

**BEFORE THE  
NATURAL RESOURCES COMMISSION  
OF THE  
STATE OF INDIANA**

**IN THE MATTER OF:**

<b>JERRY J. YODER and</b>	)	
<b>LEO MILLER,</b>	)	
<b>Claimants,</b>	)	<b>Administrative Cause</b>
	)	<b>Number: 07-205W</b>
<b>vs.</b>	)	
	)	
<b>DEPARTMENT OF NATURAL RESOURCES,</b>	)	
<b>Respondent.</b>	)	
	)	
<b>CHRIS BOUWKAMP, JANET E.</b>	)	<b>(NOV V-4147-PL)</b>
<b>BOUWKAMP and JOHN BUCK,</b>	)	
<b>Respondent Intervenors.</b>	)	

**ORDER APPROVING EXTENSION OF TIME TO COMPLY WITH  
PARAGRAPH (2) OF THE FINAL ORDER AND ADMONITION WITH  
RESPECT TO FULL COMPLIANCE WITH THE FINAL ORDER**

On October 29, 2009, Jerry J. Yoder telephoned and requested an extension of time from November 1, 2009 until September 1, 2010 to comply with the following aspects of the Final Order:

(2) By November 1, 2009, the Claimants shall restore the J. J. Charles Drain as nearly as practicable to the configuration which existed before the dredging activities which they began in 2002. Included shall be at least a 50-linear foot fill of the new waterway as needed to direct flow back to the J. J. Charles Drain.

Yoder stated his basis for making the request was set forth in paragraph (10)(B) of the Final Order:

(10) If the Claimants do not initiate judicial review, the Commission and its administrative law judge shall retain jurisdiction of this order until January 1, 2011 for the following purposes:

....  
(B) For good cause, the Claimants may request an extension of time to comply with the requirements of paragraph (1) through paragraph (8). The Commission would determine whether good cause is shown, and, if so, the appropriate period and terms of an extension.

Yoder stated the reasons for the request were that high water on Hackenberg Lake and contiguous wetlands would cause placement of the fill to be ineffective and to be subject to erosion which would cause undo sedimentation. Yoder suggested the preferable period for placement of the fill would be during dry summer months.

Yoder reported he had discussed this request with Jon Eggen of the Department of Natural Resources, and Eggen expressed his support for an extension of time. Ihor Boyko also telephoned the administrative law judge and indicated the DNR would not object to an extension of time so that the placement of fill would occur when water levels become lower.

An "Entry Regarding Request for Extension of Time to Comply with Paragraph (2) of the Final Order" was made on October 29 in which the parties were given until November 9, 2009 to offer comments or objections to the request. On November 7, 2009, the Respondent Intervenors filed their "Response to Request for Extension of Time" in which they stated they did not object to the extension of time sought by Claimants. The Respondent did not file a response other than its October 29, 2009 telephone statement in which the agency stated it would not object to the extension of time.

Being duly advised, paragraph (2) of the Final Order is amended to read as follows:

(2) By September 1, 2010, the Claimants shall restore the J. J. Charles Drain as nearly as practicable to the configuration which existed before the dredging activities which they began in 2002. Included shall be at least a 50-linear foot fill of the new waterway as needed to direct flow back to the J. J. Charles Drain.

In their "Response to Request for Extension of Time", the Respondent Intervenors averred other actions by the Claimants that would be in violation of the Final Order. They requested that approval of the requested extension be conditioned on compliance with all aspects of the Final Order.

Being duly advised, the Claimants are admonished they are obliged to comply with all terms of the Final Order. Failure to comply can subject them to the full amount of the described civil penalty of \$85,000.

Dated: November 10, 2009



Stephen L. Lucas  
Administrative Law Judge  
Natural Resources Commission  
Indiana Government Center North  
100 North Senate Avenue, Room N501  
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A copy of the foregoing was sent to the following persons. Copies of any pleading or document filed in this proceeding must also be served upon these persons or their attorneys:

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A copy of the foregoing was also sent as a courtesy to persons listed below. The parties are not required to serve copies of pleadings and documents on these persons:

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