as a recommendation.

Bridges-MS4s give “tickets” to violators for discharging lawn materials to storm sewers and open water bodies.

Pratt-previously discussed removing (2) b as 0=0 so there is no need for this language to be included. DG- is this some limitation for the companies to get P=0? Pratt-Scotts indicated that there was no phosphorus

present in fertilizer without an addition so 0 is possible to achieve. Goss-Municipal sludge and organic phosphorus likely has a base level that is higher than 0. We yet need to determine what those concentrations measure and insert it into this language. A small percentage needs to be included here was the overall consensus that literature should be reviewed to determine if we can actually get to 0. Source of the 0.67%? Wisconsin law. Jones-P adheres to everything and it is nearly impossible to achieve 0; if 0 isn't defined as some small number then most fertilizers will be in violation. We could lose a lot of people if we are constantly violating our own law.

Jones – curious as to why the biology subcommittee isn't discussing aerators and aeration as this is a biological issue. Issues with small aerators and using the incorrectly sized aerator – horrible idea.

INDIANA LAKES MANAGEMENT WORK GROUP

Structures and Density Subgroup

Natural Resources Education Center (NREC), Ft. Harrison State Park
5753 Glenn Road, Indianapolis, IN
June 9, 2010, 9am to 11am EST

NOTES

Members Present:

Pete Hippensteel, SCLC, chair
Rep. Nancy Dembowski
Rep. Richard Dodge
Larry Coplen, at large
Bob Meyers, CD2
Jim Hebenstreit, DNR
Dave Tyler, Lake Tippecanoe & ILMS
Felix Hensley, DNR
Robert Meeks, CD3
Bob Madden, CD9

Others Present:

Steve Lucas, Natural Resources Commission
Brian Jones, Lake James Association
Jeff Bell, Lake James Association
Dave Scott, Office of the Indiana State Chemist
Steve Tennant, Tennant Industrial Dredging
Sara Christensen, ISDA
Nate Thomas, DNR Division of Fish & Wildlife
Kent Tracey, DNR LARE
Greg Biberdorf, DNR LARE

Rep. Dodge welcomed everyone to the meeting and convened the subgroup meeting of the structures, density, recreational subgroup.

Proposed aerator and group pier rules

Steve Lucas introduced the new proposed aerators and piers rules. He welcomed any comments from individuals and the LMWG. Written comments are suggested to the commission regarding the proposed rules. The Advisory council will be considering them this morning. Comments will be closed on these rules a week from Friday-June 18.

The LMWG is well situated to consider these since Felix Hensley and Jim Hebenstreit are here today.

The determination of the riparian zones was added, gives guidance, based on the opinions of the court of appeals.

This is not exclusive to aerators, but any issues related to lakes.

Based on "Reasonableness." Court came up with "as far as needed to get reasonable access to the lake".

Next section gives definition of aerator

Next section defines license requirements for general license including signage.

Next section the dispute resolution process.

No standards for a specific license. Could still go to DOW and make an application if not qualified for a general license.

Felix Hensley noted that this started with complaint about aerator use on a lake up north. He noted that there is a public safety issue with the use of these, with no guidelines or regulations governing the use of them. He recalled a snowmobile accident due to thin ice. For issues of public safety, something needed to be done. People noted that the time to when aerator use was desired was when the ice was breaking up usually in the month of March to prevent damage to piers. This alleviates the concerns of aerator use

during winter, and the general license prohibits use of aerators during the winter months of November through February.

Hebenstreit noted that as soon as the draft was created, applications were submitted for use of aerator through the winter. The Division of Water will be developing a draft rule for winter use of aerators with the primary issue of safety.

Riparian zone rule is founded on specific surveying methods.

There followed questions and discussion.

Larry Coplen noted that some people want the aerators out all year long. Is it because they want their pier out all year long? Hebenstreit noted that is probably true. Coplen noted that the cost of removing a pier doesn't compare to the cost of someone drowning. Should liability insurance be required?

Meeks opined that permits shouldn't be allowed until rules are adopted.

Piers issues exist because there were no standards for piers from 1997 because of court of appeals.

Steve Lucas noted that the letter from the Work Group may or may not be sent to NRC. We need to check to make sure that the letter was officially sent (by June 14).

There followed discussion on the three issues of the letter, the exempted area and spraying of water. Coplen noted that the letter should note the desire to discourage piers that extend far into the lake during the winter.

Major Hensley noted the attempt to make this administrative rule consistent with other administrative rules. He noted that there are no speed limits for snow mobiles within 200 feet of shoreline. For boats within 200 feet of the shore, the concern is mostly shoreline erosion.

Madden noted that those who have docks should remove them or risk the damage, if it is a safety issue. Piers rule proposes amendment to pier rules on public freshwater lakes.

Some housekeeping issues, but some issues that will affect many.

Group piers are defined in the rule.

Amendments are housekeeping, but Section 4 Group piers section is added. This establishes standards pertaining to group piers. There already was a requirement for specific license, so this establishes the conditions for the license for a group pier.

In Section 8, Part C. 1b the specifics of riparian zone are described. This is a highlight of the rule and a step forward.

C2 talks about carrying capacity. Need to have standards first.

C6 probably the greatest impact of the rules-----"appropriation of public water". A pier must not extend more than 1/2 the width of the applicant's shoreline. This may be the cause of many comments.

Hebenstreit noted that the Division of Water is actively regulating is helping. First rules were adopted in 1991, "regulation light". In 1997, the court said the NRC had no jurisdiction to write rules. By 2000 it had gotten way out of control. Legislation was put together to show legislative intent to regulate piers.

We have been playing catch-up since then. Blossoming of use of bigger boats and piers has caused it to be a problem more in the last 10 years.

There is nothing in the rules or statute that says the license requirements change if title of ownership changes.

Dave Tyler suggested that group note its approval to support proposed group pier rule-Madden seconded. "The LMWG support the adoption of the proposed rule 09-856."

Hebenstreit expressed appreciation to the work group because rules developed with input from people on the lakes make for better rules.

Question was posed: "What is mounted in or affixed to the bed of the lake" mean? Does this mean a socket system or an auger? This is still under discussion.

In returning to the aerator issue, it was noted that the letter should address the issue in Sec. 1.5, noting "Bubbling or spraying of water". Recommend removal of item 5, which would make it unregulated.

The question was posed whether a statute with a bubbler would be considered to be part of the rule? It was also questioned whether a flashing light should be requested.

Hensley noted the general license and signage only refers to March.

Why should aerators be allowed? It would relieve a lot of headaches if docks are out. If aerators are not allowed, it would be up to the dock owner to leave dock in to risk damage. Should a recommendation be included that there is no need for the rule if the aerators are truly a safety issue?

The group was asked if it is the consensus of the subgroup that there is no need for a general license for aerators.

Tyler moved, Coplen seconded to recommend that we not support the rule because we don't support the concept of aerators being under general license. The motion passed unanimously.

Subgroup meeting ended and full group meeting was rejoined.