

Presentation & Petition for Rule Change to the Water Control Board of Indiana

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Who We Are:

Those in attendance today, and those who have signed the petitions, are citizens of southern Indiana. Many are affiliated with two community groups: Save our Knobs (SOK) and Greenville Concerned Citizens (GCC).

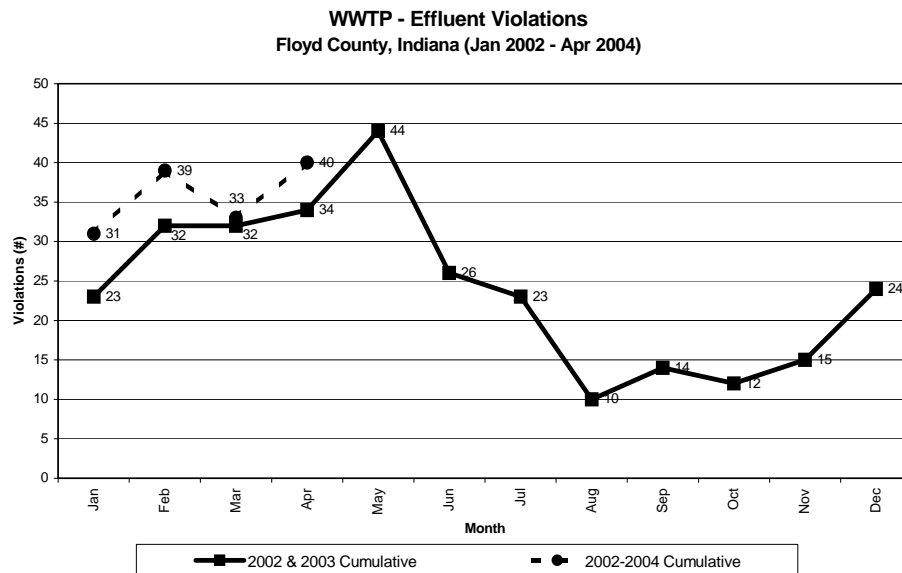
Both associations are similar in their goals. They are advocates for responsible growth; they are *not* antidevelopment. Some members of the groups participated in drafting the original Comprehensive Plan Update for Floyd County. They are likewise involved today as members in a variety of local activities that address proper growth, including but not limited to:

- Floyd County Plan Commission
- Community-Builder-Developer Committee to update the Floyd County Subdivision Control Ordinance
- Greenville Planning & Zoning Commission
- Southern Indiana Chamber of Commerce - *SI 2020 Land Use and Planning Task Force*
- Stormwater Advisory Committee (Rule 13)
- Planning with *POWER (Protecting Our Water & Environmental Resources)* in conjunction with Purdue University

Why We Are Here:

History of Effluent Discharge Violations

The performance history of Wastewater Treatment Plants (WWTP) in Floyd County, Indiana has been dismal. In the past 28 months, there have been a total of 311 effluent discharge violations for those plants located in the rural part of the county (outside of New Albany).¹ While we have no hard data on the performance of wastewater treatment plants elsewhere in Indiana, we have no reason to believe that Floyd County is an exceptional case.



Characteristics of Receiving 'Stream'

The problems associated with these effluent violations are being exacerbated by the locations of the WWTP. Some existing WWTP, and proposed new WWTP are increasingly becoming more remote from adequate year-round flowing waters. The sites are moving further up the remote reaches of seasonal streams, frequently referred to in National Pollutant Discharge Elimination System (NPDES) permit and WWTP construction applications as 'unnamed tributaries'. The term 'tributaries' is somewhat misleading; many are in fact dry ditches, flowing only after a rainfall. To classify some of them as seasonal is likewise a misnomer. No onsite inspection or assessment is completed or required before issuing permits to discharge into such ditches.

Potential Health Issues

Discharging effluent into such areas, especially in a violation situation, produces grossly insufficient effluent dilution. Standing water and stagnation in these waterways are not uncommon in warmer months. Polluted effluent only adds to the problem by producing odors, scum formation, and perhaps even health issues (I.E. *E. coli* exposure, West Nile virus) for both humans and animals. The effluent running through these seasonal streams or dry ditches in some cases also runs across adjacent private properties before reaching streams with adequate year-round water flow.

Growth & Expansion

There is additional concern about the growth of existing WWTP in southern Indiana. At least two are in the process of petitioning to expand their Certificate of Territorial Authority (CTA). If already discharging into a waterway of insufficient water flow, the increased effluent flow resulting from the CTA expansion will even further negate the dilution effect of the receiving stream. There are also concerns about the non-quantified erosion and flooding effects associated with the increased water-effluent flows into seasonal streams/dry ditches.

Water Uses

The streams in the rural part of southern Indiana, including Floyd County, support a variety of uses, with which any type of excessive pollution is completely inconsistent. Farming is still common, and the waters are used both for irrigation and raising livestock. Many of the streams are frequently used by fishermen, and for other recreational uses such as swimming and canoeing. Independent testing of some rural waters by citizens and groups has shown them to be exceptionally clean.

Much of western Floyd County furthermore shares a common watershed(s), and therefore shared polluting effects, with neighboring Harrison County. This is significant because the Blue River and Indian Creek in Harrison County have both been designated an *Outstanding River*.² A river included in the listing qualifies under one or more of 22 categories.

Indian Creek qualifies as a State Heritage Program Site, identified by state natural heritage programs or similar state programs as having outstanding ecological importance.

The Blue River qualifies under seven different categories, most notably as a High Water Quality Rivers.³ These are outstanding resources waters designated by states as having outstanding water quality. The Blue River has also been designated for *Exceptional Use* under 327 IAC 2-1-11, from the confluence of the West and Middle Forks of the Blue River in Washington County downstream to its confluence with the Ohio River in Harrison County. Exceptional use waters are classified as those waters which provide unusual aquatic habitat, which are an integral feature of an area of exceptional natural beauty or character, or which support unique assemblages of aquatic organisms.

Commentary on Effectiveness of Current Rules

We realize that allowing WWTP to discharge into such 'tributaries' is based upon the premise that pollutants in the effluent will be maintained at or below levels deemed to be harmful to humans and the environment.

This is *not* reality.

The plants are frequently in violation of effluent limitations, including in some instances the presence of heavy metals and *E. coli*. The discharge limits, predicated on the near impossibility of continuous, fault-free operation of the understaffed WWTP, are not adequately protecting the environment or the health of the citizens in these communities.

What We Are Asking:

We therefore respectfully petition the Water Pollution Control Board of Indiana, in accordance with IC 13-14-8-5⁴, to amend IC 327-5-10 (Rule 10) where appropriate, to require that:

All sanitary wastewater treatment facilities shall discharge effluent into a stream that will provide a minimum dilution ratio with the receiving stream of 10:1 (ten (10) parts stream water to one (1) part effluent). Dilution ratio is to be determined by measuring actual flow of the receiving stream upstream of the treatment plant discharge and then regulating the plant's discharge flow such that the discharge rate does not exceed one-tenth (1/10) of the measured stream flow.

This rule should apply to all (a) new NPDES permit/ WWTP construction applications, (b) capacity increase/modification requests for existing WWTP, and (c) requests for CTA expansions. Such a rule would achieve the following goals:

1. Allow the continued orderly growth and development of rural areas, facilitated by the use of WWTP where appropriate, in accordance with the spirit and intent of IC 8-1-2-89(b)⁵.
2. Ensure adequate effluent dilution at all times, especially in an effluent discharge violation situation (*This should not, of course, not obviate the ongoing need for effluent discharge reporting, nor IDEM enforcement actions for violations*);

3. Mitigate the effects of polluted effluent (odor, scum formation, denigration to flora and fauna, and adverse health issues) when discharging into seasonal streams or dry ditches;
4. Preserve the current agricultural and recreational uses of the receiving streams;
5. Protect the specially designated waters of Indiana, like those in Harrison County, Indiana and elsewhere.

Summary:

As stated previously, we are not antidevelopment groups or individuals. We realize that development will continue in rural areas, and should be encouraged under the proper circumstances and with appropriate controls and guidelines in place. We believe that the rule modification requested above would balance the interests of landowners, other residents of the communities, and the construction/development industry.

Thank you for your time and consideration.

Edited & Presented by:

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Endnotes

¹ IDEM Effluent Discharge Violations for Facilities in Floyd County reports dated 10/03/03 & 06/02/04.

² In 1993, the Natural Resources Commission adopted its "Outstanding Rivers List for Indiana." The listing was published in the Indiana Register on March 1 of that year as Information Bulletin #4 in Volume 16, Number 6, page 1677 through 1680 (sometimes cited as 16 IR 1677). The listing has also been specifically incorporated by reference into statutes and rules. Except where incorporated into a statute or rule, the listing is intended to provide guidance rather than to have regulatory application.

³ The seven categories are: State designated Scenic Rivers, Nationwide Rivers Inventory Rivers, Rivers Identified in State Inventories or Assessments, State Heritage Program Sites, Canoe Trails, State Park Rivers, High Water Quality Rivers

⁴ IC 13-14-8-5 - Proposals for rule

Sec. 5. (a) Any person may present written proposals for the adoption, amendment, or repeal of a rule by one (1) of the boards. A proposal presented under this section must be:

- (1) supported by a statement of reasons; and
- (2) accompanied by a petition signed by at least two hundred (200) persons.

(b) If the board with rulemaking authority in the subject area to which the rule pertains finds that the proposal:

- (1) is not plainly devoid of merit; and
- (2) does not deal with a subject on which a hearing was held within the previous six (6) months of the submission of the proposal; the board shall give notice and hold a hearing on the proposal.

As added by P.L. 1-1996, SEC.4.

⁵ IC 8-1-2-89 - Sewers and sewer systems; certificate of territorial authority; municipal or county acquisition and operation

Sec. 89. (b) It is hereby declared to be in the public interest to provide for the orderly development and rendering of sewage disposal service in rural areas within the state of Indiana, and such public interest makes it necessary and desirable that to the extent provided herein the holding of a certificate of territorial authority should be required as a condition precedent to the rendering of such service, and that such operation be under the control, regulation, and supervision of the commission...