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BEFORE THE STATE OF INDIANA
ENVIRONMENTAL RULES BOARD

- - -

PUBLIC MEETING OF AUGUST 8, 2018

- - -

PROCEEDINGS

before the Indiana Environmental Rules Board,
Beverly Gard, Chairman, taken before me, Lindy L.
Meyer, Jr., a Notary Public in and for the State
of Indiana, County of Shelby, at the Indiana
Government Center South, Conference Center,
Room A, 402 West Washington Street, Indianapolis,
Indiana, on Wednesday, August 8, 2018 at 1:29
o'clock p.m.

- - -

William F. Daniels, RPR/CP CM d/b/a
ACCURATE REPORTING OF INDIANA
12922 Brighton Avenue
Carmel, Indiana 46032

1 APPEARANCES:

2 BOARD MEMBERS:

- 3 Beverly Gard, Chairman
- 4 Ken Rulon
- 5 Karen Valiquett
- 6 Dr. Ted Niemiec
- 7 Dr. Joanne Alexandrovich
- 8 Angelique Collier
- 9 William Etzler
- 10 Chris Horn
- 11 Jeffrey Cummins, Proxy, Lieutenant Governor
- 12 Chris Smith, Proxy, Department of Natural Resources
- 13 Devin Hillsdon-Smith, Proxy, Indiana Economic Development Corporation
- 14 Bruno Pigott (nonvoting)

11

IDEM STAFF MEMBERS:

12

- 13 Chris Pedersen
- 14 Matt Stuckey
- 15 Keith Baugues
- 16 Krystal Hackney
- 17 MaryAnn Stevens
- 18 Nancy King
- 19 Janet Pittman

16

17 PUBLIC SPEAKERS:

- 18 Stephen Key

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- - -

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1 1:29 o'clock p.m.
2 August 8, 2018

3 - - -

4 CHAIRMAN GARD: Well, it's 1:30. The
5 chair sees a quorum. I will call the August 8th,
6 2018 Indiana Environmental Rules Board to order.
7 There is no gavel, and I have allergies today, so
8 I may not -- it may be hard.

9 So, our first order of business today is
10 the approval of the summary the April 11th, 2018
11 Board meeting. Are there any additions or
12 corrections to the summary as presented?

13 (No response.)

14 CHAIRMAN GARD: If not, do I hear a
15 motion to approve?

16 DR. NIEMIEC: So moved.

17 CHAIRMAN GARD: Is there a second?

18 MR. HILLSDON-SMITH: Second.

19 CHAIRMAN GARD: All in favor, say
20 aye.

21 MR. HORN: Aye.

22 DR. NIEMIEC: Aye.

23 DR. ALEXANDROVICH: Aye.

MR. ETZLER: Aye.

1 MS. COLLIER: Aye.

2 MR. CUMMINS: Aye.

3 MS. VALIQUETT: Aye.

4 MR. RULON: Aye.

5 MR. HILLSDON-SMITH: Aye.

6 MR. SMITH: Aye.

7 CHAIRMAN GARD: All opposed, nay.

8 (No response.)

9 CHAIRMAN GARD: The summary of the
10 April 11th, 2018 meeting is approved.

11 Commissioner, your report, please.

12 COMM. PIGOTT: Sen. Gard, members of
13 the Board, it's a pleasure to be in front of you
14 again today. I apologize for the informal nature
15 of my outfit, but the heat today has really been
16 bothering me, so I took off my tie. I apologize.

17 But that's not what I'm here to report
18 about. I'm here to talk about three or four
19 different things. First of all, staffing in the
20 Department. We are sad to note the departure of
21 a couple of people who are retiring.

22 Dick Zeiler, in our Office of Air Quality,
23 who has been overseeing the assessment area of

1 Air Quality, is retiring, and we'll miss him.
2 We've got people in the pipeline to replace
3 people who leave, but it's always sad to see
4 someone with the years of experience he's had,
5 almost, what, 40 years, Keith.

6 MR. BAUGUES: Forty-five.

7 COMM. PIGOTT: Forty-five years of
8 experience in this area, so that kind of
9 experience is not easily replaced, but I always
10 find that when we hire new people, they bring a
11 skill set that's not identical to the other
12 people, but sometimes they have skills that
13 complement the job in ways that didn't exist
14 before. So, we'll look forward to that
15 replacement.

16 Mary Hollingsworth, in our Drinking Water
17 Branch, is retiring. Mary has served in the
18 agency for decades and worked primarily in the
19 Drinking Water Branch. She is an expert in the
20 drinking water field, and she's decided it's time
21 to retire, and she's being replaced by a man
22 named Matthew Prater, who I'm not sure has been
23 here before, before the Board, but he's a highly

1 skilled young man who will do a great job.

2 I want to also -- so, that's the staffing
3 issues I just wanted to bring up. Secondly,
4 you've probably all read in the newspapers, or
5 may have read or heard, that there are some
6 people in Franklin, Indiana that are concerned
7 about a cancer cluster, a potential cancer
8 cluster, mothers of young children who
9 unfortunately passed away to a variety of
10 different cancers have raised their concerns, and
11 believe that the cancers may have been caused by
12 environmental factors.

13 And so, over the past several years, the
14 Department of Environmental Management and the
15 Department of Health have met, both with these
16 mothers and in the community at public forums, to
17 discuss the concerns that are raised about the
18 cancer cluster, as well as the environmental
19 concerns that were raised during the discussion
20 about a cancer cluster.

21 The Department of Environmental Management
22 has been at work in Franklin at a site, a former
23 tomato factory called Hoagland Tomato, that did

1 have some contamination, and that contamination
2 moved over into a well field which had been
3 closed off, the source of the contamination was
4 removed, and the agency has been monitoring that
5 site since.

6 In addition to that, U.S. EPA's been
7 monitoring and working at a site called the
8 Amphenol site in Franklin, and that site was a
9 source of contamination as well. People were
10 worried that the contamination reached drinking
11 water or maybe resulted in vapors coming up
12 through the soils and invading people's homes.

13 So, the Department has made an effort to
14 get out to the community. Last Friday night I
15 attended a public forum in Franklin and discussed
16 the work that the agency had done. I was
17 accompanied by the Department of Health's
18 Director, Chris Box, who is a physician, a
19 practicing physician, and then an expert in the
20 health field, and we both discussed our various
21 roles and the concerns about a cancer cluster.

22 By the Department of Health's evaluation,
23 there is not a cancer cluster in Franklin,

1 Indiana, and I won't be the one to speak to that
2 issue before you because I'm not an expert in
3 that area, but the Department has repeatedly
4 evaluated this concern and repeatedly not found a
5 cancer cluster. There were about 600 people in
6 attendance on Friday night at this public
7 meeting, many of whom were mothers of people who
8 had passed away. The -- those folks expressed
9 their concerns.

10 Dr. Box expressed the Department's view
11 and promised to meet with them to obtain any
12 additional information that might otherwise
13 change the evaluation of whether there's a cancer
14 cluster there. I spoke about the work that the
15 Department has done. There was a representative
16 from U.S. EPA that was there.

17 We're in the midst now of formulating
18 additional steps that we can take to address
19 people's concerns at the schools, and Franklin
20 tested the schools to determine whether or not
21 there were any vapors that were coming from the
22 soils and entering the schools. They tested
23 schools on the east side of town and found no

1 hits of PCE or TCE, the contaminants that were of
2 concern.

3 So, the schools have done a remarkable
4 job, have found no contamination in the schools
5 that they tested. We have been working at
6 Franklin and the Hoagland Tomato factory area.
7 We are evaluating other potential concerns in the
8 community, and we have people that are in the
9 community looking for potential sources, although
10 we feel confident that the folks in Franklin are
11 both drinking clean water, they have clean air,
12 and they are being protected by the work that the
13 agencies are doing to clean up the contamination
14 that did exist at the industrial sites in the two
15 areas of town that we know about.

16 I can answer any questions you have, and
17 I'll be happy to provide additional information
18 if, after the meeting, you feel like, you know,
19 you would like to be able to explain the
20 Department's work in this area. So, I know it's
21 just been in the news a lot, and I did want to
22 give you an update about that.

23 In addition to that, I thought I'd talk

1 about three quick other things. We continue to
2 work to ensure that permits are issued on time.
3 I know that's a concern of this Board, so we're
4 continuing efforts there.

5 We also set a goal sometime ago of issuing
6 our inspection reports within seven days of an
7 inspection. We're not quite there yet, but each
8 area that conducts inspections in the agency has
9 put together a plan, and they're implementing a
10 plan that we hope gets our groups to issue
11 inspection reports within seven days of an
12 inspection.

13 And finally, I just wanted to talk a
14 little bit about the VW Committee. I know that
15 the Chair of this Board is also serving as the
16 Chair of that Committee. As you are very aware,
17 probably, Indiana is going to be the recipient of
18 41 million dollars that we can use to provide
19 money for projects that will help offset NOx
20 emissions that were caused by VW's that were
21 driven that had defeat devices on the car that
22 caused emissions to be higher than otherwise
23 would have been under normal circumstances.

1 The Governor established the Board,
2 appointed Sen. Gard to lead the Board, and the
3 Board has met. Members of the Board have been
4 very active, have attended five public hearings
5 around the state. The public hearings were
6 intended to inform the agency and the Board
7 members of the general areas in which the
8 committee would -- may want to direct the dollars
9 that come from the VW settlement.

10 The Board met in June -- wasn't it June?

11 CHAIRMAN GARD: I think June.

12 COMM. PIGOTT: I'm losing track of
13 exactly when, but they met and discussed the
14 different allocations of dollars. They directed
15 the Department to put together a robust
16 beneficiary mitigation plan, that's the plan for
17 directing those dollars, and to bring it back to
18 the Board, and the Board will consider finalizing
19 that.

20 That plan has been -- I sent around -- a
21 draft of that plan has been sent around to
22 members of the Board. Members of the Board
23 provided comments to the agency. The agency is

1 in the process of revising, and will be posting
2 that draft beneficiary mitigation plan on our Web
3 site for people to provide comments on.

4 It's my understanding that after that
5 30-day public comment period, the Board will
6 consider getting together again to finalize that
7 plan, or discuss it further, depending, of
8 course, on the Board's wishes. And we're hoping
9 that the process will be leading to solicitation
10 of different project ideas in the future that
11 will be beneficial for the State of Indiana.

12 So, the main point is the Board's been
13 very active, they've been working very hard, and
14 I'm very excited about the work they're doing to
15 provide dollars for projects that will be
16 transformational in the future.

17 And that's my report. Thank you.

18 CHAIRMAN GARD: Thank you,
19 Commissioner. I do have one question. What's
20 happening this summer with algae blooms? Is it
21 causing as much of a problem as usual, or --

22 COMM. PIGOTT: Sen. Gard, I can't
23 honestly tell you that I know cell counts in the

1 various -- in the various reservoirs that we test
2 in and drinking water sources. However, I've not
3 been told by the staff that work on that that
4 algal blooms have been at such a point as to
5 cause closures or health concerns. But I would
6 like to follow up with that and get you more
7 specific --

8 CHAIRMAN GARD: Okay.

9 COMM. PIGOTT: -- information,
10 because there may be specific areas that have
11 been affected. The crazy thing about the algal
12 blooms is, of course, a sample that we take is
13 indicative of the day that we took the sample,
14 and so, two days later, an algal bloom could
15 appear or disappear. It's frustrating for the
16 scientists who do this work, but it's the best
17 kind of information that we have right now. But
18 I'll get you an update.

19 CHAIRMAN GARD: Okay. Thank you.
20 And we wish the people who are retiring well
21 and --

22 COMM. PIGOTT: Thank you.

23 CHAIRMAN GARD: -- thank them for

1 their many years of service.

2 COMM. PIGOTT: Thank you very much.

3 CHAIRMAN GARD: Chris Pedersen is
4 going to talk about rulemaking.

5 MS. PEDERSEN: Good afternoon. My
6 name is Chris Pedersen, in the Rules Development
7 Branch of the Office of Legal Counsel.

8 As far as rules, there are rules that
9 should be ready for presentation at the next
10 meeting. We are tentatively scheduling that for
11 November 14th of 2018. The first would be the
12 Emergency Rule for Clark and Floyd Counties 2015
13 Eight-Hour Ozone Designation Rule. That
14 Emergency Rule is before you today, and if it is
15 passed, in November we would probably need to
16 bring it before you again to start the second
17 cycle, because they only last for 90 days.

18 If preliminarily adopted today, the Air
19 Permit Legal Notices Rule may be ready for final
20 adoption at the next meeting, and in addition to
21 that, there's two other rules that may be ready.
22 The first is the Underground Storage Tank
23 Compliance Date Corrections Rule. This

1 rulemaking proposes changes to compliance dates
2 for federal underground storage tank or UST
3 requirements. They're incorporated by reference
4 into 329 IAC 9.

5 The recently adopted rulemaking, which was
6 LSA No. 16-204 that incorporate by reference the
7 federal UST requirements, included compliance
8 dates which do not allow adequate time for the
9 regulated entities in Indiana to comply with the
10 amended requirements. IDEM will propose to
11 extend certain compliance dates and remove any
12 that have been deleted from the federal rule.

13 In addition, an emergency rule concerning
14 the revised compliance dates may be brought to
15 the Board at the next meeting to put that delay
16 in -- on the affected compliance dates into
17 effect until the regular rulemaking is completed.

18 Another rulemaking that may be ready is
19 the Asbestos Program Updates. These are
20 revisions to clarify and update Indiana's
21 existing Asbestos Management Program Rules and to
22 ensure consistency within the program as well as
23 with the federal requirements. It affects both

1 the emission standards for asbestos demolition
2 and renovation operations and also licensing and
3 training requirements for asbestos handling
4 activities.

5 I'd be happy to answer any questions about
6 our rulemaking schedules.

7 CHAIRMAN GARD: Are there any
8 questions?

9 (No response.)

10 CHAIRMAN GARD: Thank you, Chris.
11 Are you going to talk about the air permit notice
12 rule?

13 MS. PEDERSEN: Yeah. Okay. Again,
14 Chris Pedersen, with the Rules Development Branch
15 of the Office of Legal Counsel.

16 A great deal of interest has been shown in
17 the electronic notice for air permits rulemaking,
18 so I'd like to provide some additional
19 information and some clarification concerning the
20 rulemaking that will be presented to you later
21 this afternoon for consideration of preliminary
22 adoption. Later this afternoon, this draft
23 rule -- well, no, I already said that.

1 Okay. EPA's rule, published on
2 October 18th, 2016, removed a federal requirement
3 that public notices be published in newspapers
4 for new source review and Title V permit actions,
5 and allows states with an EPA-approved program to
6 choose either to publish notices in newspapers
7 with information on where to find the permit
8 documents or to post electronic notices on a Web
9 site with electronic access to the permit
10 document.

11 In the preamble to the final rule, EPA
12 stated its objective is to modernize, enhance and
13 improve consistency in the public noticing
14 provisions applicable to air permit actions.
15 Public notices for the permit actions by EPA or
16 by states without an approved program are
17 required to be posted electronically.

18 States with an approved program, such as
19 Indiana, must select one as the consistent
20 noticing method that will be used to meet the
21 federal notice requirements. It does not
22 preclude the use of other forms of noticing.

23 IDEM is proposing to change the consistent

1 method of public noticing for new source review
2 and Title V permit actions from publication in a
3 local newspaper to electronic posting on IDEM's
4 Web site. This meets IDEM's noting requirement
5 for an approved permitting authority and is the
6 method that is available to the most people and
7 provides the most transparency.

8 IDEM is proposing the same change for all
9 air permit actions requiring public notice by
10 IDEM for consistency and so all notices can be
11 found in one place. The on-line postings are
12 available to the greatest number of people.
13 Those without Internet access can usually find
14 access at a local library. The local newspapers
15 generally are only available to their
16 subscribers.

17 Notices are on-line for at least 30 days
18 with a link to the draft rule. The public and
19 newspapers can access the notice or get on a list
20 to receive a copy of the notice by mail.

21 Some commenters expressed concern about
22 not having public hearing notices in newspapers.
23 This rule addresses the requirement for a public

1 notice that provides a comment period for the
2 review of draft air permitting documents.

3 Though the notice contains an opportunity
4 to request a public hearing or may include public
5 hearing information if one has already been
6 scheduled, a notice for a public hearing is
7 different than one for a comment period, and the
8 public hearing notices are not being specifically
9 addressed in this rulemaking.

10 I also went and found a little bit of
11 background information I wanted to share.
12 Newspaper notices have been the accepted way to
13 notify the public in the past, but newspaper
14 readership has been declining and electronic
15 communication is becoming more common.

16 According to the Pugh Research Center,
17 in 2017 readership of daily newspapers nationally
18 was down 11 percent from 2016, to about 31
19 million. This is about one half of what it was
20 in the early 1980's, when EPA was developing air
21 permitting rules and the associated public notice
22 requirements.

23 IDEM has experienced some worsening

1 problems with placing newspapers in notices
2 [sic], primarily due to publication delays. For
3 example, there's problems related to payment
4 issues. Some papers will no longer publish if
5 there is an outstanding invoice. This is most
6 common with a paper that has been bought by
7 another company.

8 It can also happen if there's an
9 outstanding invoice from one IDEM department that
10 affects another; for instance, if Water placed a
11 notice and then had an outstanding invoice, then
12 if an Air notice was to be published, it would be
13 delayed because the other one hadn't been paid
14 yet. There's also issues if payment is sent but
15 applied to the wrong account. This will delay
16 the publication of the notice until the issue can
17 be resolved.

18 Delays caused by scheduling issues. Some
19 papers have a less frequent publication schedule.
20 Sometimes IDEM doesn't find out about this until
21 the notice is sent to the paper. There's
22 instances when a notice was not published when it
23 was scheduled or had to be republished due to an

1 error in the original publication.

2 Other challenges that IDEM has had,
3 sometimes IDEM staff are unable to reach the
4 legal department of a newspaper by phone to
5 address a problem because the newspaper staff
6 only communicate by e-mail. At least one
7 newspaper now routinely takes two days to respond
8 by e-mail to acknowledge the receipt of the
9 public notice request, and just recently another
10 newspaper has indicated they now require a
11 two-week lead time to publish a notice, where
12 most papers require one to four days.

13 The public notices for IDEM's air permits
14 have been published in newspapers and posted on
15 IDEM's Web site concurrently since 1999. This is
16 for all air permit actions that require a
17 newspaper notice, which are the notices that are
18 affected by this rulemaking. The number of
19 public notices vary, but for a five-year period
20 from 2013 to 2017, there were 2,891 public
21 notices for air permitting actions. That's an
22 average of 578 per year.

23 The air permitting staff work with around

1 a hundred different newspapers right now that
2 have different deadlines, different publication
3 schedules, and different procedures for notice
4 placement. The notices are on the Web site for
5 at least 30 days, and they are printed in the
6 newspaper once, in addition to any on-line
7 newspaper presence that there may be.

8 The number of comments received on draft
9 permits in response to notices is very low. It's
10 well under five percent of the notices that are
11 published. If a comment is received, there is no
12 way to tell if it resulted from the newspaper
13 publication or from viewing on IDEM's Web sites
14 since they're running concurrently.

15 During this rulemaking, commenters pointed
16 out the difference between comments generated by
17 a public notice versus a newspaper article. They
18 mentioned an example in Michigan, and IDEM has
19 recently had a similar example in which many more
20 comments were generated when a news article was
21 published than when a notice was published.

22 While IDEM is required to provide public
23 notice, news articles are not written by IDEM,

1 nor does IDEM have a say in whether or not the
2 newspaper staff decide to write an article about
3 an IDEM permit action. When newspaper staff
4 produce an article about a permit action, they
5 probably do so based on their knowledge of what
6 is important to the community they serve and in
7 their role to provide information to their
8 readers.

9 We also have some updated information on
10 the cost to the state for placing newspaper
11 notices. There's now a total annual cost of
12 \$59,600. Twenty-one thousand six hundred
13 twenty-eight of that is actual payment for the
14 placement of the notice, and then there's roughly
15 thirty -- just under thirty-eight thousand
16 dollars of IDEM staff time. This includes the
17 time necessary to place the notice, and even more
18 time required to resolve the problems caused by
19 the things I discussed before with some of the
20 newspaper notices.

21 Requests for comments on this rule were
22 posted in the Indiana Register on the Legislative
23 Services Agency Web site, with a 30-day

1 comment -- with 30-day comment periods, and a
2 legal notice about today's hearing was posted on
3 IDEM's Web site. Traditionally, IDEM receives
4 more comments from individuals that oppose a rule
5 than those that support it, and that was true for
6 this rulemaking.

7 There were two written comment periods
8 during which comments could be submitted by mail,
9 fax, electronic mail, or hand delivery. The
10 first comment period, in September of 2017,
11 resulted in 546 comments. Four hundred and
12 seventy-seven of them, or roughly 87 percent,
13 were virtually identical form letters.

14 The second comment period, in April
15 of 2018, resulted in 56 comments. All of the
16 comments from these two comment periods were
17 submitted by e-mail in response to an electronic
18 posting of a rule notice.

19 Commenters expressed a concern about the
20 ease of accessing public notices. I decided to
21 try it out myself from IDEM's main page. I
22 selected "Public Notices" option on the left side
23 of the screen. It went to a page with links to

1 regions or counties. I selected the county I
2 wanted, and all of the public notices that are
3 currently out were listed there for me. So, I
4 found it extremely easy to get a public notice.

5 IDEM does value the public input and has
6 worked and will continue to work to help anyone
7 that does not -- cannot easily access air
8 permitting information on-line. As noted in the
9 response to comments submitted on this rule, an
10 individual can request to receive notice through
11 the mail about air permit actions in their area
12 or related to specific sources.

13 IDEM maintains a database of addresses
14 that includes the adjoining landowners and
15 businesses to sources that are requesting a
16 permit or change to their existing permit, and
17 anyone that has requested to receive public
18 notices by mail.

19 Currently there are about 12,000 contacts
20 that receive mailed notices. This consists of a
21 letter sent directly to the address provided with
22 the notice information and information on how to
23 view the draft documents on-line. This is the

1 same information provided in the newspaper
2 notice. There's no cost to the recipient; they
3 just need to request to be on the list.

4 To date, one newspaper has taken advantage
5 of this form of receiving information. There's
6 no reason others cannot do so also. Newspapers,
7 radio stations, local government officials can
8 all sign up to stay informed on the air permit
9 actions in their area.

10 IDEM also received a comment about
11 expanding the use of social media for informing
12 the public about permit actions and is looking
13 into the feasibility of it, in addition to
14 exploring other options as well. IDEM has
15 responsibility to provide public notice about an
16 air permit action to as many affected Indiana
17 residents as possible, as well as to issue
18 high-quality permits to sources in a timely
19 manner.

20 In this rulemaking, IDEM is proposing to
21 change the primary and consistent method of
22 providing public notice on air permit actions
23 from publication in a local newspaper to posting

1 on IDEM's Web site. This change does not
2 preclude the use of newspapers or other forms of
3 providing public notice.

4 I'm happy to answer any questions you may
5 have about this rulemaking, and air permitting
6 staff are here to respond to any program-related
7 questions. Staff will also be here during the
8 official hearing later this afternoon to answer
9 any questions if you have them at that time.

10 CHAIRMAN GARD: Thank you, Chris.

11 Do the committee members have any
12 questions?

13 DR. ALEXANDROVICH: I do.

14 CHAIRMAN GARD: Yes,
15 Dr. Alexandrovich.

16 DR. ALEXANDROVICH: In the past, I've
17 gone to public hearings on permits, and you sign
18 up, and it's been a while, but I recall that I
19 couldn't get the information sent to me
20 electronically at that time. The IDEM officials
21 there said, "Oh, no, we have to mail it to you."
22 Is that still the way it works?

23 MR. STUCKEY: I don't know how long

1 ago that was. I mean we have all sorts of ways
2 to provide information, so at our public hearings
3 now, we bring disks, so we burn disks before we
4 go to the meetings, so that if somebody wants an
5 electronic version, they can have it there.

6 If they want to provide us with an e-mail
7 address, we can send documents, but
8 unfortunately, there are limitations on that.
9 Sometimes the documents, because they're so big,
10 can't be e-mailed.

11 DR. ALEXANDROVICH: Yeah, it was for
12 future actions.

13 MR. STUCKEY: Okay.

14 DR. ALEXANDROVICH: So, now you do
15 send people e-mails?

16 MR. STUCKEY: No. So, the interested
17 parties list, what you're talking about --

18 DR. ALEXANDROVICH: Yeah.

19 MR. STUCKEY: -- what you'll get is a
20 letter in the mail that says, "This permit is up
21 for public review. You'll have an opportunity to
22 comment on it. Here's the comment information,
23 and here's a link to the document you can go to

1 on our Web site," and there's at least two
2 different ways to go and view the documents
3 electronically on-line.

4 DR. ALEXANDROVICH: So, my point is,
5 I guess, it would seem more reasonable -- I
6 always want it electronically, not by mail, so I
7 was wondering if you were working on that as
8 well.

9 MR. STUCKEY: I guess I -- let me
10 make sure I understand your question. What do
11 you want electronically; the permit?

12 DR. ALEXANDROVICH: Any notice of the
13 future action --

14 MR. STUCKEY: Okay. So --

15 DR. ALEXANDROVICH: -- on a permit.

16 MR. STUCKEY: -- the other way that
17 you can be notified -- you know, we talked about
18 the list serve, and we'll talk about that later.

19 MS. PEDERSEN: Yeah.

20 MR. STUCKEY: This is what air
21 permitting does, the office of Air Quality does.
22 The IDEM Web site itself, where we post our
23 public notices --

1 DR. ALEXANDROVICH: It'll have that
2 same information?

3 MR. STUCKEY: -- you can be put on a
4 list serve, and Ryan's here, he can answer
5 questions about that, where you can get an e-mail
6 that a notice is available for you as well.

7 DR. ALEXANDROVICH: Okay.

8 MR. STUCKEY: Does that answer your
9 question?

10 DR. ALEXANDROVICH: I think so.

11 MR. STUCKEY: Okay.

12 DR. ALEXANDROVICH: It's good to get
13 the information.

14 MR. STUCKEY: Yeah, that's true
15 enough.

16 CHAIRMAN GARD: Any other questions
17 for Chris?

18 (No response.)

19 CHAIRMAN GARD: Thank you.

20 Today we have one Emergency Rule that the
21 Board will be asked to adopt, the Clark and Floyd
22 County 2015 Ozone Designation. There will be a
23 public hearing prior to the final adoption of the

1 Cross Connection Reference Updates, and a hearing
2 prior to preliminary adoption of Air Permit Legal
3 Notices Rule. And finally, we will have a
4 hearing on Non-Expiring Rules under
5 IC 13-14-9.5-1.1.

6 Please fill out a comment card and give it
7 to Janet Pittman at the sign-in table if you wish
8 to testify at any of today's hearings.

9 The Rules Board -- the rules being
10 considered today at today's meeting were included
11 in Board packets and are available for public
12 inspection at the Office of Legal Counsel, 13th
13 Floor, Indiana Government Center North. The
14 entire Board packet is also available on IDEM's
15 Web site at least one week prior to each Board
16 meeting.

17 A written transcript of today's meeting
18 will be made. The transcript and any written
19 submissions will be open for public inspection at
20 the Office of Legal Counsel. A copy of the
21 transcript will be posted on the Rules page of
22 the agency Web site when it becomes available.

23 Will the official reporter for the cause

1 please stand, raise your right hand and state
2 your name?

3 (Reporter sworn.)

4 CHAIRMAN GARD: Thank you.

5 The Board will now consider adoption of
6 the Emergency Rule to adopt the 2015 Ozone
7 Designation for Clark and Floyd Counties. This
8 Emergency Rule temporarily incorporates the
9 current federal designation.

10 I will enter Exhibit A, the draft
11 Emergency Rule, into the record of the meeting.

12 Is there someone from the agency to
13 present the Emergency Rule? Krystal Hackney.

14 MS. HACKNEY: Good afternoon, members
15 of the Board. My name is Krystal Hackney, and I
16 am a rule writer in the Rules Development Branch.
17 I'm here to present the Emergency Rule to
18 designate Clark and Floyd County to nonattainment
19 for the 2015 eight-hour ozone standard.

20 This rule temporarily revises
21 326 IAC 1-4-11 and 326 IAC 1-4-23 to designate
22 Clark County and Floyd County to nonattainment
23 for the 2015 eight-hour ozone standard until the

1 regular rulemaking is completed.

2 On June 4th, 2018, the U.S. EPA published
3 a final rule to establish air quality
4 designations for the 2015 eight-hour ozone
5 standard. In Indiana, Clark, Floyd, and a part
6 of Lake County have been designated
7 nonattainment, while the remainder of the state
8 has been classified attainment or unclassifiable.

9 IDEM is proposing the temporary
10 nonattainment designations to Clark and Floyd
11 County so that affected sources in that area can
12 be permitted under the appropriate state
13 permitting rule.

14 Because all of Lake County is currently
15 designated nonattainment for the 2008 eight-hour
16 ozone standard, action through this emergency
17 rule is not necessary because affected sources
18 are already being permitted under the Emission
19 Offset Rule in 326 IAC 2-3, rather than the
20 Prevention of Significant Deterioration Rule in
21 326 IAC 2-2.

22 The formal rulemaking for designations
23 under the 2015 eight-hour ozone standard will

1 include the designations for all Indiana
2 counties. This emergency rule will allow
3 affected sources to be permitted under the
4 appropriate air permitting rule until the formal
5 rulemaking is completed.

6 If adopted, this emergency rule will be
7 filed and become effective immediately for 90
8 days, at which time the emergency rule will be
9 brought to you for adoption again since the
10 regular rulemaking will not be completed by that
11 time.

12 IDEM requests that the Board adopt this
13 emergency rule as presented, and program staff
14 are available to answer any further questions you
15 may have.

16 Thank you.

17 CHAIRMAN GARD: Thank you.

18 Are there any questions from the Board?

19 (No response.)

20 CHAIRMAN GARD: A motion should be
21 made to adopt the emergency rule.

22 MR. HORN: So moved.

23 CHAIRMAN GARD: Is there a second?

1 MR. RULON: Second.

2 CHAIRMAN GARD: All in favor, say
3 aye.

4 MR. HORN: Aye.

5 DR. NIEMIEC: Aye.

6 DR. ALEXANDROVICH: Aye.

7 MR. ETZLER: Aye.

8 MS. COLLIER: Aye.

9 MR. CUMMINS: Aye.

10 MS. VALIQUETT: Aye.

11 MR. RULON: Aye.

12 MR. HILLSDON-SMITH: Aye.

13 MR. SMITH: Aye.

14 CHAIRMAN GARD: Aye.

15 Opposed, nay.

16 (No response.)

17 CHAIRMAN GARD: The Emergency Rule is
18 adopted.

19 This is a public hearing before the
20 Environmental Rules Board of the State of Indiana
21 concerning final adoption of amendments to
22 327 IAC -- IAC 8-10, Cross Connection -- Cross
23 Connection Reference Updates.

1 I will now introduce Exhibit B, the
2 preliminarily adopted rules, into the record of
3 the hearing.

4 MaryAnn Stevens will present the rule.

5 MS. STEVENS: Could you hear that
6 hum? All I did was bend this and it stopped.

7 COMM. PIGOTT: Thank you.

8 (Laughter.)

9 MS. STEVENS: Can you feel it as
10 well?

11 MR. HILLSDON-SMITH: Uh-huh.

12 MS. STEVENS: Good afternoon, members
13 of the Board. I am MaryAnn Stevens, a rule
14 writer in the Office of Legal Counsel, Rules
15 Development Branch.

16 Unprotected cross connection and backflow
17 contamination could be responsible for creating a
18 public health risk and causing a public water
19 systems failure to maintain the Federal Safe
20 Drinking Water Act standards.

21 Indiana has a backflow prevention and
22 cross control program under 327 IAC 8-10 that is
23 based on federal requirements most recently

1 updated under the Revised Total Coliform Rule and
2 according to IC 13-18-16-6 that requires a public
3 water system to be operated to ensure safe
4 drinking water for the public.

5 This rulemaking specifically is to update
6 information in 327 IAC 8-10 regarding where to
7 find reference documents for cross connection
8 control and to make administrative and formatting
9 changes to conform to current rule-drafting
10 standards.

11 This rulemaking is being conducted under
12 IC 13-14-9-7 that allows for an abbreviated
13 rulemaking process when the Commissioner of IDEM
14 makes a determination that the rulemaking policy
15 alternatives available to IDEM are so limited
16 that the first notice of public comment period
17 would provide no substantial benefit to the
18 environment or persons to be regulated or
19 otherwise affected by the proposed rule. Under
20 13-14-9-7, the first notice of comment period is
21 eliminated and the second notice of comment
22 period with the draft rule is the first posting
23 in the Indiana Register.

1 The findings and determination of the
2 Commissioner, along with its comment period and
3 draft rule, was posted in the Indiana Register on
4 December 6, 2017. No comments were submitted.
5 There were no comments on this rule at the
6 Board's first hearing to consider preliminary
7 adoption, and the Board did adopt the rule, of
8 course.

9 The preliminarily adopted proposed rule
10 was posted in the Indiana Register on May 2nd
11 without a comment period, since the rule is
12 unchanged from the posting of the draft rule at
13 second notice.

14 IDEM believes the proposed rule makes the
15 necessary updates to the information concerning
16 where to find reference documents for cross
17 connection, and IDEM asks the Board's vote for
18 final adoption. If there are any questions, I
19 can answer, and we have Drinking Water staff
20 members here at well.

21 CHAIRMAN GARD: Are there any
22 questions for MaryAnn?

23 (No response.)

1 CHAIRMAN GARD: Thank you.

2 We also have no speaker cards turned in.

3 Does anybody want to speak that didn't sign up?

4 (No response.)

5 CHAIRMAN GARD: Okay. The Board will

6 now consider final adoption of amendments to

7 327 IAC 8-10. Any further Board discussion?

8 (No response.)

9 CHAIRMAN GARD: A motion needs to be

10 made to final adopt the rule.

11 MR. CUMMINS: So moved.

12 CHAIRMAN GARD: Is there a second?

13 MR. HILLSDON-SMITH: Second.

14 CHAIRMAN GARD: And this is a

15 roll-call vote.

16 Dr. Alexandrovich?

17 DR. ALEXANDROVICH: Yes.

18 CHAIRMAN GARD: Mr. Horn?

19 MR. HORN: Yes.

20 CHAIRMAN GARD: Mr. Hillsdon-Smith?

21 MR. HILLSDON-SMITH: Aye.

22 CHAIRMAN GARD: Dr. Niemiec?

23 DR. NIEMIEC: Aye.

1 CHAIRMAN GARD: Mr. Rulon?

2 MR. RULON: Yes.

3 CHAIRMAN GARD: Mr. Etzler?

4 MR. ETZLER: Yes.

5 CHAIRMAN GARD: Mr. Cummins?

6 MR. CUMMINS: Aye.

7 CHAIRMAN GARD: Ms. Valiquett?

8 MS. VALIQUETT: Yes.

9 CHAIRMAN GARD: Ms. Collier?

10 MS. COLLIER: Yes.

11 CHAIRMAN GARD: Mr. Smith?

12 MR. SMITH: Yes.

13 CHAIRMAN GARD: And the Chair votes

14 aye. The rule is adopted eleven to zero.

15 This is a public hearing before the
16 Environmental Rules Board of the State of Indiana
17 concerning preliminary adoption of amendments to
18 Rules 326 IAC 2-1.1, 2-7, 2-8, and 2-12
19 concerning Air Permit Legal Notices.

20 I will now introduce Exhibit C, the draft
21 rules, into the record of the hearing.

22 Chris Pedersen will present the rule.

23 MS. PEDERSEN: I'm Chris Pedersen,

1 with the Rules Development Branch of the Office
2 of Legal Counsel, and I'm here to present the
3 rule on Electronic Notice for Air Permits for
4 your consideration.

5 On October 18th, 2016, U.S. EPA published
6 a final rule in the Federal Register that revised
7 the requirement to provide public notice of
8 certain draft air permits under the New Source
9 Review, or NSR, and the Title V permit programs
10 through publication in the newspaper.

11 This final rule requires the publication
12 of an electronic notice for draft permits and
13 actions issued by U.S. EPA or by permitting
14 authorities implementing U.S. EPA's federal
15 permitting programs, and allows permitting
16 authorities that are implementing a U.S. EPA
17 approved program, including Indiana, to change
18 the consistent method of providing public notice
19 for publication in a local newspaper to
20 electronic publication on the agency Web site.

21 Indiana implements a U.S. EPA approved
22 program that meets the federal requirements of
23 40 CFR 51 and 40 CFR 70. Because Indiana has an

1 approved program, the state has the option of
2 adopting either electronic notice or newspaper
3 publication as the primary method of public
4 notice.

5 The federal rule states that whichever
6 method the permitting authority chooses to adopt
7 must be indicated to the public as the consistent
8 noticing method used, and must provide reasonable
9 access to other materials that support the permit
10 decision, including the draft permit.

11 Revising the public notice requirement in
12 this rulemaking to be electronic notification on
13 IDEM's Web site will indicate to the public that
14 posting notices to the agency Web site with links
15 to permit documents is the primary and consistent
16 noticing method used by IDEM. The federal rule
17 does not prevent permitting authorities from
18 supplementing electronic notice with a newspaper
19 notice or additional means of notification to the
20 public.

21 Historically, IDEM has relied on local
22 newspapers to provide public notice for permits
23 and other agency actions. However, as newspaper

1 circulation continues to decline, smaller
2 newspapers are going out of business, while
3 others have reduced printing schedules, making
4 printed newspaper advertisements less effective
5 in providing widespread public notice of permit
6 actions.

7 The Internet is increasingly becoming the
8 medium by which public -- the public obtains
9 information. During the last decade, the Federal
10 Government and many state governments have
11 increased their use of the Internet and other
12 forms of information technology to improve
13 government operations and customer service. As a
14 result, agencies are using electronic notices as
15 a more convenient, cost effective and expedient
16 method of communicating important agency notices
17 and actions to a wider segment of the population.

18 Several of IDEM's program areas already
19 publish public notices electronically on the
20 Department Web page, and IDEM's air permitting
21 program has a searchable on-line database for the
22 public that links directly to the public notices.

23 For individuals that do not have

1 convenient computer or Internet access, they can
2 request to receive notice through the mail about
3 air quality permit actions in their area or
4 related to specific sources. Individuals on this
5 list receive a mailed notice any time a permit
6 action in their area goes to public notice, and
7 again when the permit is issued.

8 The public can choose to have their names
9 added for permit actions in a specific county or
10 multiple counties, or for permitting actions
11 pertaining to one or multiple sources.
12 Additionally, individuals may subscribe to the
13 agency e-mail notification system to receive
14 e-mail notifications for public notices based on
15 geographic region.

16 During the second notice of comment
17 period, IDEM received a comment from U.S. EPA
18 that demonstrated a need to clarify the draft
19 rule language. IDEM added language to clarify
20 that the draft permit documents are to also be
21 available electronically in response to
22 U.S. EPA's comment.

23 In addition to changing the consistent

1 method of noticing New Source Review and Title V
2 permit actions, IDEM wants to clarify that the
3 draft rule language published at second notice
4 changes the method of noticing to electronic
5 notices posted on IDEM's Web site for any other
6 permit actions that currently require newspaper
7 notice by IDEM, for consistency across the
8 program.

9 Air permitting actions affected include
10 Title V permits, Federally Enforceable State
11 Operating Permits, or FESOP's, Source Specific
12 Operating Agreements, or SSOA's, and Minor State
13 Operating Permits, and any modification or
14 revision issued to these permits under
15 326 IAC 2-6.1, 326 IAC 2-7, 326 IAC 2-8, and
16 326 IAC 2-9. This will result in one location
17 for all air permit notices that is available to
18 the majority of the public.

19 Permit actions processed under New Source
20 Review requirements under 326 IAC 2-2 and 326 IAC
21 2-3 and Title V permits under 326 IAC 2-7 include
22 most of the air permit notices issued. For
23 clarification, some of these actions and others

1 not specifically part of the New Source Review or
2 Title V programs that are affected by this
3 rulemaking include:

4 Transitions from one permit level to
5 another under 326 IAC 2-1.1-7.5;

6 Modifications or substitutions of models
7 for air quality impact analyses under
8 326 IAC 2-2-5;

9 Changes to plant-wide applicability
10 limitations under 326 IAC 2-2.4 and
11 326 IAC 2-3.4;

12 Construction and operating permits for new
13 sources under 326 IAC 2-5.1-3 and
14 326 IAC 2-5.1-4;

15 Permits and significant permit revisions
16 for Minor Source Operating Permits under
17 326 IAC 2-6.1;

18 Significant source modifications for
19 Title V sources under 326 IAC 2-7-10.5;

20 Minor Source -- minor permit modifications
21 and significant permit modifications for Title V
22 sources under 326 IAC 2-7;

23 Significant permit revisions for FESOP

1 sources in 326 IAC 2-8;

2 And source specific operating agreements
3 under 326 IAC 2-9.

4 IDEM anticipates the converting to
5 electronic notice as the primary method of public
6 notice will eliminate publishing delays and
7 enable IDEM to communicate permitting and other
8 affected actions to the public more quickly and
9 efficiently.

10 Converting to electronic notice will also
11 allow IDEM to reduce costs associated with
12 newspaper publications of approximately \$59,600
13 per year. That includes the cost of the notice
14 and the staff time needed to place the newspaper
15 notices, check them for accuracy, and often work
16 with the newspapers to revolve problems.

17 With the continuing trends in how the
18 public accesses information, IDEM believes that
19 the consistent method to meet federal
20 requirements for public noticing of air permit
21 actions should be changed to electronic notices
22 on the agency Web site.

23 IDEM requests that the Board preliminarily

1 adopt this rule as presented. I and program
2 staff are available to answer any questions you
3 may have.

4 CHAIRMAN GARD: Does the Board have
5 any questions? Yes.

6 MS. COLLIER: Yes, I have a question
7 on the general permits language, under
8 326 IAC 2-7-13(a)(2), where it reads, "In
9 providing an opportunity for public comment, the
10 commissioner shall publish notice on the
11 department website," and then it says, "under
12 those areas of the state in which [the] sources
13 that would qualify for coverage under the permit
14 are believed to be located." I was wondering if
15 the last part of that sentence should be stricken
16 or what exactly that means.

17 MS. PEDERSEN: Okay. I'm sorry;
18 could you tell me what page you're on?

19 MS. COLLIER: I'm sorry; it's page --

20 COMM. PIGOTT: 3.

21 MS. COLLIER: -- 3 of 10.

22 MS. PEDERSEN: Okay.

23 MS. COLLIER: And then it's

1 326 IAC 2-7-13(a)(2), the second sentence.

2 MS. PEDERSEN: Okay. Let's see.

3 Matt, do you know why that --

4 MR. STUCKEY: Yeah, hang on just a
5 minute.

6 MS. PEDERSEN: Okay.

7 MR. STUCKEY: I would -- yeah, just
8 scanning through it real quick, I think you're
9 right.

10 COMM. PIGOTT: Yeah.

11 MR. STUCKEY: It's archaic. It's
12 from the -- it used to be that when we published
13 in the paper, we had to publish in areas where we
14 felt there was likely to be a source. Now that
15 we're publishing on the Web site, we no longer
16 have that restriction, so we can publish over the
17 entire state.

18 MS. COLLIER: Okay.

19 MR. STUCKEY: We don't have that
20 restriction anymore.

21 MS. PEDERSEN: Okay. So, we could
22 make that change before final adoption.

23 MS. COLLIER: And then the same

1 language is in the FESOP general permits section
2 at 2-8-18(a)(3)(A), and that's on page 8.

3 MS. PEDERSEN: Okay. Yeah, we can
4 make the change --

5 MS. COLLIER: Okay.

6 MS. PEDERSEN: -- before final
7 adoption.

8 MR. STUCKEY: Thank you.

9 CHAIRMAN GARD: Yeah, I do have a
10 question. You issue a lot of permits that don't
11 come under this -- this qualification, this rule,
12 water, solid waste. Are they -- do you still
13 have to do those in the newspaper, or are those
14 all electronic notices?

15 MS. PEDERSEN: They have their own
16 requirements. I'm not familiar with them. I do
17 believe that they still use newspapers.

18 CHAIRMAN GARD: Uh-huh.

19 MS. PEDERSEN: But this rule would
20 not affect them at all.

21 CHAIRMAN GARD: Okay.

22 MR. STUCKEY: This is specifically
23 for air.

1 COMM. PIGOTT: Yeah, water permits,
2 for example, do use the --

3 CHAIRMAN GARD: Okay.

4 MR. RULON: Excuse me, Chairman.

5 CHAIRMAN GARD: Yeah.

6 MR. RULON: Did you want to take a
7 second to respond to some of the 571 opposing
8 comments?

9 MS. PEDERSEN: Yeah, I was going to
10 say, I think the presentation I gave earlier
11 addressed most of the comments. The primary
12 focus, I think, of most of the comments that we
13 received was just a request that we not stop
14 publishing in newspapers, and most of the
15 reasoning behind that that I recall seeing was
16 because they felt there was a large number of
17 people who only obtained that information through
18 the newspaper notices.

19 We have -- because we have been doing the
20 on-line noticing concurrently anyway, one thing
21 that -- in looking at that, one of the things we
22 noted was that there are just very, very few
23 comments. There was no indication about whether

1 the comments that are being generated are coming
2 from the newspaper or from the Web site.

3 So, we don't really know to what extent
4 people have much of an interest in that. I mean
5 as I said, most people indicated the articles are
6 the things that really draw them in, and that's
7 something that we don't have control over.

8 MR. RULON: Okay.

9 MS. PEDERSEN: But we do also --
10 having the on-line system, we also have that
11 system where people can request to have something
12 sent to them directly in the mail at no cost to
13 them, and that was -- had been in place for a
14 long time. It is, in part, to address the
15 situation of people who don't have the Internet
16 access, and we are willing to look at other
17 options also.

18 MR. RULON: But you're going to
19 continue to have that option where people can
20 have things mailed?

21 MS. PEDERSEN: Yes.

22 MR. RULON: That's not being changed?

23 MS. PEDERSEN: No.

1 MR. RULON: Okay. Thank you.

2 CHAIRMAN GARD: Any other questions?

3 Yes, Dr. Alexandrovich.

4 MR. HILLSDON-SMITH: Go ahead.

5 DR. ALEXANDROVICH: One of the
6 comments was on the interim approvals, where the
7 permit applicant needs to submit the stuff and
8 publish it in the paper.

9 MS. PEDERSEN: Right.

10 DR. ALEXANDROVICH: And IDEM
11 responded that they're going to be looking at
12 changing that. Are there other places in the Air
13 rule that require an entity other than IDEM to
14 publish a notice in the paper?

15 MS. PEDERSEN: Not that I'm aware of.
16 I don't know if -- no, that's the only one.

17 DR. ALEXANDROVICH: So, I don't know
18 how many interim approvals you get. I suspect
19 it's not too many. I don't know for sure, but if
20 you guys could start maybe thinking about doing a
21 rulemaking for that as well, I think that that
22 would be good.

23 MS. PEDERSEN: I know that the

1 permitting staff will probably be looking at
2 that, yes.

3 DR. ALEXANDROVICH: Okay.

4 CHAIRMAN GARD: Yes. Any other
5 questions?

6 (No response.)

7 CHAIRMAN GARD: We have one speaker
8 card turned in, Stephen Key, the Hoosier State
9 Press Association.

10 MR. KEY: Sen. Gard, with -- I'm
11 sorry. I was going to ask for permission. With
12 permission, I do have some handouts --

13 CHAIRMAN GARD: That's fine.

14 MR. KEY: -- for the Committee.

15 MS. PITTMAN: I can hand them out.

16 MR. KEY: Sen. Gard, members of the
17 Board, I am Steve Key. I'm the Executive
18 Director and General Counsel for the Hoosier
19 State Press Association. We represent the
20 state's paid circulation newspapers, those
21 newspapers which you have been using for years
22 and years as far as getting information out about
23 these permits.

1 Public notice advertising, the concept is
2 it's information that is so important that the
3 Indiana legislature has said, "We want you as a
4 government entity, whether it's local government,
5 state agency or whatever, we want you to place
6 this information in the hands of the public."

7 We're not talking about special interests,
8 we're not talking about insiders who know how the
9 process is working, we're not talking about the
10 parties involved, we're talking about the public
11 in general, those who have no idea that the
12 Environmental Rules Board exists, that unless
13 they see a notice, they have no idea that a local
14 business has asked for a permit to basically say,
15 "We want to put additional pollutants in the
16 air."

17 So, this information, these permits, the
18 information to ask for permission to basically
19 pollute, it's very important to the community,
20 and the community needs to balance out the
21 positives of the business that's involved, the
22 new jobs that may be involved, the economic
23 health of the community tied to those businesses,

1 balance it out with the impact that these
2 additional pollutants may have on their health.

3 So, this is a very important bit of
4 information, and that's why the state legislature
5 said, "You shall put these notices in newspapers
6 so that people can know that these things are
7 coming up.

8 The concept of public notice advertising
9 as a government responsibility has existed since
10 early civilization, starting with posting of
11 public notices in the square. I remember reading
12 a poem that used to be about the Code of
13 Hammurabi. That was a public notice that was
14 chiseled on an obelisk in a public square, and
15 that goes back to 1754 B.C. in Mesopotamia.

16 Newspaper usage for public notice has --
17 dates back to the first English language
18 magazine -- or newspaper, I'm sorry -- in 1665,
19 which posted the notices of the king's court and
20 London officials.

21 When our country and our Constitution was
22 passed, in the acts of the first Congress, it
23 required all bills, orders, resolutions and

1 Congressional votes be published in at least
2 three publicly available newspapers. Currently,
3 all 50 states use newspapers to publish public
4 notice advertising. Indiana has done so since it
5 became a state in 1815.

6 Now, there are basic elements to public
7 notice when you're trying to get this information
8 out to the public. Independence. With a paid
9 notice to a newspaper, the newspaper has a vested
10 interest to publish the notice as it was given,
11 no editing, no editorial comments, just directly
12 the information that was required to be placed
13 by, in this case IDEM.

14 Archivability. Newspapers have always
15 been the first draft of history. You can go back
16 to the newspaper's archives. Often the local
17 libraries have those archives, and you can see
18 what information government presented to the
19 public, when it was published, exactly what was
20 published.

21 Accessibility. Newspapers have always
22 been accessible to all segments of our society.

23 Verifiable. This is similar to the

1 archives. Again, if you have a present copy of
2 something by a newspaper, you're confident that
3 it wasn't hacked, it wasn't altered, what you
4 have in front of you was exactly what was
5 published, and you know exactly what date it was
6 published.

7 Otherwise, by contrast, publishing notices
8 just on a government Web site makes it much
9 more -- it's not an independent entity, it's the
10 government unit that's publishing it, so there's
11 not that check and balance there in case you had
12 a bad actor involved.

13 There -- you know, and government Web
14 sites, just from a practical standpoint, if the
15 State of Indiana decided to start saying, "We're
16 going to start putting our public notices on
17 government Web sites," imagine a family with
18 children. They work during the day, they get
19 home, they have their kids get to ball practice
20 or music lessons, whatever the case may be, they
21 get the kids home, they get them fed dinner, they
22 handle their homework, maybe 9:30, 10:00 o'clock
23 the parents or -- the parents get together.

1 It's not very practical to expect them to
2 sit there and say, "Okay. Dear, let's get on the
3 Internet now and let's start going through the
4 county Web site, the city Web site, the township
5 Web site, the school district Web site, IDEM's
6 Web site, every other state agency's Web site, so
7 that we can find out whether or not any of these
8 government entities may be doing something that
9 could have a significant impact on us."

10 And I think that that feeling and the --
11 what's always been the public's desire and
12 expectation to have these notices in a newspaper
13 is beared out [sic] with what were the results of
14 your comment period. These are the results from
15 the first comment period. Here is those who
16 favored the rule.

17 Here's the public's resolve as far as
18 being opposed to it. So, obviously this is not a
19 rule that's been initiated by the public. It's a
20 rule that's been initiated by the administration
21 of IDEM. This outpouring of public sentiment
22 against this rule, it matches what has been found
23 by state by state by state with surveys done for

1 years now.

2 American Opinion Research did -- a
3 research company out of Princeton, New Jersey,
4 which has done work for General Electric, General
5 Motors and other corporations, they did a survey
6 of the public's attitude on public notice
7 advertising in Indiana just this last summer.

8 And in your cover sheet there, you can see
9 some of the results. Sixty percent of adult
10 Hoosiers say that they reported that they read
11 public notices in the newspaper. That doesn't
12 mean they read every notice, it doesn't mean they
13 read every notice every day, but that's where
14 they're looking for public notices, that's where
15 they expect them to be.

16 And even a higher percentage than those
17 who said they read them, 63 percent, said they
18 believe government agencies should publish public
19 notices in newspapers. And even though the
20 question said, "This may cost the government unit
21 thousands of dollars to do this," still, 63
22 percent say, "That's okay. That's where we want
23 and expect to see our public notices."

1 They also were asked what the impact would
2 be if public notices were moved from newspapers
3 to a government Web site, and the survey found
4 that posting notices only to government Web sites
5 would result in a 60-percent decline in the
6 readership of those notices.

7 IDEM is telling you that it's more
8 effective to be on the Internet. We would argue
9 that that's not the case. IDEM also pointed out,
10 and I don't deny, that newspaper readership is
11 not as strong as it was a decade ago, but the
12 survey still found that 2.9 million adult
13 Hoosiers read at least one printed newspaper a
14 week.

15 And if you add in those who read
16 newspapers solely on their on-line versions, that
17 number goes up to 3.6 million, 3.6 million out of
18 five million adult Hoosiers. So, I would argue
19 that that's still a great way to cover the public
20 if you're trying to get the public the
21 information that you feel is important for them
22 to know.

23 I mean the Internet is a great way to find

1 information that you're looking for. If you're
2 wanting the answer to who starred in that movie
3 "Casa Blanca," you can find it, but public notice
4 is information that the public doesn't know to
5 look for. They don't know that their local
6 businesses has applied for a permit, so they're
7 not going to be necessarily attuned or thinking
8 about going to look for it on that Web site.

9 The beauty of newspapers is that people
10 purchase these newspapers because they want to
11 read about what's happening in their community,
12 they want to read the feature stories, the county
13 council stories, the sports stories from the high
14 schools, they want to see the pictures of people
15 in their community that they know. You still see
16 people cutting out those pictures of their
17 grandchildren and posting them on the
18 refrigerator.

19 So, people are reading the newspaper
20 because they want to know about what's in their
21 community, and the beauty is that the public
22 notices are there, right there in front of them,
23 along with the advertising from local businesses,

1 for them to be able to see and maybe stumble upon
2 that public notice that they didn't have any idea
3 was going to be in there, or they hear about it
4 from their neighbor who saw the notice in the
5 paper.

6 So, I want you to keep in mind, 2.9
7 million Hoosiers read a newspaper once a week.
8 IDEM was kind enough to respond to a records
9 request I made concerning the track of two of
10 those IDEM Web pages that have been running for
11 several years now where it currently posts its
12 public notices.

13 They gave me a year's worth of data, from
14 last May to the end of April 2018, and so, this
15 is for -- the several pages of the public
16 notices, and I agree, they do have been very well
17 displayed on their home page. It's not hard to
18 find where the public notices are, and I commend
19 them for that.

20 But now, let's think about 2.9 million
21 Hoosiers who read a newspaper a week. This is
22 how many people who visited those IDEM Web page
23 notices over that 12-month period. They had

1 4,602 visits to those pages, and some of those
2 were multiple or the same person, so actually
3 they had 2,009 unique visitors to those pages
4 over 12 months. Two thousand nine unique
5 visitors in 12 months, 2.9 million newspaper
6 readers a week.

7 So, let's divide that average, and
8 we'll -- we won't go by the unique visitors,
9 we'll go by the total number of visitors to those
10 pages. So, that averages out to 88.5 visitors a
11 week to those Web sites, 88.5, 2.9 million. I
12 counted 213 notices Tuesday, so we're talking --
13 on an average week, you're talking less than a
14 half a person per notice that would be posted.

15 But let's do a comparison, and you've got
16 some comparison information in front of you. So,
17 let's give the benefit and we'll say, "Okay. All
18 88 of those people who reached out to the IDEM
19 Web site in a week, and they all logged on for
20 just the same notice, one in Ohio County, the
21 least-populated county in the state. Highly
22 unlikely, but let's say it was 88.

23 Now, Ohio County is served by the Rising

1 Sun Reporter, a small weekly newspaper, their
2 circulation is 729. Now, the average newspaper
3 is read by two people, but again, we'll give IDEM
4 the benefit of the doubt is we'll just focus on
5 their actual paid subscription.

6 If 60 percent of those readers find that
7 public notice, so we're talking about the
8 newspaper publication reaching 437 Hoosiers, and
9 most of them from that Rising Sun Reporter will
10 be located in Ohio County, as opposed to, at
11 most, 88 people that, if you give the IDEM the
12 ultimate break, would be reaching it.

13 So, what is the most effective way to get
14 notice of an event that's happening in front of
15 the public? Unfortunately, the Internet is a way
16 to hide things in plain sight. Not intended, and
17 I don't think there's any intention here to hide
18 what's going on, but it's just an administrative
19 easy -- easier way to give notice if all you have
20 to do is put it on the Internet and you don't
21 really have to take the effort to try to reach
22 people. And we talk about this is Ohio County,
23 smallest county there, Rising Sun Reporter, a

1 very small newspaper. But still, the comparison
2 is unbelievable.

3 In your information you got, it also shows
4 you the unique visitors and the visitors that
5 went to the southeast section of the IDEM Web
6 site. So, when you get down to that point, you
7 go from 88 average a week down to like 23 in an
8 average week. So, I was being very generous to
9 how many people would actually see the notices
10 through the IDEM Web site.

11 Now, IDEM originally cited savings of
12 17,000 before the number of responses they got.
13 It's now moved up to the fifty-nine, almost sixty
14 thousand dollars. Keep in mind that \$60,000 is
15 out of an Air Permit Program budget of 12.8
16 million dollars.

17 And I would argue, based on the survey
18 done by American Opinion Research on the response
19 that came from not one, but two comment periods,
20 that I think that the five million adult Hoosiers
21 would not object to the spending of what was
22 basically one penny of their tax dollars to the
23 state to inform them effectively of the actions

1 of these air permit qualities.

2 Now, based on what Chris Patterson [sic]
3 said, I really think that the biggest problem for
4 the IDEM staff are service issues with
5 newspapers, and newspapers are made up of humans,
6 and I'm sure they make mistakes, they can be very
7 frustrating.

8 I can speak to that from firsthand
9 knowledge. I know how frustrating that is. But
10 I can tell you, and the Hoosier State Press
11 Association stands ready and willing to work with
12 IDEM to help this those service issues. We've
13 had those complaints come up from the State
14 Alcohol and Tobacco Commission, and we now have
15 an arrangement with them for a fee per notice.

16 We do all of the work involved for them.
17 We place it, we collect the tear sheets, we argue
18 with them when they want to try to put a credit
19 hold because the payment is slow from the state,
20 and we can do the same thing for IDEM. And I
21 think we could greatly reduce that \$38,000 in
22 staff time and effort, because we've done it with
23 the Alcohol and Tobacco Commission.

1 We've also taken over and helped the
2 Attorney General with the publication of the
3 unclaimed property list, so we have a track
4 history. We can take care of the service issues
5 if that's really what's driving this change,
6 which will not benefit the public as far as how
7 many people are going to see the notice.

8 So, I stand before you from the Hoosier
9 State Press Association and respectfully request
10 that the Environmental Rules Board, based on
11 public sentiment, based on common logic, based on
12 basic math, based on common sense, to reject this
13 proposal to eliminate the required publication of
14 air quality permit applications in Indiana
15 newspapers.

16 I'll be happy to answer any questions you
17 might have on my math, on my -- the points that
18 I've made, or anything else that you'd like to
19 ask.

20 Thank you.

21 CHAIRMAN GARD: Thank you, Steve.

22 Are there questions for Steve?

23 (No response.)

1 CHAIRMAN GARD: The stack you have
2 there of public comments, do you have any idea
3 approximately what percentage of them are form
4 comments?

5 MR. KEY: I think the person to help
6 me with this did break it out. We have -- we
7 have this -- there is some that are form letters,
8 there are some that were personalized off of a
9 form letter, and I don't know which -- I don't
10 know if it was the Sierra Club, Hoosier
11 Environmental, I don't know who got the word out
12 to get this. These are all just individual
13 comments, not associated with anything as far as
14 any form. And while I understand from -- and you
15 know better than I from your days in the
16 legislature, you know, form letters are not --
17 are not as well received by legislators.

18 CHAIRMAN GARD: Right.

19 MR. KEY: But I would still point
20 out, even if it is taking the time to do a --
21 answer a form letter and send it out, that is an
22 expression of that individual's concern or
23 disapproval of an idea. Only two people said

1 this is a good idea from the public.

2 I'll also point out in the second comment,
3 I was pleasantly surprised, and I don't know if
4 you noticed, but there was two state legislators
5 in the second round of comments who wrote letters
6 to this Board expressing their concern over the
7 elimination of this. And I don't know how
8 frequent that you get those from state
9 legislators, but I took that as an important
10 thing.

11 CHAIRMAN GARD: I think this is a
12 difficult issue, and it was a difficult issue
13 when I was in the General Assembly, and it still
14 is now, and, you know, it comes down to how do
15 people really get their information? And with
16 respect to the form letters, I suspect that most
17 of those came not from reading the public notice,
18 but from someone who was active in the group
19 reading the public notice and then sending out to
20 their --

21 MR. KEY: Uh-huh, I would agree, and
22 that's the thing about public notice. As Chris
23 Patterson pointed out, IDEM can't control the --

1 how information is disseminated, whether it's
2 through list serves by environmental groups,
3 whether it's knowledge that comes from a story,
4 but, you know, by placing those public notices
5 and advertisements, you so include the pos -- you
6 do improve the possibility that short-staffed
7 newspaper staffs are going to have a reporter
8 that sees a notice, may see that there is
9 something of interest to their community.

10 She kind of referenced a situation up in
11 Michigan. Michigan had a request from, I believe
12 it was Nestle, that they wanted to draw more
13 water from the water table for part of their
14 operations, and the notice sat on the --
15 Michigan's equivalent to IDEM's Web site for 41
16 days and -- with nary a comment.

17 And I'm not sure how exactly, but a
18 reporter did pick up on it, did write a story,
19 and by the end of the process, I think there were
20 like 80,000 comments, and the head of the
21 equivalent to IDEM in Michigan acknowledged
22 publicly, said, "Yeah, we probably didn't give
23 the notice that we should have given on this."

1 So, I would say learn from the lessons of
2 Michigan; keep the notices in the newspapers,
3 where there's a greater chance that people are
4 going to see it. That doesn't mean they're all
5 going to show up to all of the rules committees
6 and speak their opinion, but the whole idea of
7 public notice advertising is that you're putting
8 it in their hands so they have the opportunity to
9 act.

10 Leaving it just on a public notice Web
11 site, where only 2,000 out of five million adult
12 Hoosiers saw -- or reads in the last 20 -- or the
13 last 12 months, is not giving the public adequate
14 notice, in my mind.

15 CHAIRMAN GARD: Any further
16 questions?

17 MR. ETZLER: I've got a comment.

18 CHAIRMAN GARD: Yes.

19 MR. ETZLER: Thank you.

20 I found your comment in your handout to us
21 that you noted that by law, newspapers are
22 required to post public notices on the Web site.

23 MR. KEY: Yes.

1 MR. ETZLER: I subscribe
2 electronically to a newspaper consortium, I guess
3 I'll call it, because they own a number of
4 newspapers in Northeast Indiana.

5 MR. KEY: Uh-huh.

6 MR. ETZLER: I just looked at their
7 Web site and I see no reference to public notices
8 anywhere on their Web site. Now, the version I
9 get on my phone may not be as expansive, but --

10 MR. KEY: Yeah, and some of our
11 members -- the requirement is that they have it
12 posted, and some of our members may not do as
13 good a job as IDEM as far as drawing attention to
14 the public notices, because if they -- some of
15 our papers, their Web sites are limited and
16 they're basically printing an electronic version
17 of what you get at home.

18 MR. ETZLER: Yeah, I understand.

19 MR. KEY: So, the public notices are
20 in there. They may not be differentiated and
21 spliced out there, but they're there. Hoosier
22 State Press Association also has, in the last
23 couple of years, been collecting the public

1 notices from our member papers, and there is a
2 Web site, indianapublicnotics.com, where we
3 aggregate and we put the notices up so they are
4 searchable by county, city, or a word search.

5 So, there are other versions, but I'll
6 admit, not a lot of people know about that Web
7 site, aren't going to expect to necessarily go
8 and look for that Web site. Most of our track,
9 it probably comes from contractors looking to
10 bid. But that all goes back, then, to: Where is
11 the public looking for public notices? Where are
12 they expecting to find it? That's still in their
13 local newspaper.

14 MR. ETZLER: Thank you.

15 MR. KEY: Thank you.

16 CHAIRMAN GARD: Any other comments or
17 questions?

18 MR. CUMMINS: Chairman Gard?

19 CHAIRMAN GARD: Yes.

20 MR. CUMMINS: I'll note that I'm
21 sympathetic to the comments about Internet
22 access. A lot of our farmers and agribusinesses
23 can relate to that, particularly the lack of

1 rural broadband.

2 MR. KEY: Uh-huh.

3 MR. CUMMINS: So, I agree with you
4 that this is difficult. It almost seems like we
5 have to choose between a physical choice in, you
6 know, allowing IDEM to reduce those expenses and
7 transparency, because I think some of that
8 Internet access is lacking or the Web site's not
9 user friendly. You do run into that
10 hidden-in-plain-sight issue. I guess I'll say
11 I'm glad we get to revisit it maybe for further
12 discussion in November.

13 CHAIRMAN GARD: Yeah. Thank you.

14 Is there anybody in the audience that
15 wants to speak that didn't fill out a speaker
16 card?

17 (No response.)

18 CHAIRMAN GARD: Okay. The hearing is
19 concluded. The Board will now consider
20 preliminary adoption of amendments to rules at
21 326 IAC 2-1.1, 2-7, 2-8 and 2-12 concerning Air
22 Legal -- Air Permit Legal Notices. Is there any
23 further Board discussion?

1 (No response.)

2 CHAIRMAN GARD: You know, and like
3 it's been noted, this is preliminary adoption, so
4 it gives everybody time to think about it.

5 MR. HILLSDON-SMITH: Chairman, just a
6 quick question. I'm trying to figure out as this
7 playing field gets level here, so the notices as
8 they're published today, when IDEM sends
9 information to a newspaper, is that information
10 the same information that a newspaper would
11 receive if a journalist was to practically reach
12 out and say, "We want to be on the mailing list
13 for our area"? Is it the same exact information?

14 MR. STUCKEY: Yes.

15 MR. HILLSDON-SMITH: So, really it's
16 just -- if all of the journalists just reach out
17 to IDEM and say, "We want to be put on the
18 list" --

19 MR. STUCKEY: Yes.

20 MR. HILLSDON-SMITH: -- they could,
21 on their own accord, still publish the same exact
22 information?

23 MR. STUCKEY: Yes. If the Hoosier

1 Press Association or any of the newspapers wanted
2 to take that initiative, they could get the
3 notice mailed to them, send them through the list
4 serve, they could write an article, they could
5 decide whether or not it's important to the
6 public that they serve, they could publish it in
7 their newspaper.

8 MR. HILLSDON-SMITH: Okay.

9 MR. STUCKEY: They could publish
10 something that says, "If you're interested, go to
11 IDEM's Web pocket page, yes. So, I mean all of
12 that information is available. As it stands,
13 only one newspaper has taken advantage of that
14 right now, but that's one of the things we want
15 to try to do if this rule passes and we get to
16 that point.

17 We're going to do some transitional
18 outreach, make sure that we put this information
19 in our future public notices, so that they know
20 that we'll be no longer publishing in the
21 newspaper, but that they can get on these lists
22 and they can make themselves available to the
23 information, you know, at some later date. So,

1 we're going to try to do that as well as part of
2 the process.

3 MR. HILLSDON-SMITH: Okay.

4 CHAIRMAN GARD: Yes.

5 MS. VALIQUETT: I have a question or
6 comment. And in this rule, it seems like it's a
7 very much either/or situation, either the
8 newspaper or on-line, and I was wondering if it
9 had similar data to do both, to reach the most
10 people, because there is a generational divide of
11 how people get their information.

12 MR. STUCKEY: Right. Okay. So, I
13 mean I think the key component of this rulemaking
14 is that our rule currently says we have to do it
15 in the newspaper.

16 MS. VALIQUETT: Uh-huh.

17 MR. STUCKEY: We've been doing it
18 electronically since 1999. The Federal
19 Government, through their rulemaking, said, "You
20 no longer have to make that your primary source
21 of noticing." So, all we're doing is
22 flip-flopping. We're basically making the
23 primary source to be our on-line publication. We

1 can still publish in the newspaper if we see a
2 need.

3 Chris mentioned hearings. That's
4 something that we're currently not required to
5 publish in the newspaper, but we do, and so, we
6 can make the decision as to whether we can reach
7 more people through one medium or the other.
8 This rulemaking is just to say that IDEM is only
9 required to do it on-line as the primary source
10 of notice.

11 CHAIRMAN GARD: So -- before you sit
12 down, so if the situation arose that you knew a
13 permit was going to be controversial, because
14 some permits are just kind of routine and really
15 nobody cares, but --

16 MR. STUCKEY: That doesn't seem to be
17 my life, yeah. Thanks for that.

18 (Laughter.)

19 CHAIRMAN GARD: But say one is going
20 to be highly controversial. Would you be likely
21 to put it in the newspaper as well, to give
22 more -- to give a greater notice?

23 MR. STUCKEY: Yeah, I mean we

1 certainly can do that. I mean we have a lot of
2 different options. One of the things we've been
3 talking about, and we've discussed this more
4 recently, is social media. We -- I mean it seems
5 like Facebook gets mentioned more than anything
6 when we get comments, is that "Somebody posted
7 something on Facebook, and now I know, and you
8 guys hid it from us, you didn't put it anywhere."
9 Well, it was in the paper, it was on-line, but it
10 wasn't on Facebook, so not everybody knows about
11 it.

12 We can -- we do press releases, I mean,
13 when we're going to do public meetings, public
14 hearings, in advance of those, to let people know
15 that we're going to be out in their community and
16 talking about it, and we do those in the
17 newspaper, and we likely will continue to do so
18 for some period of time.

19 So, yeah, if there's a particular
20 situation where we think we want to reach more
21 people because there's a real concern in the
22 community, we can do all of those things. It's
23 just that, again, we're not legally required to

1 do all of those things every time, as you say,
2 because there are situations where nobody cares.

3 CHAIRMAN GARD: Yes.

4 MR. ETZLER: Well, I happen to be a
5 list serve subscriber, and I get all of the
6 public notices across the state every morning.

7 MR. STUCKEY: Whew, lucky you.

8 (Laughter.)

9 MR. ETZLER: Not that I read them.

10 MR. STUCKEY: And do you comment on
11 every permit that you receive?

12 MR. ETZLER: Right. But the whole
13 idea is that I want to stay informed about what's
14 happening within the agency, and that's my
15 methodology of getting that information, so that
16 if there's something I don't like, I can call the
17 Commissioner and complain.

18 MR. STUCKEY: Right. We encourage
19 you to -- we're happy you're doing that.

20 COMM. PIGOTT: And he does.

21 (Laughter.)

22 MR. ETZLER: So, there is a method,
23 and, again, I also subscribe electronically to

1 the local newspaper, and, you know, again, I've
2 got -- I'm going to have to do some more research
3 if we --

4 MR. STUCKEY: Right.

5 MR. ETZLER: -- move forward with
6 this.

7 MR. STUCKEY: And to avoid -- I mean
8 a situation like that, that's your choice, but
9 it's a lot of noise. I mean you get a lot of
10 information that you don't need or are not
11 interested in.

12 That's one of the reasons we've set it up
13 the way we have, for both the written letter that
14 goes out to people who are interested in a
15 particular source or a particular group of
16 sources or a particular county, as well as the
17 list serve is also set up the same way,
18 regionally, so that you're only getting notices
19 about things that are probably going to affect
20 you.

21 So, if you want to be involved in stuff
22 that's happening in Northwest Indiana and you
23 live in Evansville, that's your prerogative. But

1 if you just want to know what's going on in
2 Evansville, you can fine tune your request and
3 get all of the notices about that area every
4 time.

5 MR. ETZLER: Right.

6 MR. STUCKEY: It seems like a pretty
7 effective way.

8 COMM. PIGOTT: And often, Matt, if we
9 do have a controversial permit that's out that we
10 want to alert the public about, we're doing much
11 more than filing a notice in a newspaper. We're
12 reaching out in a variety of other ways. Can you
13 just remind us how long that public notice stays
14 in the newspaper versus how long it stays on the
15 IDEM Web site?

16 MR. STUCKEY: Yeah. I mean our
17 understanding, I mean from what we've seen, it
18 publishes on a single day. That information may
19 go to a centralized Web site, as was mentioned
20 earlier by the previous commenter, and someone
21 would have to go to that to see it, whereas,
22 again, they'd go to IDEM to see it.

23 But for IDEM, once it's up, it's up for

1 the duration of the public comment period. So,
2 anytime anyone hears there might be something
3 going on with a source, they go in, they can look
4 at that notice, and they can pull that
5 information. And it's a direct link to the
6 document itself as well.

7 And one of the things that we've kind of
8 pointed out -- and again, it's sort of this
9 evolution of public involvement, you know, you're
10 trying to reach people and you're trying to make
11 it easier for them. If I go to IDEM's Web site
12 and I click on that notice, I see the permit.
13 It's immediately there.

14 If I read it in the paper, I have to go
15 then to the Web site to see the permit anyway,
16 because you can't link in the paper. Even an
17 on-line public notice in a newspaper doesn't have
18 a link to the document, a hyperlink.

19 So, you're still -- you know, a lot of the
20 comments have been around, you know, you can
21 reach more people, but you also make it more
22 convenient to people who are more, you know,
23 savvy, more actively involved in the on-line

1 side.

2 COMM. PIGOTT: Can you also remind me
3 how we reach out to those directly affected
4 parties? How do we put the effort --

5 MR. STUCKEY: So, for new-source
6 construction, so where a source is going to build
7 a new plant in a particular area, the rules still
8 require that they provide notice to all of the
9 adjacent landowners. So, if you are living next
10 to a parcel of land that's going to be developed,
11 then you're going to get a notice from the
12 company.

13 We're going to verify that you did that,
14 and if you don't do that, then the application's
15 not going to be acceptable, not considered
16 complete. So, immediately the people there,
17 right there next to the new location, are already
18 aware, even before the application's submitted,
19 or within ten days of submitting application.

20 And then those people automatically end up
21 on our interested parties list as well, so that
22 any activities that we do, they get notice at the
23 public notice milestone and the issuance

1 milestone. So, they're -- they just
2 automatically become part of the process.

3 MR. BAUGUES: As well as elected
4 officials.

5 MR. STUCKEY: As well as elected
6 officials and various other folks.

7 CHAIRMAN GARD: Okay.

8 Any other questions or further discussion?

9 (No response.)

10 CHAIRMAN GARD: The Board will now --
11 well, I guess we need to make a motion. Is there
12 a motion to adopt the preliminarily adopted
13 rules?

14 MR. CUMMINS: So moved.

15 CHAIRMAN GARD: Is there a second?

16 DR. ALEXANDROVICH: Second.

17 CHAIRMAN GARD: All in favor, say
18 aye.

19 DR. NIEMIEC: Aye.

20 DR. ALEXANDROVICH: Aye.

21 MR. ETZLER: Aye.

22 MS. COLLIER: Aye.

23 MR. CUMMINS: Aye.

1 MS. VALIQUETT: Aye.

2 MR. HILLSDON-SMITH: Aye.

3 MR. SMITH: Aye.

4 CHAIRMAN GARD: Aye. Those opposed,
5 say nay.

6 MR. RULON: Nay.

7 CHAIRMAN GARD: The voice vote was
8 affirmative, so the rule has been preliminarily
9 adopted, and we'll be revisiting that in a future
10 meeting.

11 This is a public hearing before the
12 Environmental Rules Board for rules not subject
13 to the sunset provisions of IC 13-14-9.5. Rules
14 that are exempt from expiration under the law and
15 have been effective for seven years are to be the
16 subject of a public notice asking for comment on
17 any of the listed rules and a public hearing
18 before the Board, a notice for each affected rule
19 in the Indiana Administrative Code.

20 This year that was Titles -- limited to
21 Titles 326 and 327. It was published in the
22 Indiana Register with a request for written
23 comments on whether any of the listed rules

1 should be reviewed under the regular rulemaking
2 process at IC 13-14-9.

3 I will now introduce Exhibits D and E, the
4 notices published in the Indiana Register, into
5 the record of the hearing.

6 No written comments were received for any
7 of the rules listed in the notices. Is there
8 anyone who wishes to provide comment to the Board
9 on any of the rules at this time?

10 (No response.)

11 CHAIRMAN GARD: If not, this hearing
12 is concluded. The Board must determine whether,
13 based on comments received, it would like to
14 direct the agency to open a new rulemaking for
15 any of the rules listed as being exempt from the
16 sunset process. If the Board chooses not to ask
17 for a rulemaking, a motion should be made for no
18 further action to be taken on the rules.

19 If you have any questions concerning the
20 nonsunset process, Nancy King is available to
21 answer any questions.

22 Is there any Board discussion?

23 (No response.)

1 CHAIRMAN GARD: Do I hear a motion
2 for no further action?

3 MR. SMITH: Madam Chairwoman, I make
4 that motion for no further action.

5 CHAIRMAN GARD: Is there a second to
6 the motion?

7 MR. CUMMINS: Second.

8 CHAIRMAN GARD: All in favor, say
9 aye.

10 MR. HORN: Aye.

11 DR. NIEMIEC: Aye.

12 DR. ALEXANDROVICH: Aye.

13 MR. ETZLER: Aye.

14 MS. COLLIER: Aye.

15 MR. CUMMINS: Aye.

16 MS. VALIQUETT: Aye.

17 MR. RULON: Aye.

18 MR. HILLSDON-SMITH: Aye.

19 MR. SMITH: Aye.

20 CHAIRMAN GARD: Aye.

21 Opposed, nay.

22 (No response.)

23 CHAIRMAN GARD: The ayes have it.

1 The Board votes for no further action.

2 This is the Open Forum. Is there anyone
3 who wishes to address the Board today?

4 (No response.)

5 CHAIRMAN GARD: If not, the next
6 meeting of the Environmental Rules Board is
7 tentatively set for November 14th, 2018 at 1:30
8 in Conference Room A of the Indiana Government
9 Center South. The meeting date is tentative and
10 subject to change. We will keep everyone updated
11 when that is confirmed or changed and another
12 date is chosen.

13 Is there a motion to adjourn?

14 MR. RULON: So moved.

15 CHAIRMAN GARD: Is there a second?

16 MR. HILLSDON-SMITH: Second.

17 CHAIRMAN GARD: All in favor, say
18 aye.

19 MR. HORN: Aye.

20 DR. NIEMIEC: Aye.

21 DR. ALEXANDROVICH: Aye.

22 MR. ETZLER: Aye.

23 MS. COLLIER: Aye.

1 MR. CUMMINS: Aye.

2 MS. VALIQUETT: Aye.

3 MR. RULON: Aye.

4 MR. HILLSDON-SMITH: Aye.

5 MR. SMITH: Aye.

6 CHAIRMAN GARD: Aye.

7 Opposed, nay.

8 (No response.)

9 CHAIRMAN GARD: We are adjourned. My
10 voice did last.

11 - - -
12 Thereupon, the proceedings of
13 August 8, 2018 were concluded
14 at 2:57 o'clock p.m.
15 - - -

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CERTIFICATE

I, Lindy L. Meyer, Jr., the undersigned
Court Reporter and Notary Public residing in the
City of Shelbyville, Shelby County, Indiana, do
hereby certify that the foregoing is a true and
correct transcript of the proceedings taken by me
on Wednesday, August 8, 2018 in this matter and
transcribed by me.

Lindy L. Meyer, Jr.,
Notary Public in and
for the State of Indiana.

My Commission expires August 26, 2024.