

In The Matter Of:
STATE OF INDIANA ENVIRONMENTAL RULES BOARD

January 8, 2020

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BEFORE THE STATE OF INDIANA
ENVIRONMENTAL RULES BOARD

- - -

PUBLIC MEETING OF JANUARY 8, 2020

- - -

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, January 8, 2020 at 1:31
o'clock p.m.

- - -

William F. Daniels, RPR/CP CM d/b/a
ACCURATE REPORTING OF INDIANA
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Carmel, Indiana 46032
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1 APPEARANCES:

2 BOARD MEMBERS:

3 Beverly Gard, Chairman
4 Michael Schuler
5 Paul Gilson
6 Dr. Ted Niemiec
7 Joanne Alexandrovich
8 Angelique Collier
9 Ken Rulon
10 William Etzler
11 Chris Horn
12 Karen Valiquett
13 Calvin Davidson
14 Cameron Clark, Proxy, Department of
15 Natural Resources
16 Mark Wasky, Proxy, Indiana Economic
17 Development Corporation
18 Katie Nelson, Proxy, Lieutenant
19 Governor
20 Bruno Pigott, IDEM Commissioner (nonvoting)

12

13 IDEM STAFF MEMBERS:

14 Chris Pedersen
15 Krystal Hackney
16 Keelyn Walsh
17 Dan Watts
18 MaryAnn Stevens
19 Nancy King
20 Karla Kindrick

17

18 PUBLIC SPEAKERS:

19 Jill Hoffmann
20 Julie Rhodes
21 Joe Sutherland
22 John Trypus
23 Bill Blomquist

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22

23

1 1:31 o'clock p.m.
2 January 8, 2020

3 - - -

4 CHAIRMAN GARD: Okay. Sorry we're
5 just a couple of minutes late. Parking's a bear.
6 Maybe it's time for the legislature to go home.

7 MR. RULON: So moved.

8 (Laughter.)

9 CHAIRMAN GARD: I want to call the
10 Environmental Rules Board for January the 8th,
11 2020 to order. It appears we have a quorum. I
12 guess the next order of business is approval of
13 the minutes of November 13th, 2019 as
14 distributed. Do I hear a motion to approve?

15 MR. RULON: So moved.

16 CHAIRMAN GARD: A second?

17 MR. CLARK: Second.

18 MR. ETZLER: Second.

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

21 MR. HORN: Aye.

22 MS. NELSON: Aye.

23 DR. ALEXANDROVICH: Aye.

MS. COLLIER: Aye.

1 MR. ETZLER: Aye.

2 MR. RULON: Aye.

3 MS. VALIQUETT: Aye.

4 MR. GILSON: Aye.

5 MR. CLARK: Aye.

6 MR. WASKY: Aye.

7 MR. DAVIDSON: Aye.

8 MS. SCHULER: Aye.

9 CHAIRMAN GARD: Aye.

10 Opposed, nay.

11 (No response.)

12 CHAIRMAN GARD: The minutes are
13 approved.

14 Commissioner, do you have a report?

15 COMM. PIGOTT: Thank you, Madam
16 Chairwoman. I do have a report.

17 First of all, I'd like to mention that the
18 EPA Region V Administrator announced that she
19 would be resigning, and it's happening soon. I
20 just talked to her a few minutes ago, and she's
21 being replaced by her Chief of Staff, whose name
22 is Kurt Thiede.

23 The Regional Administrator's been great to

1 work with, she's an enthusiastic champion of the
2 environment, and -- but she's -- she works in
3 Illinois and her family is in Missouri. So,
4 she's decided that she loves her job, but she
5 loves her family more, and is going back to
6 Missouri and has an opportunity there, and so
7 that's great.

8 And her Chief of Staff, Kurt Thiede, who
9 worked with her for the past nine years, is
10 taking over her position, and he's a terrific
11 person to work with. He's a taskmaster and makes
12 a list and works down the list, and we've had
13 great experience with them.

14 So, I don't believe that this change in
15 leadership at U.S. EPA Region V will result in
16 anything but the same thing in terms of our
17 relationship with them. We already have one, and
18 so that should be good.

19 CHAIRMAN GARD: Is her resignation
20 immediate?

21 COMM. PIGOTT: I don't think it is
22 immediate, and she was on the phone today during
23 our regional call, and I just don't know exactly

1 when. It may be the end of the month that her
2 term is up, but this transition's happening, and
3 it should be no problem. So, that's the first
4 thing I wanted to mention.

5 The second thing I wanted to mention is
6 that sometime this month, IDEM expects to publish
7 in the Indiana Register what we call our 2020
8 303(d) List, and you may wonder, "What does that
9 mean?" Well, it's our list of impaired waters.

10 As you know, the agency is tasked under
11 the Clean Water Act with evaluating the status of
12 the waters around the state, and we do that. We
13 have staff that literally go out and sample
14 waters in a probabilistic fashion that allows us
15 to make some broad region statements about
16 impairments in the waters.

17 And so, we are putting together our list
18 of impaired waters, and it will be expected to be
19 published in the Indiana Register in -- by the
20 end of this month at some point. I'm not sure
21 when.

22 A more detailed presentation of the
23 impaired waters list will be presented at a

1 future Board meeting, but I did want to let you
2 know, since we're intending to publish this in
3 the Register that this is what we're doing.

4 Also, just a few background facts. IDEM
5 has identified a total of 15 previously
6 identified impairments for which water quality
7 standards are now being met, which is good news.
8 These impairments have been removed from the list
9 and based on more recent data or other
10 information that we've received that has become
11 available since U.S. EPA's approval of IDEM's
12 2018 list. We have to publish our list every two
13 years. So, this new information allows us to
14 what we call delist certain streams.

15 In addition to that, though, IDEM has
16 added a total of 18 impairments to the list. The
17 impairments added to this list are based on,
18 again, new or revised assessments that are
19 located mostly in the upper Illinois River Basin,
20 which was sampled in 2017, and the Great Lakes,
21 which were sampled in 2018.

22 Most of the additions are due to E. Coli
23 impairments and impaired biotic communities. As

1 I said, we'll give a more full presentation of
2 the 303(d) List of impaired waters at a future
3 Board meeting, but because it's being published
4 in the Register, I thought it would be important
5 to notify you of the outline of the list. That's
6 the second thing I wanted to mention.

7 Thirdly, as you mentioned, it's session,
8 and this year the Department is mostly tracking
9 environmental bills. We will file omnibus
10 legislation, as we do on a regular basis. The
11 legislation that we're going to file will have
12 three basic components.

13 One is regarding variances for Great Lakes
14 dischargers, to bring up the language in the law
15 to federal standards, and this is in regard to
16 individual variances. And under certain
17 circumstances, entities that have discharges are
18 allowed to apply for a variance from a water
19 quality standard or limit that's in their permit,
20 and there's a specific procedure for doing so.
21 And there are individual variances and there are
22 general variances.

23 One of the most well known is a mercury

1 variance that we have in Northwest Indiana.
2 Anyway, part of what we're doing in the
3 legislation is putting in new language regarding
4 variances that brings it up to code with the
5 federal legislation.

6 Number two, we will be getting out of the
7 business of approving tax pollution credits for
8 pollution control equipment. Oddly enough, over
9 the last, I don't know, 20 years, as long as I've
10 worked here, the Office of Waters had a program
11 where they've been required to verify that
12 pollution control equipment has been put in
13 facilities to ensure that facilities can take
14 advantage of tax exemptions for pollution control
15 equipment.

16 It's a very difficult task for an agency
17 that's an environmental agency to get into the
18 tax business. We're going to get out of it, and
19 local governments will be taking up that
20 verification task. We will have -- we have
21 exactly one staffer that's been devoted to this
22 in the past.

23 We're going to have that staffer continue

1 to work with local government in the event they
2 have questions, but we're no longer going to have
3 that responsibility, which is probably not the
4 right place for it in the first place.

5 And then third, our legislation will have
6 operator certification changes, and primarily the
7 operator certification change is involving
8 testing. Currently the agency is required to
9 hold one test a year, and the test has to be
10 administered by the agency. It's oftentimes done
11 here in Central Indiana.

12 In the past, we've held two tests, and oh,
13 I'd say about five years ago or so we came up
14 with a whole new system of conducting tests, one
15 that was much more friendly for operator or
16 would-be operators. Instead of coming to a
17 central location to take an operator
18 certification exam, waiting months and months to
19 get the results from that exam, the new system
20 involves Ivy Tech.

21 So, a person who qualifies to take an
22 operator certification exam no longer has to come
23 down once -- only one or two times a year, but

1 can take their operator certification exam any
2 time they want to at one of 26 Ivy Tech locations
3 around the state, and they can leave the exam
4 knowing whether they passed the exam or not.

5 And so, it's been really quite convenient
6 for people, and 99 percent of the people who are
7 taking operator certification exams now use the
8 Ivy Tech exam process. I think the last time
9 when we have an operator certification exam, we
10 had exactly three people here, and so we're
11 trying to remove the requirement that we have to
12 have an operator certification exam in person
13 here.

14 If there's a demand for it in the future,
15 we'll do it, but it seems that the trend is
16 people are taking advantage of the convenience of
17 the Ivy Tech system, and I'm frankly happy about
18 that. It's much better for us, for the people
19 who are taking the test, and for the state.

20 And so, that's what our legislation will
21 look like. They're fairly minor provisions and
22 changes that we'll be suggesting to the
23 legislature. That bill has been drafted, but has

1 not been filed yet, so I don't have a bill report
2 for you.

3 And that's my -- oh, one other thing I did
4 want to talk about was -- and I may have
5 mentioned it previously, at our previous Board
6 meeting. As you well now, ArcelorMittal in
7 Northwest Indiana had a problem with a cyanide
8 spill in this past summer. Three thousand fish
9 died recently.

10 In the news, I think it was yesterday or
11 the day before, there was a report about
12 ArcelorMittal and U.S. Midwest, and ArcelorMittal
13 had been -- had been changing the results of
14 their sampling to -- once they received the
15 results, they were negative.

16 We've been in contact with them to let
17 them know that if they have a -- conduct a test,
18 if the test shows that there's a violation and
19 the QA/QC process was appropriate, then there's
20 no need to retest, and that test result will
21 stand, in the eyes of the agency.

22 We're going through enforcement with
23 ArcelorMittal to ensure that they put in place

1 improvements to their wastewater systems, so that
2 incidents like what happened at ArcelorMittal
3 this summer do not occur again.

4 And we're also working with U.S. Midwest.
5 They both discharge to the Little Calumet River,
6 which is where the fish kill happened this year,
7 and we'll be putting in place enforcement action
8 with U.S. Midwest as well, to ensure that they
9 make improvements to their system.

10 They've had a great number of regularly
11 occurring oil problems coming from their
12 facility, so they need to upgrade their systems,
13 ArcelorMittal needs to, and U.S. Steel Gary Works
14 is already in a federal consent decree to make
15 improvements to their facility. I wanted to let
16 you know in case you received any questions about
17 these issues.

18 And that's my report.

19 CHAIRMAN GARD: Are there any
20 questions for the Commissioner?

21 MR. RULON: Bruno, just to be --

22 COMM. PIGOTT: Yes, sir.

23 MR. RULON: -- clear, on the impaired

1 water list, we haven't changed the standard for
2 what qualifies as impaired versus unimpaired in
3 years; right?

4 COMM. PIGOTT: Well -- and then water
5 can be impaired for one pollutant type but not
6 another, and so, there's a wide variety of
7 pollutants that we analyze for, and the standards
8 are basically the same. E. Coli standards
9 haven't changed.

10 MR. RULON: Right.

11 COMM. PIGOTT: So, yes, we're
12 comparing it. A lot of people wonder, "Well, why
13 do you have so many water bodies on the list?
14 They just oftentimes keep increasing." Well, the
15 reason is we're continuing to go out and look.
16 It's not that the problems are getting worse. In
17 fact, I would argue, with the work that's being
18 done around communities around the state,
19 actually the situations's getting better.

20 But our impaired waters list is designed
21 purposely to identify those areas where there are
22 problems, so that we can analyze why those
23 problems are occurring and then fix them. So,

1 that's why the list doesn't get smaller and the
2 standards remain the same.

3 MR. RULON: Well, someone had accused
4 me that we've rolled the rules back under this
5 administration, and not to my knowledge, and you
6 agree --

7 COMM. PIGOTT: No.

8 MR. RULON: -- yeah. Thank you.

9 CHAIRMAN GARD: Any other questions?

10 (No response.)

11 CHAIRMAN GARD: Okay. Thank you.

12 Before we move on to the rules report, I
13 want to take this opportunity to welcome Katie
14 Nelson, who is the Lieutenant Governor's proxy
15 now.

16 Welcome.

17 MS. NELSON: Thank you.

18 CHAIRMAN GARD: I hope you enjoy
19 this.

20 MS. NELSON: Thank you.

21 CHAIRMAN GARD: Is there anybody else
22 that's new that has never been introduced?

23 (No response.)

1 CHAIRMAN GARD: Okay.

2 Chris Pederson, for rulemaking report.

3 MS. PEDERSEN: I'm Chris Pedersen,
4 with the Rules Development Section, the Office of
5 Legal Counsel.

6 At this time, we are anticipating the next
7 meeting would be scheduled for April 8th of 2020,
8 and at that time, we are anticipating bringing
9 before you the emergency rule that is also before
10 you today. We're going to maintain that a little
11 bit longer. That's the Vigo County SO2
12 Redesignation and the Lake and Porter Counties
13 Ozone Reclassification Emergency Rule.

14 Also, if preliminarily adopted today, we
15 may have final adoption packets ready for Cold
16 Cleaner Degreasing and the Transfer Station
17 Reporting Rule.

18 In addition to that, a rule which was
19 preliminarily adopted in August, the NPDES
20 General Permits Rule, will also probably be ready
21 to come before you for final adoption.

22 There's two new rules that we're
23 anticipating being ready. The first is the NOx

1 Emissions Monitoring Rule. This rule revises
2 existing monitoring and reporting requirements
3 for certain large fossil fuel boilers to add an
4 alternative for monitoring and reporting of NOx
5 emissions that is consistent with existing
6 federal rules.

7 And the other rule, our Metals Criteria
8 Rule, this is to update Indiana's aquatic life
9 and human health surface water quality criteria
10 for select metals to the national recommended
11 water quality criteria.

12 And that's it.

13 CHAIRMAN GARD: Any questions from
14 members of the Board?

15 (No response.)

16 CHAIRMAN GARD: Okay. Thank you,
17 Chris.

18 Today we have one emergency rule the Board
19 will be asked to adopt, Vigo County SO2
20 Redesignation and Lake and Porter Counties Ozone
21 Reclassification.

22 We also have hearings for the following
23 Board actions: Final adoption of Emissions

1 Reporting Revisions, Indiana Harbor Coke Company
2 and Cokenergy SO2 Revisions, and Indianapolis CSO
3 Wet Weather Limited Use designation, and
4 preliminary adoption of Transfer Station
5 Reporting, and Cold Cleaner Decreasing
6 Alternative.

7 We will also have a report from the agency
8 and Board discussion on the citizen's petition
9 that was presented to the Board at our November
10 meeting. And those of you out there that might
11 want to testify on anything on the agenda, would
12 you please fill out a card, a comment card, and
13 give it to Carla back there at the table?

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

21 A written transcript of today's meeting
22 will be made. The transcript and any written
23 submissions will be open for public inspection at

1 the Office of Legal Counsel. A copy of the
2 transcript will be posted on the Rules page of
3 the agency Web site when it becomes available.

4 Will the official reporter for the cause
5 please stand, raise your right hand and state
6 your name?

7 (Reporter sworn.)

8 CHAIRMAN GARD: Thank you.

9 The Board will now consider adoption of
10 the emergency rule to update designations for
11 Lake and Porter Counties for the 2008 eight-hour
12 ozone standard in two townships in Vigo County
13 for the 2010 primary one-hour SO₂ standard. This
14 emergency rule temporarily incorporates the
15 current federal designations.

16 I will enter Exhibit A, the emergency
17 draft rule, into the record of the meeting.

18 Krystal Hackney will present the emergency
19 rule.

20 MS. HACKNEY: Good afternoon, members
21 of the Board. My name is Krystal Hackney, and
22 I'm a rule writer in the Rules Development
23 Section within the Office of Legal Counsel.

1 This rule temporarily revises
2 326 IAC 1-4-46 and 326 IAC 1-4-65 to reflect the
3 federal reclassification of Lake and Porter
4 Counties to serious nonattainment for the 2008
5 eight-hour ozone standards; 326 IAC 1-4-85 to
6 reflect the redesignation of Fayette and Harrison
7 Townships in Vigo County for the 2010 SO₂
8 standard.

9 State air permits must be issued in
10 accordance with either the redesignations in
11 326 IAC 1-4 or an effective emergency rule that
12 supersedes the existing state rule. This
13 emergency rule will allow IDEM to permit affected
14 sources under the appropriate air permitting rule
15 until the formal rulemaking is completed.

16 This emergency rule was most recently
17 adopted on November 13th of 2019. Today's
18 adoption of the emergency rule is necessary to
19 maintain the current federal designations until
20 the regular rulemaking is completed. IDEM
21 requests that the Board adopt this emergency rule
22 as presented, and I am available for any further
23 questions that you may have.

1 Thank you.

2 CHAIRMAN GARD: Any questions for
3 Krystal?

4 (No response.)

5 CHAIRMAN GARD: Any Board discussion?

6 (No response.)

7 CHAIRMAN GARD: Is there a motion to
8 adopt the emergency rule?

9 DR. NIEMIEC: So moved.

10 CHAIRMAN GARD: Is there a second?

11 MR. CLARK: Second.

12 CHAIRMAN GARD: All in favor, say
13 aye.

14 MR. HORN: Aye.

15 MS. NELSON: Aye.

16 DR. ALEXANDROVICH: Aye.

17 MS. COLLIER: Aye.

18 MR. ETZLER: Aye.

19 MR. RULON: Aye.

20 MS. VALIQUETT: Aye.

21 DR. NIEMIEC: Aye.

22 MR. GILSON: Aye.

23 MR. CLARK: Aye.

1 MR. WASKY: Aye.

2 MR. DAVIDSON: Aye.

3 MS. SCHULER: Aye.

4 CHAIRMAN GARD: Aye.

5 Opposed, nay.

6 (No response.)

7 CHAIRMAN GARD: The emergency rule is
8 adopted.

9 This is a public hearing before the
10 Environmental Rules Board of the State of Indiana
11 concerning final adoption of amendments to rules
12 at 326 IAC 2-6-1 regarding Emissions Reporting
13 Requirements for certain sources in Clark, Floyd,
14 LaPorte and Dearborn Counties.

15 I will now introduce Exhibit B, the rule
16 as preliminarily adopted, into the record of the
17 hearing.

18 Keelyn Walsh will present the rule.

19 MS. WALSH: Good afternoon, members
20 of the Board. I'm Keelyn Walsh, and I'm here to
21 present Rule No. 19-409, Emissions Reporting
22 Revisions, for your consideration.

23 On June 4th, 2018, U.S. EPA designated

1 Clark and Floyd Counties as nonattainment for
2 the 2015 eight-hour ozone standard as a portion
3 of the Louisville, Kentucky-Indiana nonattainment
4 area. In accordance with Clean Air Act
5 requirements, each state with an ozone
6 nonattainment area must revise its state
7 implementation plan to require sources with
8 volatile organic compounds or nitrogen dioxide
9 emissions greater than 25 tons per year to submit
10 an annual statement of actual emissions to
11 U.S. EPA.

12 Therefore, this rulemaking will amend
13 326 IAC 2-6-1 to include Clark and Floyd Counties
14 under this requirement to ensure that state rules
15 are consistent with federal regulations. This
16 rulemaking will also remove LaPorte County and
17 Lawrenceburg Township in Dearborn County from the
18 annual emission statement requirements, as both
19 of these counties have demonstrated attainment of
20 the ozone National Ambient Air Quality Standards
21 and have been redesignated to attainment.

22 IDEM requests that the Board final adopt
23 this rule as presented, and program staff and I

1 are available to answer any other questions you
2 may have.

3 Thank you.

4 CHAIRMAN GARD: Are there any
5 questions from the Board?

6 (No response.)

7 CHAIRMAN GARD: I have no speaker
8 cards. Is there anyone out there that wants to
9 testify that didn't fill out one?

10 (No response.)

11 CHAIRMAN GARD: Okay. This hearing
12 is concluded.

13 The Board will now consider final adoption
14 of amendments to 326 IAC 2-6-1, Emissions
15 Reporting Revisions. Board discussion. Is there
16 anyone?

17 (No response.)

18 CHAIRMAN GARD: Is there any
19 questions, comments?

20 (No response.)

21 CHAIRMAN GARD: I need a motion to
22 final adopt the rules as presented.

23 DR. NIEMIEC: So moved.

1 CHAIRMAN GARD: Is there a second?

2 MR. DAVIDSON: Second.

3 CHAIRMAN GARD: I'll call the roll.

4 Dr. Niemiec?

5 DR. NIEMIEC: Yes.

6 CHAIRMAN GARD: Ms. Collier?

7 MS. COLLIER: Yes.

8 CHAIRMAN GARD: Mr. Rulon?

9 MR. RULON: Yes.

10 CHAIRMAN GARD: Mr. Davidson?

11 MR. DAVIDSON: Yes.

12 CHAIRMAN GARD: Ms. Nelson?

13 MS. NELSON: Yes.

14 CHAIRMAN GARD: Mr. Gilson?

15 MR. GILSON: Yes.

16 CHAIRMAN GARD: Mr. Schuler?

17 MR. SCHULER: Yes.

18 CHAIRMAN GARD: Mr. Horn?

19 MR. HORN: Yes.

20 CHAIRMAN GARD: Ms. Valiquett?

21 MS. VALIQUETT: Yes.

22 CHAIRMAN GARD: Dr. Alexandrovich?

23 DR. ALEXANDROVICH: Yes.

1 adoption.

2 This rulemaking revises 326 IAC 7-4.1
3 concerning sulfur dioxide emission limitations
4 for Indiana Harbor Coke Company and Cokenergy.
5 These revisions address requirements of a federal
6 consent decree that was agreed upon by the
7 affected businesses, the State of Indiana, and
8 the Federal Government. The affected businesses
9 also requested specific revisions to state rules
10 in letters sent to IDEM.

11 The rulemaking will amend the applicable
12 rule requirements to be consistent with the
13 requirements of the consent decree. After
14 completion of the rulemaking, Indiana will submit
15 a request to U.S. EPA for approval of the
16 revisions into Indiana's State Implementation
17 Plan.

18 The main amendments in the rulemaking are
19 updates to the annual bypass venting limits for
20 coke oven gases, including when heat recovery
21 steam generator retubing is implemented, and the
22 requirement for a permanent flow monitor at the
23 affected facilities.

1 The rulemaking also includes technical
2 corrections and clarifications to the existing
3 rule language that do not have a substantive
4 effect on the application of the rules. There
5 have not been any changes to the rule since
6 preliminary adoption of the rule.

7 Representatives from IDEM are available to
8 answer questions you may have for this
9 rulemaking, and the Department respectfully
10 requests that the Board adopt this rule or IDEM's
11 rule requirements can be consistent with the
12 federal consent decree and to satisfy the
13 requests of the affected businesses.

14 Thank you.

15 CHAIRMAN GARD: Are there any
16 questions for Dan on the rule?

17 (No response.)

18 CHAIRMAN GARD: I have no speaker
19 cards. Is there anyone that wants to testify?

20 (No response.)

21 CHAIRMAN GARD: Okay. This hearing
22 is concluded.

23 The Board will now consider final adoption

1 of amendments to rules at 326 IAC 7-4.1 regarding
2 SO2 emission limitations for coke oven facilities
3 at Indiana Harbor and Cokenergy.

4 Is there any Board discussion?

5 (No response.)

6 CHAIRMAN GARD: I need a motion to
7 final adopt the rules as presented.

8 MR. RULON: So moved.

9 CHAIRMAN GARD: Is there a second?

10 MS. COLLIER: Second.

11 CHAIRMAN GARD: This will be a
12 roll-call vote.

13 Dr. Niemiec?

14 DR. NIEMIEC: Yes.

15 CHAIRMAN GARD: Ms. Collier?

16 MS. COLLIER: Yes.

17 CHAIRMAN GARD: Mr. Rulon?

18 MR. RULON: Yes.

19 CHAIRMAN GARD: Mr. Davidson?

20 MR. DAVIDSON: Yes.

21 CHAIRMAN GARD: Ms. Nelson?

22 MS. NELSON: Yes.

23 CHAIRMAN GARD: Mr. Gilson?

1 MR. GILSON: Yes.

2 CHAIRMAN GARD: Mr. Schuler?

3 MR. SCHULER: Yes.

4 CHAIRMAN GARD: Mr. Horn?

5 MR. HORN: Yes.

6 CHAIRMAN GARD: Ms. Valiquett?

7 MS. VALIQUETT: Yes.

8 CHAIRMAN GARD: Dr. Alexandrovich?

9 DR. ALEXANDROVICH: Yes.

10 CHAIRMAN GARD: Mr. Etzler?

11 MR. ETZLER: Yes.

12 CHAIRMAN GARD: Mr. Clark?

13 MR. CLARK: Yes.

14 CHAIRMAN GARD: Mr. Wasky?

15 MR. WASKY: Yes.

16 CHAIRMAN GARD: The Chair votes aye.

17 The rule is adopted by a vote of 14 to 0.

18 This is a public hearing before the
19 Environmental Rules Board of the State of Indiana
20 concerning preliminary adoption of amendments to
21 rules at 329 IAC 11-13.5, Reporting Requirements
22 for Solid Waste Transfer Stations.

23 I will now introduce Exhibit D, the draft

1 rules, into the record of the hearing.

2 Krystal Hackney will present the rule for
3 the Department.

4 MS. HACKNEY: Good afternoon again.

5 My name is Krystal Hackney.

6 This rule amends the reporting
7 requirements of solid waste transfer stations to
8 remove the annual reporting requirement in
9 329 IAC 11-13.5-17 and move the remaining record
10 keeping requirements to 329 IAC 11-13.5-13. The
11 transfer station annual report would no longer
12 need to be submitted to IDEM because IDEM staff
13 can view these records during on-site facility
14 visits.

15 Most transfer stations do not submit the
16 specific report and, of those that do, no
17 detection of prohibited waste has been reported.
18 Moving the requirements for the record keeping to
19 329 IAC 11-13.5-13 makes 329 IAC 11-13.5-17
20 obsolete, so IDEM is proposing to repeal
21 Section 17 of this rulemaking.

22 This rulemaking will also amend
23 329 IAC 11-13.5-1 to be consistent with changes

1 made to 329 IAC 11-13.5-13. In accordance with a
2 statutory change to IC 13-18-12, the term
3 "wastewater" is being replaced with "septage."
4 Updates to the biosolids and septage acceptance
5 requirements at 329 IAC 11-13.5-13(b)(11) and
6 329 IAC 11-13.5-13(b)(12) are also being made for
7 clarification, to state that biosolids and
8 septage are to remain in closed containers and
9 are not to be transferred to other containers or
10 commingled with other wastes. These changes only
11 clarify already existing requirements.

12 IDEM requests that the Board preliminarily
13 adopt this rule as presented, and I am available
14 to answer any further questions that you may
15 have.

16 CHAIRMAN GARD: Are there any
17 questions for Krystal?

18 (No response.)

19 CHAIRMAN GARD: Okay. I have no
20 speaker cards. Does anyone wish to testify?

21 (No response.)

22 CHAIRMAN GARD: Okay. The hearing is
23 concluded.

1 Thank you, Krystal.

2 MS. HACKNEY: Thank you.

3 CHAIRMAN GARD: The Board will now
4 consider preliminary adoption of amendments to
5 329 IAC 11-13.5, Reporting Requirements for Solid
6 Waste Transfer Stations.

7 Any further Board discussion?

8 (No response.)

9 CHAIRMAN GARD: I need a motion to
10 preliminarily adopt the rules.

11 MR. DAVIDSON: So moved.

12 MR. WASKY: Second.

13 CHAIRMAN GARD: This is a voice vote.
14 All in favor, say aye.

15 MR. HORN: Aye.

16 MS. NELSON: Aye.

17 DR. ALEXANDROVICH: Aye.

18 MS. COLLIER: Aye.

19 MR. ETZLER: Aye.

20 MR. RULON: Aye.

21 MS. VALIQUETT: Aye.

22 DR. NIEMIEC: Aye.

23 MR. GILSON: Aye.

1 MR. CLARK: Aye.

2 MR. WASKY: Aye.

3 MR. DAVIDSON: Aye.

4 MS. SCHULER: Aye.

5 CHAIRMAN GARD: Aye.

6 Opposed, nay?

7 (No response.)

8 CHAIRMAN GARD: The rules are
9 preliminarily adopted.

10 This is a public hearing before the
11 Environmental Rules Board of the State of Indiana
12 concerning preliminary adoption of an alternative
13 method for Coal Cleaning Degreasing Activities.

14 I will now introduce Exhibit E, the draft
15 rules, into the record of the hearing.

16 Keelyn Walsh will present the rule.

17 MS. WALSH: Hello again. I'm Keelyn
18 Walsh, and I'm here to present Rule No. 18-542,
19 Cold Cleaning Degreasing, for your consideration.

20 Cold cleaning is one of four types of
21 degreasing operations in which industrial sources
22 dip or spray machinery parts with a solvent.
23 Emissions of volatile organic compounds, or

1 VOC's, occur as a result of evaporation from the
2 storing and handling of fresh and spent solvents.
3 U.S. EPA regulates VOC emissions to reduce ozone
4 levels in order to maintain compliance with
5 ground level ozone standards under the National
6 Ambient Air Quality Standards at 40 CFR 50.

7 Indiana's current state rule at
8 326 IAC 8-3-8 requires sources operating cold
9 cleaner degreasers to utilize a low-vapor
10 pressure solvent for cleaning or degreasing
11 machine parts. The current rule does not provide
12 an option for sources to use a higher vapor
13 pressure solvent with a control device as an
14 alternative to using a low-vapor pressure
15 solvent.

16 Because low-vapor pressure solvents do not
17 clean well in the printing industry and can cause
18 other issues such as contaminated print ink,
19 duplication of the cleaning process, and the
20 production of hazardous waste, sources operating
21 cold cleaner degreasers in the state need a more
22 flexible alternative.

23 Therefore, IDEM is proposing to amend 326

1 IAC 8-3-1, 8-3-2, 8-3-3, 8-3-4 and 8-3-8 to allow
2 for the use of an add-on control device for
3 solvents with a higher vapor pressure, in order
4 to control emissions from cold cleaning
5 degreasing activities for users currently
6 required to use a low vapor pressure solvent to
7 comply with the state rule.

8 Additional changes to the rule language
9 include updating language in each section to
10 ensure rule clarity and consistency, and
11 exempting spray gun cleaners in 326 IAC 8-3-1
12 from the control equipment, operating, and
13 material requirements of cold cleaner degreasers.
14 Spray gun cleaners are not considered to be cold
15 cleaner degreasers because they are a flushing
16 system and are not used to clean parts or -- and
17 they are not immersed in solvent.

18 This rulemaking is a state-only update.
19 IDEM has consulted with U.S. EPA on the proposed
20 rule revisions and will continue to communicate
21 with them closely to ensure that these provisions
22 will be approved into the Indiana State
23 Implementation Plan.

1 IDEM requests that the Board preliminarily
2 adopt this rule as presented, and program staff
3 are available to answer any other questions you
4 may have.

5 Thank you.

6 CHAIRMAN GARD: Are there any
7 questions for Keelyn?

8 (No response.)

9 CHAIRMAN GARD: Well, thank you.
10 No speaker cards again. Is there anyone
11 who wishes to speak?

12 (No response.)

13 CHAIRMAN GARD: This hearing is
14 concluded.

15 The Board will now consider preliminary
16 adoption of amendments to rules at 326 IAC 8-3
17 regarding an alternative cold cleaning degreasing
18 method.

19 Is there any Board discussion?

20 (No response.)

21 CHAIRMAN GARD: I need a motion to
22 preliminarily adopt the rules.

23 MR. RULON: So moved.

1 CHAIRMAN GARD: Is there a second?

2 MS. COLLIER: Second.

3 CHAIRMAN GARD: All in favor, say

4 aye.

5 MR. HORN: Aye.

6 MS. NELSON: Aye.

7 DR. ALEXANDROVICH: Aye.

8 MS. COLLIER: Aye.

9 MR. ETZLER: Aye.

10 MR. RULON: Aye.

11 MS. VALIQUETT: Aye.

12 DR. NIEMIEC: Aye.

13 MR. GILSON: Aye.

14 MR. CLARK: Aye.

15 MR. WASKY: Aye.

16 MR. DAVIDSON: Aye.

17 MS. SCHULER: Aye.

18 CHAIRMAN GARD: Aye.

19 Opposed, nay.

20 (No response.)

21 CHAIRMAN GARD: The preliminary --

22 the rules are preliminarily adopted.

23 This is a public hearing before the

1 Environmental Rules Board of the State of Indiana
2 concerning final adoption of amendments to rules
3 at 327 IAC 2-1-3.1 and a new rule at 2-1-11.5
4 regarding CSO Wet Weather Limited Use Designation
5 for the City of Indianapolis.

6 I will now introduce Exhibit F, the draft
7 rules, into the record of the hearing.

8 MaryAnn Stevens will present the rule for
9 the Department.

10 MS. STEVENS: Good afternoon. My
11 name's MaryAnn Stevens, a rule writer in the
12 Office of Legal Counsel, Rules Development
13 Branch.

14 Board Members may remember that at the
15 August 2019 Environmental Rules Board meeting,
16 Commissioner Pigott gave a presentation about
17 rules that would be coming before this Board
18 concerning communities with combined sewers and
19 their mechanisms for controlling combined sewer
20 overflow.

21 This is the first of those rulemakings to
22 establish a combined sewer overflow wet weather
23 limited use subcategory of the recreational use

1 designation. The limited use subcategory is
2 established under IC 13-18-3-2.5, which also lays
3 out the process whereby the subcategory may be
4 approved and applied. It is also authorized
5 under the Clean Water Act and federal regulations
6 at 40 CFR 131.10.

7 The rulemaking process to add a CSO wet
8 weather limited use subcategory to Title 327 for
9 a CSO community is found at IC 13-14-9-14. The
10 section 14 rulemaking process requires one
11 posting in the Indiana Register of the proposed
12 rule with a written comment period and one
13 hearing before this Board with the opportunity
14 for public comment, and today is this hearing.

15 Communities with combined sewers are
16 required under the Clean Water Act to prepare and
17 implement a long-term control plan describing
18 what steps the CSO community will take to abate
19 combined sewer overflows and the costs and
20 timeline associated with CSO abatement.

21 CSO communities with approved long-term
22 control plans that contain untreated overflows
23 may conduct a Use Attainability Analysis to

1 temporarily suspend the designated use of waters
2 that may still be impacted by untreated CSO
3 overflows after full implementation of an
4 approved long-term control plan.

5 The CWA Authority, Incorporated, who is
6 owner and operator of the City of Indianapolis'
7 wastewater treatment and sewer system, has
8 conducted a Use Attainability Analysis, and IDEM
9 has approved it. The analysis determined that,
10 even after full implementation of the long-term
11 control plan, which for Indianapolis includes
12 construction of the deep rock tunnel and other
13 associated sewer projects, it is anticipated that
14 there could be several untreated combined sewer
15 overflow events each year.

16 The Use Attainability Analysis done by CWA
17 Authority, Inc. demonstrated that, even after
18 full implementation of a long-term control plan,
19 several stream reaches may still be impacted by
20 combined sewer overflows during severe wet
21 weather events.

22 The analysis recognizes that: CSO
23 impacted waterways are especially unsuited and

1 potentially dangerous for recreation during and
2 following large storm events due to high stream
3 flow and velocity;

4 Human caused changes made within
5 communities due to urbanization or sources of
6 pollution, such as from roofs, roads, sidewalks,
7 and other impervious surfaces, prevent the
8 attainment of the recreational use and cannot be
9 remedied because they would cause more
10 environmental harm to correct than to leave in
11 place;

12 Hydrologic modification through the
13 addition of man-made structures like concrete
14 culverts and dams increases the natural stream
15 flow to unsafe levels during and after storm
16 events;

17 And to prevent 100 percent of combined
18 sewer overflow from reaching all waterways during
19 or after all wet weather events would result in
20 the rate payers of the Indianapolis sewer system
21 having to pay sewer utility rates beyond what the
22 community is capable of paying.

23 The CWA Authority, Inc.'s Use

1 Attainability Analysis provided sufficient
2 information to initiate adding the limited use
3 subcategory to the designated full body contact
4 recreational use for seven Indianapolis area
5 waterways.

6 The subcategory shall apply to the seven
7 stream reaches listed in the proposed rule for up
8 to four days following the date that a combined
9 sewer overflow discharge ends, as provided in IC
10 13-18-3-2.5. At all other times, the
11 recreational use water quality standards are in
12 effect.

13 This rulemaking amends 327 IAC 2-3.1 and
14 adds 327 IAC 2-1-11.5 to establish the CSO wet
15 weather limited use category for the seven
16 Indianapolis area waterways in accord with state
17 and federal law, the Clean Water Act, and the
18 consent decree entered into by the U.S. EPA,
19 IDEM, and CWA Authority, Inc.

20 The CSO wet weather limited use
21 subcategory does not apply to the listed waters
22 until full implementation of the approved
23 long-term control plan. CWA Authority, Inc.

1 intends for the Indianapolis long-term control
2 plan to be fully implemented in 2025.

3 Full implementation of the long-term
4 control plan will result in 97-percent capture of
5 typical year CSO volume on Fall Creek and
6 95-percent capture of typical year CSO volume on
7 all of other waterways. The plan will reduce the
8 average annual combined sewer overflow frequency
9 from 60 overflow per year to two overflows per
10 year on Fall Creek and four overflows per year on
11 the other waterways.

12 Since this rule was posted on the Indiana
13 Register Web site for its comment period starting
14 on October 16, 2019, language has been added to
15 Section 11.5(b)(1) to provide details about the
16 CWA Authority, Inc.'s long-term control plan,
17 including the November 2017 date of the approved
18 long-term control plan and the performance
19 criteria required by the plan in percent capture
20 of typical year CSO volume and the annual average
21 of CSO's allowed in a typical year on the
22 waterways that are eligible for the use
23 designation change.

1 Additionally, a copy of the proposed rule
2 included in the Board members' folders provided
3 to them today is slightly different than the
4 proposed rule document that was included as
5 Document No. 19 in the e-mailed Board packet.
6 There is a slight formatting change to conform to
7 LSA rule writing requirements in the line found
8 at Section 11.5(b)(1) as it leads into clauses A
9 and B.

10 IDEM believes the proposed rule meets the
11 Indiana statutory and federal requirements for
12 establishing a combined sewer overflow wet
13 weather limited use subcategory of the
14 recreational use designation, and therefore asks
15 for the Board's vote for adoption.

16 If there are any questions, I can answer,
17 and Bruno and a whole host of your fine IDEM
18 Office of Water Quality legal counsel, and all
19 points of interest, I believe Citizen Energy,
20 also known as CWA Authority, is here today, and
21 they may want to answer your questions if you
22 have any.

23 CHAIRMAN GARD: Are there any

1 questions from Board Members?

2 (No response.)

3 CHAIRMAN GARD: No.

4 MS. STEVENS: Okay.

5 CHAIRMAN GARD: We have no speaker
6 cards --

7 MR. ETZLER: Yes, we do have --

8 CHAIRMAN GARD: Oh, we do. Sorry
9 about that. Okay. Jill Hoffmann.

10 MS. HOFFMANN: Hey, good afternoon.
11 It's nice to be here. I haven't been to this
12 Board since I worked for DNR way back in the day,
13 so let me introduce myself. I'm Jill Hoffman. I
14 serve as the Executive Director for the White
15 River Alliance, which is an allied stakeholder, a
16 nonprofit organization working here in Central
17 Indiana, with the mission of simply improving and
18 protecting water resources here in the central
19 part of the state.

20 To give you a little bit of background, as
21 I mentioned, our organization is pretty diverse.
22 We represent industry, cities, consultants,
23 researchers, concerned citizens, nonprofit groups

1 that are allied with our mission.

2 So, we've given a lot of thought to what's
3 being proposed in front of you, and it's my
4 pleasure to be here today and have the
5 opportunity to talk to you about what is a
6 significant and precedent-setting rule change.

7 With that said, I would also like to
8 recognize that our organization has spent a lot
9 of time building conversation around water. The
10 last couple of years, we've hosted the first ever
11 Water -- Indiana Water Summits in the state. We
12 like to listen to all sides of an issue.

13 And in pursuit of that, prior to coming
14 here, I spoke with both Citizens Energy Group
15 specifically about this, and I appreciate the
16 time they spent with us. Also I sat down with
17 IDEM staff, and I appreciate the time that they
18 spent helping us understand this as well. So, I
19 come to you with a good understanding of this
20 topic.

21 I also come with a significant amount of
22 sympathy for the challenges that are facing our
23 CSO communities. It is without a doubt that we

1 millions of dollars trying to clean up the White
2 River Watershed and its waterways, with the
3 intent of having them become the huge assets that
4 they are to our community.

5 Our tourism agencies are involved in this
6 pursuit. The White River Vision Plan was
7 recently adopted. Lots of people are working
8 very hard to make this waterway an asset for
9 tourism and economy and business and citizens.
10 It's critical with what we're about to do today
11 that we pay very close attention to what this
12 rule does for our future.

13 That said, I guess I would like to focus
14 my comments on this phrase "typical year." So, I
15 know that you guys are all also well versed and
16 that Comm. Pigott gave you a presentation at your
17 last board meeting about this. I was around on
18 the state side when we were working on the
19 long-term control plan, so I remember those
20 discussions, and basically this is a negotiated
21 end point, with the understanding that we would
22 have about 97-percent capture of CSO overflows at
23 the end of this. That's the understanding that

1 the utility has, that's the understanding that
2 the community has.

3 That typical year in which we designed
4 the long-term control plan solutions was 1996
5 to 2000. That's quite a bit of time ago. That's
6 how long these things take. You guys are
7 familiar with the bureaucracy of this. Okay. I
8 want to make sure that we pay attention to that
9 time frame, because it's important to the
10 questions that have been raised in our minds
11 about what we will actually receive at the end of
12 this.

13 So, what we're aiming for is a 97-percent
14 capture of that typical year time frame. We have
15 significant concerns that that typical year time
16 frame is no longer typical of our current
17 conditions. What we're doing with this
18 rulemaking here is allowing the pollution event
19 itself to change the water quality use. That
20 seems, to our organization and many well versed
21 in the Clean Water Act, to fly in the face of the
22 intent of the Clean Water Act. Under no other
23 circumstances do we let a pollution event dictate

1 the water quality use.

2 So, let me give you a little bit of an
3 example of how I'm thinking about this. If we
4 fix in time our pollution solutions to a time
5 frame of 1996 to 2000, and we already know we are
6 experiencing storm events significantly larger
7 than we were experiencing at that time, and storm
8 events that are more frequent, climate forecasts
9 are only suggesting that that is going to get
10 substantially worse. The Purdue Climate Center
11 has forecasted an increase as much as 25 percent
12 of storm water in the winter and springtime.

13 So, the question is: If we have a
14 97-percent capture, and combined is 97-percent
15 capture of that time frame before, and then we
16 allow the CSO event itself to dictate the water
17 quality use, we have fixed in time our pollution
18 prevention of CSO's in this community.

19 So, sometimes it helps to think about this
20 in a more simplistic way, because this is a
21 really complicated topic, and it's an expensive
22 topic, and I'm a rate payer here in the CSO
23 district, so I've seen and realize the expense

1 myself.

2 Let's break it down like this: Say I had
3 a home that was on a septic system, and that
4 septic system was currently failing, and you told
5 me I had to upgrade my septic system. And I did
6 so. I made a huge investment in that, cost me a
7 lot of money. And then sometime down the road, I
8 unexpectedly get pregnant with three triplets,
9 and I now want to put more septic into my septic
10 system.

11 You guys would all tell me I need to
12 upgrade my septic system. We can't fix in time a
13 certain set of conditions, and in that example I
14 gave you, allow me to then contribute three
15 people to increase the waste into a septic
16 system, discharge that, and then allow my own
17 discharge pollution event to change the water
18 quality standard. This does not make sense for
19 our future, especially when so many people are
20 working so hard, including our cities and
21 utilities, to have cleaner waterways.

22 I know this is a difficult nut to crack,
23 so to speak, but the answer doesn't need to be a

1 hundred percent capture and another giant tunnel
2 costing all of us rate payers millions and
3 billions of dollars. We need to have a
4 significant and sincere storm water conversation
5 about how we start preventing storm water from
6 getting into our combined systems.

7 There are a lot of solutions that lie in
8 green infrastructure conversations, in
9 development standards. There are a lot of
10 creative opportunities to address this besides
11 another hammer of large, giant-grade
12 infrastructure.

13 I am sympathetic and thoughtful about what
14 it means to have a discussion that works for our
15 communities, financially and environmentally.
16 But this strategy that's in front of you right
17 now, where we fix a point in time and allow the
18 compliance of CSO's in this community to be tied
19 to 1996 and dictated that every time we have a
20 CSO wet weather event, we lift a use for four
21 days after that, with no bounds, no limits.

22 That modeling suggests it would be four or
23 two times a year, but I can -- I would like us to

1 just pause and maybe think about requiring that
2 we take a look at what is really going on with
3 our current storms and what kind of capture will
4 we have on current storms, and what kind of
5 capture will we have in a tunnel, or in 2050. If
6 we fix this and we allow this to happen, we don't
7 have any recourse to come back here and deal with
8 CSO's.

9 So, this is, as I mentioned, precedent
10 setting. I would like you to be very thoughtful
11 about what you are about to do. Our suggested
12 actions -- we did submit comments in the 30-day
13 comment period. I hope that you have those in
14 your packet.

15 Some suggested actions are to pause to
16 study this a little bit more, to have some
17 information about "What does it mean now with
18 current storms and future storms if we were to do
19 this?" a bit more about monitoring information,
20 and a bigger conversation about storm water
21 management and regulations surrounding that.

22 With that, I really appreciate your
23 thoughtful consideration of what's before you,

1 and I thank you so much for your time.

2 CHAIRMAN GARD: Are there any
3 questions for Ms. Hoffman from the Board?

4 (No response.)

5 MS. HOFFMANN: Okay. Thank you.

6 CHAIRMAN GARD: Thank you.

7 The next person to testify is Julie
8 Rhodes.

9 MS. RHODES: Good afternoon,
10 Chairperson Gard and members of the Board. My
11 name is Julie Rhodes, and I am the Collective
12 Impact Director for Reconnecting to Our
13 Waterways, or ROW. It's a collective of over a
14 hundred organizations across Indianapolis who
15 have come together to engage neighborhoods and
16 community members to connect with, learn about,
17 and improve water quality in and along the
18 waterways.

19 We work with thousands of residents,
20 businesses and organization -- organizational
21 volunteers along the White River and five
22 tributaries: Central Canal, Fall Creek, Little
23 Eagle Creek, Pleasant Run and Pogues Run.

1 Our groups meet monthly to create activism
2 opportunities -- I'm sorry -- activation
3 opportunities, and to meet the call to action of
4 improving the waterways through small actions
5 like invasive species removal, making cleaning
6 attempts, reducing chemical use, creating natural
7 habitats, beneficial storm water management, and
8 more.

9 We'll work specifically with neighborhoods
10 that have traditionally been disinvested in and
11 disenfranchised, have higher rates of poverty,
12 and larger percentages of people of color than
13 the county average. For eight years, ROW has
14 walked alongside these neighborhoods, building
15 their knowledge base about how water systems work
16 and affect drinking water, storm water, flooding,
17 and recreational opportunities, wildlife
18 ecosystems, and so on.

19 These are incredibly complex issues that
20 are difficult for an average citizen to
21 understand, let alone know how and when to act
22 upon their own interest, and plan for the future
23 of their waterways.

1 What they do know is that they've been
2 paying more for their water, sewer and storm
3 water bills to clean up their waterways, and that
4 has energized them to dream about how their
5 waterways can be safe for them most of the time
6 in the future, once the Dig Indy project is
7 complete.

8 For years they've heard that 97 percent of
9 the CSO's will be eliminated, or two to four
10 overflows a year will result from their
11 investments. They don't understand how the
12 nuances about the use of typical year as outdated
13 information to model the overflows.

14 Or how climate change will increase
15 overflows and flooding beyond the two to four
16 events, and then suspend the water quality
17 standards for four days following. They are just
18 anxiously awaiting 2025, when they feel that they
19 were promised that the water would be safe most
20 of the time.

21 ROW's waterway representatives are not
22 speaking here today because these issues are so
23 technical, so complex, and so intimidating. ROW

1 appreciates that Citizens Energy Group, as a
2 member of our own steering committee, did share
3 some information with our committee, and also
4 participated in a small group follow-up meeting.

5 However, with such a fast time line for
6 approval of the Use Attainability Analysis that
7 did not include a public input process, and now
8 this wet weather designation and no public
9 meetings that allow average citizens that we work
10 with to understand these issues and outcomes, the
11 public really is not aware of today's
12 consideration and/or the long-term repercussions.

13 We urge the Board to consider the
14 importance of more opportunities for public
15 outreach, public education and public comment.
16 When the CSO plan and rate increases were
17 initially proposed by the City of Indianapolis,
18 significant public outreach and public meetings
19 were undertaken.

20 ROW's community members need some
21 hand-holding to understand what is at stake and
22 how this body, IDEM and others are proposing a
23 dramatic change in how and when our waterways

1 will be safe for them and their children.

2 We know that our waterway community
3 members are prime for this discussion after their
4 eight years of engagement with ROW, and they're
5 ready to learn more about how their own actions
6 advocate for water quality improvements, like
7 green infrastructures such as rain gardens and
8 reducing impervious surfaces, how those can be
9 part of the solution.

10 But today's consideration is so little
11 known or understood, and there simply hasn't been
12 adequate input from a public who agree to pay for
13 improvements to their waterway, thinking that the
14 combined sewer overflow problem would be all but
15 solved.

16 I urge you to consider how devastating it
17 might be to make such a monumental and permanent
18 decision without more opportunities to engage
19 with and glean input from average citizens who
20 are most impacted.

21 Thank you very much.

22 CHAIRMAN GARD: Are there any
23 questions for Ms. Rhodes?

1 MR. RULON: Have Citizens -- has
2 Citizens Energy led you to believe that they've
3 modeled the new climate events and given you a
4 better number than 97 percent?

5 MS. RHODES: So, I think that the
6 number is unknown, but they've led us to believe
7 that because it was -- all of the rules were made
8 around that 1996 to 2000 time period, all of the
9 modeling has been done there. They're in
10 compliance in that regard, as Jill had pointed
11 out earlier, but we just know that those numbers
12 are just not realistic for the future. We know
13 that they're already increasing, and we know that
14 all of the predictions show that they'll increase
15 dramatically.

16 MR. RULON: We're going to have one
17 on Friday, a three-and-a-half-inch rain. This is
18 guaranteed.

19 MS. RHODES: Well, and we know here
20 in Indianapolis, our overflows don't really even
21 take a major rain event in order for them to
22 overflow, so --

23 MR. RULON: Thank you.

1 MS. RHODES: Thank you.

2 CHAIRMAN GARD: Thank you.

3 Joe Sutherland.

4 MR. SUTHERLAND: Good afternoon,
5 Madam Chair, members of the Board. It's a
6 pleasure to be here.

7 Staff of the agency did such a fine job
8 describing this, I'm not sure there's a whole lot
9 I can add, but in light of some of the other
10 discussion, I thought I would come up and maybe
11 give you a little bit broader context of what
12 we're considering here and some of the things
13 that Citizens Energy Group, CWA Authority has
14 done over really quite a long time.

15 The Dig Indy projects have been ongoing
16 over the last 19 years, so this isn't a new
17 endeavor on the company's part. It actually
18 predates Citizens ownership of the assets.
19 They're required by federal consent decree to
20 meet the Clean Water Act requirements, the goal
21 of which is to control combined sewer overflows
22 in the community.

23 Projects will ultimately result in removal

1 of over six billion gallons of combined sewage
2 overflow annually from White River and other of
3 its waterways. Once fully implemented, the
4 projects required by the consent decree will
5 reduce the number of combined sewer overflows
6 from roughly 60 per year to roughly two to four
7 per year.

8 Even before completion of all required
9 projects, we have seen substantial water quality
10 improvements. Through December 2019, over 1.4
11 billion gallons of CSO has been captured since
12 the finish of the Deep Rock Tunnel Connector and
13 the Eagle Creek Tunnel. They both came on-line
14 in December of 2017. Citizens anticipates
15 collection of over 200 billion gallons of CSO
16 just between 2011 and 2025, when the project will
17 be complete.

18 Approval of the UAA and the wet weather
19 limited use designation was anticipated when the
20 consent decree was approved in 2006. It
21 actually, from the terms of the consent decree,
22 was supposed to be done many years ago. The UAA
23 is the agreed-upon method to manage extreme storm

1 events above the consent decree level of control
2 when local waters are not safe for full body
3 recreation. This is true not -- this is not only
4 true because of the CSO's, but also to dangerous
5 flow depths, volumes and velocities in highly
6 urbanized waterways.

7 Just a brief comment on the typical year.
8 It's a year selected by regulatory agencies
9 pursuant to Federal EPA guidance. Indianapolis
10 evaluated 50 years of precipitation data to
11 characterize precipitation and runoff norms,
12 three to five wet weather events that may trigger
13 CSO discharges.

14 To the thought that this is a one-time,
15 we-do-this-and-we're-done, the long-term control
16 plan is required to be revisited every five
17 years. This is a step in a much longer and
18 ongoing, indefinite process.

19 The CSO control policy also dictates a
20 requirement for post-construction monitoring, to
21 verify the effectiveness of the CSO controls
22 implemented through the control plan.
23 Post-construction monitoring is based on actual

1 rainfall precipitation, not projection, and the
2 subsequent CSO flow data during the time period.

3 CSO flow data is collected and assessed
4 against the typical year level of control,
5 required by the approved long-term control plan,
6 and required by the consent decree. This
7 information is reported as compliance to IDEM.

8 So, with that, I'll conclude my remarks
9 and ask if there are any questions.

10 CHAIRMAN GARD: Are there any
11 questions for Mr. Sutherland? Yes.

12 MR. CLARK: So, that was a question I
13 had, stemming from Ms. Hoffmann's presentation,
14 about sort of the one and done. So, if I
15 understand you correctly --

16 MR. SUTHERLAND: Yeah.

17 MR. CLARK: -- the control plan gets
18 re-evaluated every five years based upon the
19 previous five years environment, and what are you
20 evaluating and what then is subject to revision,
21 just so I'm clear?

22 MR. SUTHERLAND: I'll tell you what:
23 We have a gentleman back here that actually does

1 the long-term control plan. I'm going to have
2 John come up so he can talk to you about the
3 specifics of that plan and what goes into it.

4 COMM. PIGOTT: And really, Director
5 Clark, the process of evaluating is a process the
6 agency undertakes, so every five years the agency
7 takes a look at the long-term control plans that
8 have been completed, and they evaluate compliance
9 with the plan.

10 As somebody mentioned, there's
11 post-construction monitoring that takes place.
12 That post-construction monitoring informs the
13 agency about whether or not the particular
14 community is living up to the commitments that
15 are outlined, in this case, in a federal consent
16 decree, and so does EPA and DOJ have that
17 opportunity. And revisions after that five years
18 are a possible plan of implementation.

19 And remember, that storm event that we're
20 talking about, the typical year thing, you had to
21 put in place a typical year storm event in order
22 to build these tunnels, and if you didn't examine
23 50 years of data, if you didn't take a look at it

1 and say, "Well, what -- what's the likelihood of
2 the kind of storm event that's going to occur?"
3 then you'd be guessing about what -- what this
4 infrastructure could handle, and that's why the
5 re-evaluation on a five-year basis is vitally
6 important.

7 But also, it ensures that -- and the
8 conversations I've had are that the expectations
9 actually of this tunnel are that -- and the whole
10 system -- it may actually exceed the abilities
11 that have been outlined in the proposed -- in the
12 consent decree. And therefore, at the end of
13 that five years, we'll be able to look at all of
14 this and make a determination about where we're
15 at.

16 And Citizens will be required to submit
17 information to us that demonstrates -- and we're
18 not going to wait until five years out. We'll be
19 looking at it along the way, to make sure
20 implementation not only is completed, but that
21 the system is doing what it said it would do.

22 MR. CLARK: And that's -- I think
23 that really goes -- answers my question, is that

1 there seems to be a suggestion that there's
2 built-in obsolescence into what we're deciding
3 today, and what I'm hearing is that while we are
4 using 20-year old data, what takes place over the
5 next three to five years or whatever the period
6 is going to be is going to be current data that
7 is going to be used to determine what changes, if
8 any, need to be made to the plan; is that
9 correct?

10 COMM. PIGOTT: Yeah, and we'll be
11 looking at performance of the system, we'll be
12 looking at the rain events, we'll be looking at
13 everything to make a determination of where we
14 go, but there was a necessity to put in place --
15 and remember, just contextually, long before
16 Citizens was involved in this, there were
17 discussions with the City of Indianapolis about
18 the long-term control plan.

19 In the process of just getting to an
20 approval, it took at least a decade, and so,
21 getting to this place of having a plan that will
22 dramatically change things -- and one of the
23 commenters indicated that there's going to be

1 dramatic changes as a result of this.

2 Absolutely, it's going to be dramatically better.

3 The level of CSO, raw sewage that's going
4 to be captured, will make and align with the
5 goals that Jill and Julie have articulated. They
6 want this place to be a place that attracts
7 people. If not for this plan, we would not get
8 there. And the agency will be tasked with
9 evaluating the plan in the future to determine
10 how well we're doing.

11 And so, it's not a one-off. This is not a
12 permanent -- there will never be a revisitation.
13 And we're excited about having this thing fully
14 implemented, because we believe that the
15 improvements in our environment, if you step back
16 and look at the big picture, will be dramatic for
17 our system.

18 MR. RULON: But that's not what this
19 rule is about. I mean we're all totally on your
20 page, and we love the consent decree and all of
21 that stuff. It's going to be great for
22 Indianapolis. But this rule is backing off what
23 that was about.

1 COMM. PIGOTT: No, this doesn't back
2 off of anything, Ken. This rule merely codifies
3 what goals were set in place. And remember, this
4 rule does not establish how many overflow events
5 will occur after the implementation. This merely
6 codifies what was already articulated in the
7 plan. It's not changing any of that.

8 Now, you may argue, "Well, you need to
9 change it." But let's go look at the performance
10 of the system, let's -- and remember, as Citizens
11 indicated, this process of having this UAA
12 approved was embedded into the consent decree
13 itself. It was anticipated and required that
14 Citizens submit this information to us almost ten
15 years ago now.

16 We're way behind, and yet we've made great
17 progress. The system is not permanent, but it is
18 a great improvement, and really, that's the big
19 picture. This rule codifies what was articulated
20 in the federal consent decree.

21 MR. SUTHERLAND: So, if John can
22 speak some --

23 COMM. PIGOTT: I'm sorry.

1 MR. SUTHERLAND: -- maybe to what
2 goes into that update of the long-term control
3 plan, very briefly, that might be helpful.

4 CHAIRMAN GARD: Yes, and when you do,
5 will you please fill out an appearance form.

6 MR. SUTHERLAND: I'll make him.

7 MR. TRYPUS: Yes, ma'am. So, I'm
8 John Trypus. I'm a director with Citizens Energy
9 Group, our underground construction program
10 responsible for the Dig Indy program.

11 So, as part of our consent decree, we --
12 during the time period of our consent decree,
13 we're required to do five-year updates on the
14 long-term control plan, which looks at every
15 section of the long-term control plan, what was
16 assessed, as well as what controls were being
17 proposed.

18 So, we talked about the deep tunnel as
19 proposed as part of the project, there's multiple
20 components for each water body in the plan that
21 gets evaluated and reupdated as part of the
22 long-term control plan update.

23 What I think is most notable is if this is

1 approved as a wet weather limited use
2 subcategory, basically the document that's
3 utilized, the Use Attainability Analysis, the
4 UAA, is also looked at every five years and
5 reapproved by IDEM during that time period.

6 So, even if it's approved at this point,
7 it would have a five-year window, after 2025, and
8 it would get re-evaluated by IDEM, looking at
9 those four categories related to flows in the
10 stream, velocity, depth, everything Joe talked
11 about, as well as affordability to our -- to the
12 rate payers to pay for additional measures should
13 that be required.

14 CHAIRMAN GARD: Yes.

15 DR. ALEXANDROVICH: I guess this is a
16 question to Citizens and to IDEM. So, was there
17 any public comment period on the Use
18 Attainability Analysis?

19 COMM. PIGOTT: Well, I can't remember
20 if there was a comment period about the Use
21 Attainability Analysis, but let's talk about the
22 whole process. Let's talk about putting together
23 a plan that had us reach two and four overflows.

1 There was a citizens committee that was assembled
2 that met on a regular basis.

3 All of the plans that have been composed
4 were not only prepared -- and there were over a
5 hundred alternatives examined -- and remember,
6 this is a two-billion-dollar project -- a hundred
7 different alternatives before this one was
8 reached, and there was extensive public input and
9 opportunity for comment before the consent decree
10 was established.

11 Now, in terms of the Use Attainability
12 Analysis, that was -- that document was submitted
13 to the agency, the agency reviewed and approved
14 it, and this -- that was an agency review
15 process. The public input process for
16 establishing the wet weather subuse category,
17 that process of establishing that, this is the
18 place for the public input, which is why we're
19 having the hearing today.

20 And so, it's the appropriate place to have
21 it, not at the -- at the position where we
22 reviewed a submission of a report by Citizens,
23 and that's why this is the opportunity to have

1 that public input.

2 The other thing worth noting here, I
3 think, is one of the issues that we're talking
4 about, the storm water contributions, and
5 Indianapolis is a unique situation. First of
6 all, it pays to say it again and again, dramatic
7 reduction in discharges, unbelievably perhaps the
8 best in the state, and amongst the best in the
9 nation in terms of environmental improvements.

10 But in addition to that, unlike some
11 communities, Indianapolis' sewer system and
12 treatment plant is run by Citizens. The city is
13 responsible for the storm water system, not
14 Citizens, and it's important because of the need
15 to address storm water.

16 There certainly is a need to address storm
17 water, and there's a vital need to address ways
18 to do it that are green. I don't disagree any of
19 what our commenters indicated, that you could
20 investigate further green alternatives to help
21 reduce storm water reaching our streams, and that
22 process is not in any way short -- shortened in
23 this approval.

1 That is still available, and the city
2 makes the determinations about what storm water
3 improvements can be made, whether it's rain
4 gardens, green roofs. That process is a
5 legitimate one, it would be great to see
6 advancements, but that is in the storm water
7 category, which is under the rubric of the city.

8 MR. DAVIDSON: John, is this the --
9 can you speak to the end of the design cycle?
10 Did you overbuild, I guess, maybe is a better way
11 to ask? When you give an engineer a project like
12 this, they love to overdesign; right? There's
13 always a little extra factor. Did they -- is it
14 over -- overdesigned to accept -- expect another
15 event that you guys are cautious about saving?

16 MR. TRYPUS: Well, we have
17 published -- I mean we -- engineers do like to
18 overdesign, there's no doubt about that, sir.
19 Being part of that, we will capture the minimum.
20 Two hundred fifty million gallons is what the
21 tunnel is designed to capture, minimum, and then
22 meet the requirement of our consent decree of two
23 to four overflows per year.

1 As it's designed, actually some
2 efficiencies in expanding the tunnel, it will
3 hold a larger capacity, about 270 million
4 gallons, and we do anticipate, based on the
5 predictive modeling of that five-year event
6 from 1996 to 2000, we were closer to a 90-percent
7 level of capture, which equates to less than two
8 overflows per year in an average typical year.

9 Now, again, this typical-year factor, even
10 with increasing storm water and higher flows, it
11 doesn't negate some of the same conditions we
12 have now. I mean the more rain you get still
13 makes the stream dangerous to be in. It even
14 increases the velocity and depths of flows in the
15 stream.

16 We'll still have the urbanized areas we're
17 working through, so we'll try to capture as much
18 as we can. So, right now it looks like we will
19 capture more than we're required to do, just
20 based on the system design requirements.
21 However, it's not a requirement in our consent
22 decree, nor do we want to necessarily make it.

23 Does that answer your question?

1 MR. DAVIDSON: It does. Is it
2 expandible? Can you add more later?

3 MR. TRYPUS: I would -- yes. The
4 tunnel right now is -- it was originally designed
5 or thought to be 25 miles in length in the
6 original long-term control plan. In our periodic
7 updates, our last update, we indicated the length
8 is now 28 miles, based on different areas we had
9 to reach to and obtain, and that's kind of what
10 added to the additional volumes inside the
11 consent decree.

12 What becomes a limiting factor is really
13 the sewer system on the surface, so you can only
14 stuff so much storm water into an inlet to fill
15 the existing pipes that are under all of the
16 streets.

17 So, at this point we would literally have
18 to put more pipes in the streets, which is really
19 where a lot of the significant cost comes into
20 play on a lot of these, we can't -- there
21 short-term rapid events, these three-inch
22 rainfalls, you see the streets now, they're just
23 flooded mainly because of all of the impervious

1 area that currently exists.

2 So, it is -- I think it was mentioned,
3 it's really -- it's multifaceted. There's a lot
4 of issues associated with it, but part of it's
5 there's only so many pipes you can build to get
6 some of those flows that are so extreme into a
7 system, and then the cost to treat it at the end
8 of the day is substantial. So, to expand the
9 program, it would almost double. It's currently
10 about a two-billion-dollar program. We would be
11 upwards of four to six billion dollars to try to
12 capture additional flow.

13 MR. DAVIDSON: Thank you.

14 MR. TRYPUS: Thank you.

15 MR. RULON: So, the long-term flow
16 plan basically, instead of fixing the
17 contamination of the sewers at the street level,
18 we're just going to capture it all and treat it?
19 That's what the plan basically does, doesn't it?
20 I mean we're not really coming to the source of
21 the problem. A lot of small towns would have to
22 put entire new sewer systems in, if they can't
23 afford to dig a tunnel and put in a big pond

1 somewhere. So, I just -- that is the way this
2 plan works; right?

3 MR. TRYPUS: Correct. That's a very
4 good question. So, as part of the long-term
5 control plan and evaluation that occurred over
6 almost a ten-year time frame in the City of
7 Indianapolis, several alternatives were looked
8 at.

9 One was sewer separation, to separate the
10 domestic from the storm sewer. That was
11 estimated at about over six billion dollars, and
12 then the loss of business and residential use
13 of -- imagine about every street in downtown
14 Indianapolis needing to have a separate sewer put
15 in. So, it would be extensive street closures
16 and total relocations and high impacts.

17 We also looked at remote storage
18 facilities as part of that long-term control
19 plan, so it was a very thorough evaluation on
20 the -- what we were looking at. A lot of cities
21 similar to Indianapolis -- Cincinnati, St. Louis,
22 Chicago -- all have very similar plans where
23 they're not separating, but they have tunnel or

1 types of storage facilities.

2 CHAIRMAN GARD: Any further
3 questions?

4 (No response.)

5 CHAIRMAN GARD: Thank you.

6 MR. TRYPUS: Thank you.

7 MR. SUTHERLAND: Thank you.

8 CHAIRMAN GARD: Well, if any of you
9 all haven't taken advantage of the opportunity to
10 go down in that tunnel and see what's going on,
11 see some of the construction, I encourage you to
12 do it. I suspect that Mr. Sutherland could
13 arrange it, and it's just -- it's an amazing
14 construction project.

15 Bill Blomquist.

16 (Mr. Clark left the room.)

17 MR. BLOMQUIST: Chairwoman Gard,
18 members of the Board, thank you for the time.
19 I'm a Board member of the White River Alliance,
20 and I just wanted to follow up on a couple of the
21 comments that have been made so far.

22 First, like all of the commenters, I agree
23 that Dig Indy and the tunnel are a tremendous

1 improvement, nobody's arguing that point, and
2 that the billions of gallons of diverted
3 overflows are a tremendous step forward, nobody's
4 arguing that.

5 But the action item that's before you, if
6 I understand it, is the use designation and
7 whether what will be allowed now by the state
8 going forward is that every time there is an
9 overflow, whether it's the fourth one or the
10 fifth one or the seventh one or the tenth one in
11 a year, that then there's another four-day clock
12 that starts, and that the response from the state
13 is "Public, stay out of the water." And the
14 question is whether you want to move that goal
15 post in that way.

16 The questions about the follow-up
17 monitoring, the post-construction monitoring,
18 well placed, well answered, but in the course of
19 the response and the discussion, I think our
20 attention shifted then. What will be monitored
21 is compliance, and the compliance will be
22 relative to the decree and the plan, and the plan
23 will be relative to the typical year of 1996

1 to 2000, and I think Mr. Sutherland said whether
2 we're hitting the 97-percent capture, whether
3 we're hitting the 97-percent capture relative to
4 that typical year, which was then, you know, a
5 while ago.

6 It doesn't seem to me as though the most
7 pertinent question is whether Citizens is doing
8 admirable things. They are. Whether it's an
9 expensive project. It is. I'm another one of
10 those rate payers that lives in the service area.
11 I've seen those costs at my household, too. I'm
12 happy to pay them.

13 The question is whether the public, having
14 paid those rates and invested that money, is
15 entitled to see recreational use of that river
16 and not have the number of days of recreational
17 use of that river slid down and down and down and
18 down every time there's an additional overflow,
19 which all of the projections indicate to us there
20 will be.

21 And approving that use designation as the
22 action item before you, I don't think I've heard
23 anything that indicates that there's a rush, and

1 there's plenty of things to consider here. And
2 so, I'd support -- or would ask that you consider
3 just taking a little more time on this one and
4 thinking through what the implications, not just
5 for Citizens, who are doing terrific work on our
6 behalf, but the ramifications for the public
7 generally of the change that's being asked of
8 them.

9 Thanks.

10 CHAIRMAN GARD: You have a question?

11 MR. ETZLER: You re -- fellow Board
12 members, you received a handout that's
13 supplemental. Could you go to page three? I'm
14 not going to read this to you, but -- in its
15 entirety, but it -- the first part of it,
16 subsection (b), says that "The water quality
17 based requirements for the CSO wet weather
18 limited use subcategory...are determined by the
19 November 2017 approved [long-term control plan]
20 for the combined sewer...." So, the water
21 quality data has been updated through adherence
22 to the long-term control plan. That's the A
23 piece.

1 The B piece is the consent decree requires
2 no more than four CSO's in the Fall Creek
3 Watershed -- I'm sorry; two -- and no more than
4 four in the rest of the system. That's part of
5 the consent decree. That's not part of this
6 discussion.

7 I spent 30-plus years in the water and
8 wastewater industry. I've been out for almost
9 eight now, but working with communities with CSO
10 and long-term control plans, this is a step to
11 protect the citizens when there is a CSO. This
12 doesn't allow citizens to have nine CSO's in a
13 year without facing enforcement, because they are
14 limited to four and two, and the 97 percent and
15 95 percent.

16 This protects you and I if we would decide
17 that we wanted to enter into that stream
18 immediately after that CSO. I can guarantee you
19 I won't. And it limits them to a four-day time
20 frame that these standards are in effect. So,
21 it's just a protection for members of the
22 community, and that's what this document does.
23 It's that last step in the process.

1 And it's going to get, as we've heard,
2 re-evaluated every five years to make sure that
3 there's compliance. And the CSO, it doesn't
4 matter if you violate your long-term control
5 plan, you violate the consent decree, they're
6 going to come chasing after you. I operated a
7 utility that was under a federal consent decree,
8 and I know full well, they don't give you a
9 break.

10 CHAIRMAN GARD: Any questions for
11 Bill?

12 (No response.)

13 CHAIRMAN GARD: If you -- excuse me.
14 If you want to testify, get a form and sign up.
15 We don't just take questions from the audience,
16 but you're welcome to testify.

17 MR. RULON: Just a question for Bill
18 while we're waiting. In that particular case and
19 in this particular case, EPA attorneys or EPA
20 will be looking at whether we're meeting the
21 standards, and I'm a little confused on what
22 happens if they're not. Is there -- like IDEM is
23 forced to do something to help them get in

1 compliance; is that right?

2 MR. BLOMQUIST: I --

3 MR. ETZLER: That could be the
4 outgrowth, because if you have more than four
5 CSO's, the agency, in conjunction with EPA, is
6 going to look at what can be done. There may be
7 fines assessed. They may say you've got to add
8 three more miles of tunnel in order to limit it.
9 Because that's why there's that continuous
10 five-year look at what's happening within your
11 system --

12 MR. RULON: Uh-huh.

13 MR. ETZLER: -- to determine what is
14 the best outcome.

15 MR. RULON: Uh-huh.

16 MR. ETZLER: What this does is when
17 this is a CSO, it says there -- these criteria
18 that are in place to protect the public so that
19 they don't enter into the water. And that -- you
20 know, the criteria change somewhat as part of
21 that protection standpoint.

22 MR. RULON: Thank you.

23 CHAIRMAN GARD: Ms. Hoffmann?

1 MS. HOFFMANN: Yes.

2 CHAIRMAN GARD: If you want to add to
3 your testimony, that's fine, but we do not
4 question --

5 MS. HOFFMANN: Sure.

6 CHAIRMAN GARD: -- members of the
7 Commission.

8 MS. HOFFMANN: And I appreciate the
9 chance -- and I've honestly never gotten up twice
10 at one of these things before, but I just did
11 want to clear up, it's not bound by the two to
12 four events. I want to be clear about that. I
13 asked that very specific question to both
14 Citizens Energy Group and IDEM staff. That's not
15 the point of compliance.

16 It's 97-percent capture of the typical
17 year event. That was forecasted to be
18 approximately two or four overflow events of
19 these particular streams, but this is in --
20 compliance is not bound to a maximum number of
21 events.

22 So, if you're looking at the comments we
23 submitted, that was one of our largest concerns

1 is understanding how far we've come in this
2 process. I'm not talking about reopening the
3 consent decree. I understand the tremendous
4 amount of work and that Citizens Energy was
5 handed that late in the game, and that moving the
6 goal post for them is not a fair thing to do.
7 I'm not asking for that.

8 What we're talking about, though, is that
9 two and four events, that is nowhere part of
10 their compliance. Their compliance is
11 specifically 97-percent capture of the typical
12 year. That was just an estimate. If we were to
13 actually bound their compliance by these maximum
14 events, I think the public would think they were
15 getting what they thought they were getting.

16 And if their permit was limited to that,
17 they would have to re-evaluate and would have to
18 take a look at where they were. Otherwise, five
19 years from now will they be in compliance with
20 97-percent capture of that typical storm? Yes,
21 they will. I bet they will, because they're
22 going to be in compliance with it when we're
23 done.

1 So, please don't be confused by the two to
2 four -- there is no bound to the number of
3 events, and what you're doing is creating a use
4 designation that is driven by when the event
5 happens. It does not limit the number of events.

6 Thank you.

7 CHAIRMAN GARD: Thank you. I have no
8 more cards. Is there anyone else that wants to
9 testify? Please fill out card first.

10 (No response.)

11 CHAIRMAN GARD: Okay. Thank you.

12 Any further discussion from members of the
13 Committee?

14 DR. NIEMIEC: I just have one quick
15 question for Bruno or someone from IDEM. If we
16 look at page 3, which, under (b)(1), it states
17 that this requirement for "... (97%) capture of
18 typical year CSO volume and an annual average
19 of two... typical year CSO's within... Fall
20 Creek... and (B)... (95%) capture of typical year
21 CSO volume and an annual average of four...
22 typical year CSO's in watersheds other than the
23 Fall Creek watershed...." Is there some

1 misunderstanding of the wording?

2 COMM. PIGOTT: I think you're asking
3 whether or not it's 97 percent, and in addition
4 to that, two typical CS -- is that what you're
5 driving at here?

6 DR. NIEMIEC: I'm wondering. It
7 looks like --

8 COMM. PIGOTT: It reads in such a
9 way --

10 DR. NIEMIEC: It looks the way it's
11 written that they have to meet both criteria --

12 COMM. PIGOTT: So, Nancy --

13 DR. NIEMIEC: -- that they cannot
14 exceed --

15 COMM. PIGOTT: I'm sorry.

16 DR. NIEMIEC: -- that they cannot
17 exceed an annual average of two typical year
18 CSO's within Fall Creek, and also they cannot
19 exceed an annual average of four typical year
20 CSO's in watersheds other than Fall Creek.

21 COMM. PIGOTT: Now I understand.
22 Thank you.

23 DR. NIEMIEC: That's what it appears

1 to state.

2 COMM. PIGOTT: Nancy can you help me
3 with the construction of this language? I didn't
4 write it, but this is LSA format, and I'm not
5 sure --

6 MS. KING: Well, it is, but what this
7 basically is, is we have gotten comments from
8 U.S. EPA pertaining to this language, and they
9 wanted it to more accurately reflect the language
10 that was in the consent decree pertaining to the
11 agreement. They thought it was more
12 instructional as to what that provides.

13 So, this is language out of the consent
14 decree. It's not -- it's not meant to add
15 anything additional. Basically this is a
16 codification of the agreement within the consent
17 decree. It does not add anything different or
18 additional than what has been approved in the
19 legally binding document.

20 COMM. PIGOTT: And I think what your
21 question might have been also is it appears that
22 they're both saying it has to be 97-percent
23 capture --

1 DR. NIEMIEC: Right.

2 COMM. PIGOTT: -- and it can be no
3 more than two --

4 DR. NIEMIEC: Correct.

5 COMM. PIGOTT: -- events in -- and
6 this is where Jill comes in with -- the typical
7 year is the point she's raising. And you're just
8 saying that this is --

9 MS. KING: I think it might actually
10 also be, as Bruno mentioned, sort of a construct
11 of how things are written from the LSA
12 perspective, that when we added this, which was,
13 as you know, not part of the original draft as we
14 put it out there, when we added this, it really
15 is this concept that we have -- we have stream
16 reaches in two different sectors. One is the
17 Fall Creek Watershed and one is another
18 watershed.

19 DR. NIEMIEC: Right.

20 MS. KING: So, the 97 percent equals
21 essentially, you know, the two -- in a typical
22 year, two overflows, the 95 percent equals
23 essentially four in a typical year. So, it's --

1 one is a sort of a modifier of the other. It's
2 not in addition to that, if that explains it.

3 DR. NIEMIEC: What I'm saying is it
4 seems the way it's written logically that they
5 must meet all of these criteria, so that they're
6 not going to be able to have, let's say, five or
7 ten.

8 COMM. PIGOTT: I agree that that's
9 what it says.

10 MS. KING: Well, again, this gets
11 back to the discussion about typical year.

12 COMM. PIGOTT: Right.

13 MS. KING: And so, again, this is --
14 like anything, the law doesn't -- is behind
15 day-to-day reality. So, this was agreed upon,
16 and moving through the process of developing
17 this, you have to set something in time;
18 otherwise, you know, we'd be writing these things
19 in chalk, because you have to -- you have to put
20 parameters around things, and that's the
21 parameter within the consent decree.

22 COMM. PIGOTT: And that's where the
23 typical year is an issue that --

1 MS. KING: Yes.

2 COMM. PIGOTT: -- Jill has raised.
3 It's critical in the reading of this section.

4 MS. KING: Yes.

5 COMM. PIGOTT: So, that is important
6 to note. It is language that was in the consent
7 decree.

8 DR. NIEMIEC: All right. Well, it
9 seemed the matter that it brought up was: Is
10 there some concrete point, some concrete number
11 of events that will cause there to be some
12 enforcement action?

13 COMM. PIGOTT: Right. And that's
14 where our compliance team gets together, and we
15 already do it for the communities that have fully
16 instituted their long-term control plans. We
17 both conduct in-person inspections -- we look at
18 whether or not they've fully implemented the
19 plans that they said that they would implement,
20 and we look at rainfall data and we examine the
21 facts on the ground when we evaluate each and
22 every community that's implementing a long-term
23 control plan.

1 I will say also, it pays to bear in mind
2 that we talk a little bit about sliding backward
3 here, but we're not at two and four events right
4 now. We hope to get to that point. And when
5 those events occur, the logic behind it is that
6 the rainfall event will be so severe that we will
7 expect that people should not be in the water
8 because it's unsafe for them to recreate in the
9 water at that time.

10 And so, that's important to note. There
11 was a logic to this. You know, at that point,
12 the rainfall events would be such that you
13 shouldn't be in the water. Today, but -- and
14 previously, at the inception of negotiations,
15 even a tenth of an inch of rain, a tenth of an
16 inch is just what fits -- when the bottom -- the
17 cement under your car gets wet, just that little
18 amount would trigger millions of gallons of CSO
19 discharges.

20 So, I understand the idea that we're
21 worried about not achieving the two and four
22 events, because of the language of two and four
23 typical year events. On the other hand, we're

1 working toward that level, but it's not quite
2 there yet. And we're intent -- and that's why we
3 have a CSO staff that sits here today -- on
4 reviewing each of these plans, not just as they
5 go through it, but once they've implemented it as
6 well.

7 DR. NIEMIEC: Thanks for the
8 discussion. Thanks.

9 CHAIRMAN GARD: Any other questions
10 from members of the Board?

11 MR. DAVIDSON: Just a brief one, I
12 promise.

13 I really appreciate the back and forth on
14 some of this, and to Ms. Hoffmann, your first
15 comment about if you had triplets. Well, I'm an
16 expert. I have triplets.

17 (Laughter.)

18 MR. DAVIDSON: And then we had
19 another one. And not to make any gender
20 comments, but they're all four girls, so I wish
21 there were a performance criteria for how long a
22 teenage girl could take a shower.

23 (Laughter.)

1 MR. DAVIDSON: The size of the
2 hairballs, I'll tell you, it's incredible,
3 because we also live on and own my own private
4 septic field, and as I recall, it's not based on
5 how many -- whether you have triplets or not,
6 it's based on bedrooms and bathrooms, and I
7 remember candidly sitting down with a county
8 health official and overbuilding my system,
9 because we knew the family was first, and we
10 overbuilt, because we knew what we had to deal
11 with.

12 And I think that's a responsible approach,
13 and I think that's what we're hearing from
14 everybody is be responsible. I wish every
15 engineer could build a building to withstand an
16 F5 storm, but if they could, we couldn't afford
17 to live in them.

18 So, I appreciate everybody's perspective
19 and approach, and hopefully -- I love to fish.
20 Some of you know me personally. I've spent more
21 time on the water than most, and I appreciate
22 that in Indiana. We're -- it's going to be
23 better.

1 CHAIRMAN GARD: Any further
2 questions?

3 DR. ALEXANDROVICH: Are we in
4 discussion?

5 MR. RULON: Just my last question.

6 DR. ALEXANDROVICH: Oh, I'm sorry.

7 MR. RULON: Just a last question for
8 Nancy.

9 So, we're passing this rule now, but we're
10 not going to get to the two or four events
11 until 2025 anyway, so according to what Jill
12 said, are we in fact -- there's no reason to pass
13 this for four years? Is that true?

14 COMM. PIGOTT: Well, if you look at
15 the federal consent decree, it requires passing
16 this nine years ago.

17 MS. KING: I only know --

18 COMM. PIGOTT: In 2007 there was a
19 year --

20 MS. KING: I can tell you this on
21 this: This -- these do not become effective
22 until full implementation, so you're right, there
23 is no -- there's no fire burning to adopt this

1 now, but I will tell you this: The language
2 won't change in four years, so -- it's not going
3 to -- because unless -- unless something changes
4 drastically in terms of the long-term control
5 plan, which would amend the Use Attainability
6 Analysis.

7 And again, as has been pointed out, all
8 CSO communities are required to continue to
9 review, see what else that can be done. And so,
10 as it's been stated, it's not the -- it's not the
11 beginning -- or it's not the end, it's kind of
12 the beginning.

13 So, no, you're not required to. The law
14 establishes the CSO wet weather subcategory, not
15 this Board. It gives the Board the ability to
16 put it in place, and the legally binding
17 documents that really control what Citizens has
18 to do is the consent decree and their permit.

19 So, this rule doesn't provide anything
20 extra beyond that. It's just something that is
21 in our statute that allows the community to know
22 what stream reaches may in fact still be impacted
23 after implementation of a long-term control plan.

1 So, from that perspective, I guess you could look
2 at it as more of a notification.

3 DR. ALEXANDROVICH: But my question
4 is on when this goes -- when it goes into effect.
5 I don't see anything in the rule that was given
6 about the date of when it becomes effective, so
7 that's one thing I don't understand.

8 MS. KING: This rule becomes
9 effective 30 days after it goes over to -- this
10 doesn't have anything to do with the effective
11 date of this rule. We're not asking you to pass
12 this now and put some future effective date on
13 it, because we can't do that under state law.

14 This rule becomes effective 30 days after
15 it goes -- if it goes through the process, as all
16 of our rules do, unless we put a date certain at
17 the top, which you'll see sometimes -- it's kind
18 of rare -- but normally the standard is 30 days
19 after it is -- goes over -- after it's approved
20 by the Governor, it goes to Legislative Services
21 for publication. That's when it's effective.

22 But this limited use subcategory is not
23 available to, in this particular case, Citizens,

1 but anyone who would ask for this type of a
2 rulemaking for their particular community is not
3 available to them and will not be allowed until
4 full implementation, and those type of -- and
5 what constitutes that are part of what our CSO
6 folks in the water program look at, and again,
7 that is something based within the consent decree
8 as well as their permit.

9 DR. ALEXANDROVICH: Okay. So,
10 essentially -- I'm not -- now that we're getting
11 overflows, a lot of overflows, I don't know how
12 many, so they are in violation of our existing
13 water quality standards, but once they
14 implement -- fully implement the control -- their
15 long-term control plan, and if they have
16 overflows and they can say, "Well, okay. We meet
17 this, so we're not in violation of our permits,"
18 is that -- am I understanding that correctly?

19 COMM. PIGOTT: The --

20 MS. KING: The permit itself as well
21 as what is contained within the consent decree,
22 those are what control what a violation is or is
23 not, so yes --

1 DR. ALEXANDROVICH: Okay.

2 MS. KING: -- to that extent, that's
3 correct.

4 CHAIRMAN GARD: Any further
5 questions?

6 (No response.)

7 CHAIRMAN GARD: This gives you all an
8 idea of the discussions we had when we passed
9 this legislation. I remember clearly coming up
10 with that 97 percent, which we called the --

11 COMM. PIGOTT: Needed curve.

12 CHAIRMAN GARD: -- needed curve, the
13 point at which additional money doesn't achieve
14 much environmental benefit. We won't do that
15 again.

16 Okay. If there are no other speakers and
17 the Board has no other questions, the hearing is
18 concluded.

19 The Board will now consider final adoption
20 of amendments to rules at 326 IAC 2-1-3.1 and the
21 new rule at 2-1-11.5 regarding the CSO Wet
22 Weather Limited Use Designation for the City of
23 Indianapolis.

1 Is there any further Board discussion?

2 DR. ALEXANDROVICH: I guess I have
3 one comment.

4 CHAIRMAN GARD: Okay.

5 DR. ALEXANDROVICH: I think it would
6 be good for both IDEM and Citizens, in the next
7 five years, when a Use Attainability Analysis is
8 drawn up and submitted, that it be open for
9 public comment, another set of eyes to look at
10 the data, another set of data that you guys might
11 not even be aware of. So, I think it would be --
12 I highly recommend and push you guys to think
13 about doing that, to opening it up to the public
14 and making them part of the process as well.

15 COMM. PIGOTT: (Nodded head yes.)

16 DR. ALEXANDROVICH: Thank you.

17 CHAIRMAN GARD: Any other -- any
18 other comments or questions?

19 (No response.)

20 CHAIRMAN GARD: Okay. I need a
21 motion to final adopt the rules as presented. Is
22 there a motion?

23 MR. ETZLER: So moved.

1 CHAIRMAN GARD: Is there a second?

2 MS. COLLIER: Second.

3 CHAIRMAN GARD: This will be a
4 roll-call vote.

5 Dr. Niemiec?

6 DR. NIEMIEC: Yes.

7 CHAIRMAN GARD: Ms. Collier?

8 MS. COLLIER: Yes.

9 CHAIRMAN GARD: Mr. Rulon?

10 MR. RULON: No.

11 CHAIRMAN GARD: Mr. Davidson?

12 MR. DAVIDSON: Yes.

13 CHAIRMAN GARD: Ms. Nelson?

14 MS. NELSON: Yes.

15 CHAIRMAN GARD: Mr. Gilson?

16 MR. GILSON: Yes.

17 CHAIRMAN GARD: Mr. Schuler?

18 MR. SCHULER: Yes.

19 CHAIRMAN GARD: Mr. Horn?

20 MR. HORN: Yes.

21 CHAIRMAN GARD: Dr. Alexandrovich?

22 DR. ALEXANDROVICH: Yes.

23 CHAIRMAN GARD: Mr. Etzler?

1 MR. ETZLER: Yes.

2 CHAIRMAN GARD: Mr. Clark has left.

3 Mr. Wasky?

4 MR. WASKY: Yes.

5 CHAIRMAN GARD: And the Chair votes
6 aye.

7 MS. VALIQUETT: Chair, my name was
8 not called.

9 CHAIRMAN GARD: Oh, I'm sorry. It's
10 not on here. How do you vote, Ms. Valiquett?

11 MS. VALIQUETT: Yes.

12 CHAIRMAN GARD: Twelve yeses, one no.
13 The rule is adopted.

14 Sorry about that.

15 MS. VALIQUETT: That's okay.

16 CHAIRMAN GARD: Something happened.

17 At the November meeting, the Board was
18 presented with a citizen petition regarding the
19 potential adoption of the 2012 recreational water
20 quality criteria. IDEM was tasked with reviewing
21 the petition to be sure it meets the statutory
22 requirements under IC 13-14-8.5 -- or 8-5.

23 Nancy King will address the statutory

1 requirements, and then the Board shall determine
2 whether the petition has merit and discuss the
3 next step.

4 Nancy?

5 MS. KING: Thank you, Chairman Gard.

6 We went through this last time, but I just
7 basically wanted to provide you with the
8 information that we were asked to look at, which
9 is the verification of the number of signatures,
10 which does meet the statutory requirements under
11 13-14-8-5, as well as the fact that we have not
12 had a hearing on this within the previous six
13 months, which is another of the requirements.

14 So, if you have any questions about the
15 process or anything, I'm so happy to answer that.

16 CHAIRMAN GARD: Well, I'll ask after
17 we get through this next part. IDEM's Office of
18 Legal Counsel has determined that the petition
19 was signed by at least 200 people and the
20 proposal is supported by a statement of reasons.
21 Additionally, the Department has not held a
22 hearing in the prior six months to November 2019,
23 when the petition was presented to the Board.

1 MR. HORN: Aye.

2 MS. NELSON: Aye.

3 DR. ALEXANDROVICH: Aye.

4 MS. COLLIER: Aye.

5 MR. ETZLER: Aye.

6 MR. RULON: Aye.

7 MS. VALIQUETT: Aye.

8 DR. NIEMIEC: Aye.

9 MR. GILSON: Aye.

10 MR. WASKY: Aye.

11 MR. DAVIDSON: Aye.

12 MS. SCHULER: Aye.

13 CHAIRMAN GARD: Aye.

14 Opposed, nay.

15 (No response.)

16 CHAIRMAN GARD: Okay. The Board has
17 determined that it is not plainly devoid of
18 merit.

19 Nancy, this is where I wanted to ask you a
20 question. If we want to have a committee to look
21 at this, do we appoint a committee now? Do we
22 wait until our April meeting? Do we give the
23 Board Chairman the ability to form a committee?

1 What -- how should this be approached?

2 MS. KING: Well, the good news is
3 there's no real strictures on how you have to do
4 it or how you may want to do it. As you know,
5 several of you are new to the Board, but in
6 various instances there have been a number of
7 ways to do it. I think usually what has happened
8 when the Board determines to have a hearing, the
9 first thing you decide -- because that's kind of
10 the first step. You have a hearing on the merits
11 of the concept in general.

12 CHAIRMAN GARD: Okay.

13 MS. KING: At least that's how we've
14 done it in the past. You have a hearing on the
15 merits of the concept in general, you know, folks
16 who want to get up and talk, folks who have an
17 issue with it get up and talk. And then, if I
18 recall correctly -- and actually Bill may
19 remember, because he was part of one of our more
20 recent citizen's petitions once and it kind of
21 went this way.

22 You know, you decide if you want to have a
23 hearing within the realm of a Board meeting or,

1 again, if it's more of a localized issue, we have
2 had -- held hearings outside of the Board
3 meetings, in locales where it was more pertinent,
4 and then we had a Board member actually be the
5 hearing officer.

6 And then they would -- the member reported
7 back to this Board related to -- and the Board
8 then subsequently decided what makes sense as to
9 how to move forward with the rulemaking, and that
10 was a while back, so I don't remember what
11 actually happened there.

12 But basically from a process standpoint,
13 if the Board votes to have a hearing, you decide
14 when that would be. It could be at the next
15 Board meeting. And then the discussions after
16 that hearing might be, "Well, it seems that we
17 have some basic disagreements and a work group
18 might be a good idea," to figure out --

19 CHAIRMAN GARD: Okay.

20 MS. KING: -- if a rule can be done
21 and what that might look like. So, it's pretty
22 open ended and it's kind of an iterative process,
23 but those are some of the paths we've taken in

1 the past for that. So, hopefully that helps kind
2 of inform you on how you might want to move
3 forward. But generally the --

4 CHAIRMAN GARD: Okay.

5 MS. KING: -- determination of a
6 hearing is kind of the first step.

7 CHAIRMAN GARD: The previous ones
8 were kind of -- the process is kind of coming
9 back to me now. So, I think if -- unless the
10 Board members disapprove, I would suggest having
11 a hearing at the next Board meeting. I don't
12 think we have any real, real heavy stuff at the
13 next Board meeting, and have the hearing and hear
14 from the people that brought the petition. My
15 feeling is that even though the petition was
16 brought by communities in the northern half of
17 the state, this would have statewide application.

18 MS. KING: Yes, I agree.

19 CHAIRMAN GARD: So, I think Central
20 Indiana is a fine place to have a hearing. I
21 would encourage those people that brought the
22 petition to organize your presentation and --
23 with a few speakers and don't have a dozen people

1 standing up saying the same thing. I don't think
2 that's an approach that would lend itself --

3 MS. KING: If it's the Board's will
4 for us to have it at the next Board meeting, we
5 will public notice that hearing like we do other
6 hearings --

7 CHAIRMAN GARD: Uh-huh.

8 MS. KING: -- in the Register. We
9 will also have it on our Web site, which is a
10 little more probably well read than the Register
11 these days. I don't know.

12 CHAIRMAN GARD: Is that okay with the
13 Board members, to have the hearing at the next
14 Board meeting?

15 MR. RULON: One question: Will
16 Bruno's team then -- that's a great process. I
17 was just wondering who's going to tell us the net
18 effect of the proposal.

19 CHAIRMAN GARD: Well, I think that's
20 where we go into probably the committee.

21 MR. RULON: Okay. Actually --

22 MS. KING: Well, I can tell you that
23 IDEM will be prepared to also speak at that

1 hearing --

2 MR. RULON: Okay.

3 MS. KING: -- because we're the ones
4 who would have to implement that. And you're
5 right, you need to have --

6 MR. RULON: I wanted to give you --

7 MS. KING: -- the understanding --

8 MR. RULON: -- notice that we want
9 you to speak.

10 MS. KING: Yeah, you need to have the
11 understanding of what the regulatory agency --

12 CHAIRMAN GARD: Right.

13 MS. KING: -- what they believe the
14 impact of that will be, so it's -- it gives the
15 Board a more full picture so that you can decide
16 how to move forward with what you've heard.

17 CHAIRMAN GARD: Well, and if I'm not
18 incorrect, I think that, for instance,
19 environmental groups would also have the
20 opportunity to testify.

21 MS. KING: Everyone who wants to
22 testify on this is certainly allowed. That's the
23 point of publicly noticing it and having everyone

1 who's interested come and provide their
2 perspective on it.

3 CHAIRMAN GARD: Okay.

4 DR. ALEXANDROVICH: As a matter of
5 interest, Madam Chair, there is a discussion of
6 the 2012 water quality standards in the Citizens
7 Use Attainment Analysis, so we might want to look
8 at that --

9 CHAIRMAN GARD: Okay.

10 DR. ALEXANDROVICH: -- again, because
11 it does compare our current standards to the
12 alternative standards.

13 CHAIRMAN GARD: Right.

14 Okay. If you'll make sure that that is
15 advertised, and we will --

16 MS. KING: Yes, we will.

17 CHAIRMAN GARD: -- have it at the
18 next Board meeting.

19 I guess I need a motion to -- to hold a
20 hearing at the next Board meeting.

21 MR. DAVIDSON: So moved.

22 CHAIRMAN GARD: Is there a second?

23 MS. NELSON: Second.

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

3 MR. HORN: Aye.

4 MS. NELSON: Aye.

5 DR. ALEXANDROVICH: Aye.

6 MS. COLLIER: Aye.

7 MR. ETZLER: Aye.

8 MR. RULON: Aye.

9 MS. VALIQUETT: Aye.

10 DR. NIEMIEC: Aye.

11 MR. GILSON: Aye.

12 MR. WASKY: Aye.

13 MR. DAVIDSON: Aye.

14 MS. SCHULER: Aye.

15 CHAIRMAN GARD: Aye.

16 Opposed, nay.

17 (No response.)

18 CHAIRMAN GARD: We will have the
19 hearing at the next Board meeting.

20 This is an open forum. Does anybody wish
21 to address the Board today on any subject that
22 hasn't already been brought up?

23 (No response.)

1 CHAIRMAN GARD: Okay. The next
2 meeting of the Environmental Rules Board is
3 tentatively set for April the 8th, 2020 at 1:30
4 in Conference Room A of this building. Then the
5 public hearing -- the meeting date is tentative
6 and subject to closure. We'll keep everybody
7 updated, but I doubt that it will change.

8 Motion to adjourn?

9 DR. NIEMIEC: So moved.

10 MR. RULON: Second.

11 CHAIRMAN GARD: All in favor, say
12 aye.

13 MR. HORN: Aye.

14 MS. NELSON: Aye.

15 DR. ALEXANDROVICH: Aye.

16 MS. COLLIER: Aye.

17 MR. ETZLER: Aye.

18 MR. RULON: Aye.

19 MS. VALIQUETT: Aye.

20 DR. NIEMIEC: Aye.

21 MR. GILSON: Aye.

22 MR. WASKY: Aye.

23 MR. DAVIDSON: Aye.

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MS. SCHULER: Aye.

CHAIRMAN GARD: Aye.

Opposed, nay.

(No response.)

CHAIRMAN GARD: We are adjourned.

- - -
Thereupon, the proceedings of
January 8, 2020 were concluded
at 3:24 o'clock p.m.
- - -

1 CERTIFICATE

2 I, Lindy L. Meyer, Jr., the undersigned
3 Court Reporter and Notary Public residing in the
4 City of Shelbyville, Shelby County, Indiana, do
5 hereby certify that the foregoing is a true and
6 correct transcript of the proceedings taken by me
7 on Wednesday, January 8, 2020 in this matter and
8 transcribed by me.

9
10 _____
11 Lindy L. Meyer, Jr.,
12 Notary Public in and
13 for the State of Indiana.

14
15 My Commission expires August 26, 2024.
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