

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

IN THE MATTER OF:)	
)	
PETITION FOR RATE ESTABLISHMENT BY KENT’S HARBOR)	ADMINISTRATIVE CAUSE NUMBER: 19-143P
)	

**REPORT OF HEARING OFFICER WITH PROPOSED FINDINGS
AND RECOMMENDATIONS TO THE U.S. ARMY CORPS OF ENGINEERS BY THE
NATURAL RESOURCES COMMISSION**

1. PETITION FOR RATE ESTABLISHMENT BY KENT’S HARBOR

On November 29, 2019, Kent Reineking (*Reineking*), on behalf of Kent’s Harbor (*Kent’s Harbor*), submitted correspondence seeking a request for rate establishment (*Petition*) to the Department of Natural Resources (*Department*) and the Natural Resources Commission (*Commission*). The Petition is attached as Exhibit A.

The Petition states, “*We are requesting to establish a slip rate following the establishment of an interim rate for five (5) existing slip locations on I-Dock*” and “*The five I-Dock slips with the 2019 interim rate are 13’ x 26’ supplied with electric and water. There are no other seasonally rented 26 ft. slips at I-Dock. The interim rate for these slips is \$2,438. We wish to establish the rate for these five slips at the same \$2,438...*”

Reineking is seeking formal establishment of the \$2,438.00 rate originally approved as an interim rate by the Department.

If approved, the proposed establishment would become effective on January 1, 2021

2. SCOPE OF REVIEW

Requests for rate establishment or increase are evaluated by the Commission under Information Bulletin #20 (Fifth Amendment) (*IB #20*), as posted in the Indiana Register at [20170524-IR-312170263NRA](#) on May 24, 2017. *IB #20* is provided as guidance on the informal process for Commission review of ratemaking requests made by resorts and marinas operating under a lease with the Department.

Consistent with the requirements set forth in IB #20, Kent's Harbor submitted their Petition to the Department, and a copy to the Commission, before January 1 of the year preceding the year in which the proposed rates, if approved, will be implemented.

3. HEARING OFFICER ASSIGNMENT AND NOTIFICATION TO RENTERS

Section 3 of IB #20 provides for the assignment of a Hearing Officer and the dissemination of information concerning a request for rate establishment or increase as follows:

- (A) The [Commission] will assign a cause number and hearing officer. By February 1, the Department shall notify the lessee of the assigned administrative cause number, identity of the hearing officer, and hearing officer's electronic mail address.
- (B) By March 1, the lessee shall provide written notice, by personal delivery, U.S. first class mail, or by electronic mail, to each slip renter or buoy renter that the lessee is requesting a rate establishment or increase associated with slips or other mooring facilities, including buoys and docking stations. The notice shall include the proposed rates and advise the renter that a rate hearing will be scheduled only upon submission of requests for rate hearing by ten percent (10%) of the renters within fifteen (15) days ... The lessee shall also provide the renter with the hearing officer's electronic mail address. Not later than March 15, the lessee shall provide the Hearings Division with a copy of the notice and a listing that includes the names of persons notified and the method of service under this paragraph....
- (C) By March 1, the lessee shall post written notice in a conspicuous location at the lessee's business office of a request for rate establishment or increase associated with accommodations, lodging, and houseboats, including floating cabins. The notice shall include the proposed rates and advise the public that a rate hearing will be scheduled only upon submission of twenty-five (25) individual requests for rate hearing to the hearing officer by personal delivery, U.S. first class mail sent to the address of the Hearings Division as provided in section 2(A)(ii) of this bulletin, or by electronic mail sent to the hearing officer not later than March 15. The lessee shall also provide the public with the hearing officer's electronic mail address.

Billie J. Davis was assigned as the Hearing Officer. Davis advised Reineking of her assignment as the Hearing Officer and provided him with her contact information and the assigned administrative cause number.

Reineking, on behalf of Kent's Harbor, filed an affidavit as required by IB #20, on January 6, 2020 confirming that slip renters were notified of the proposed establishment, the deadline for requesting a rate hearing, and the mailing address and the email address at which requests for a rate hearing could be sent.

No qualifying written comments to either support or oppose any of the requested rates was received by the Division of Hearings or the Hearing Officer. The Hearing Officer received no request for rate hearing and no rate hearing was scheduled.

4. DEPARTMENT INTERIM RATE APPROVAL FOR NEW RATE

On May 2, 2019, Reineking requested an interim rate approval, for the 2019-2020 season, in the amount of \$2,438 for five 26' slips located on I-Dock.

On May 8, 2019, Melissa Stewart (*Stewart*), Concession/Contract Program Manager for the Department's Division of State Parks approved Reineking's request.

5. COMPARABLE ANALYSIS AND DEPARTMENT RECOMMENDATION

Upon receipt of a ratemaking request from a marina, the Department's Division of State Parks is tasked with analyzing the rates of comparable marinas. *IB#20, Sec.3(E)*.

On May 14, 2020, Terry Coleman (*Coleman*), Deputy Director for the Department's Division of State Parks, provided a report of his evaluation and recommendation regarding Kent's Harbor Petition. Coleman's report is attached as Exhibit B. In his evaluation, Coleman found the "request to be reasonable and justified." Coleman approved the petition for establishment of slip rates.

6. HEARING OFFICER ANALYSIS

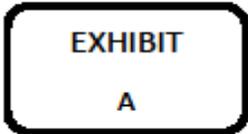
After reviewing the comparables and taking all information into account, it is the recommendation of the Hearing Officer that the proposed rate establishment by Reineking, in Kent's Harbor Petition, be approved.

After the Hearing Officer presents findings and recommendations to the Commission, the Commission may recommend approval or disapproval of the requested rate establishment or recommend a rate in an amount less than the rate requested by the lessee. The Commission's "recommendation for favorable consideration of a rate establishment or increase shall not be withheld unless, in the opinion of the Commission, the rates proposed exceed the fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area." *IB #20, Section 5*.

With the foregoing analysis, the Hearing Officer presents Exhibit C, as the proposed findings and recommendations of the Commission to the U.S. Army Corps of Engineers.

Dated: June 18, 2020

Billie J. Davis
Hearing Officer



November 29, 2019

Ms. Sandra Jensen, Director
Division of Hearings
Natural Resources Commission
Indiana Government Center North, Room N103
100 North Senate Avenue
Indianapolis, IN 46204

Re: Request for Rate Establishment from Interim Rate

Dear Sandra:

We are requesting to establish a slip rate following the establishment of an interim rate for five (5) existing slip locations on I-Dock. Prior to setting an interim rate in 2019, these five boat slips had been used for transient boaters, rented on a per night basis. Due to the demand for seasonal slips we modified usage of these slips in 2019 to seasonal rental. The marina continues to retain, based on historical demand, a sufficient number of overnight slip locations and depending upon demand, these seasonal slips may still be utilized for transients.

The five I-Dock slips with the 2019 interim rate are 13' x 26' supplied with electric and water. There are no other seasonally rented 26 ft. slips at I-Dock. The interim rate for these slips is \$2,438. We wish to establish the rate for these five slips at the same \$2,438 for 2020. The rate is based upon the 2018-2019 I-Dock 28 ft. electric powered slip rate which was \$2,625. Dividing this 28 foot rate by 28 and applying that quotient of \$93.75 x 26 linear feet gives us \$2,437.50 which we rounded to the interim rate and now the requested established rate of \$2,438. The 28 ft. rate for 2020 was increased per request to \$2,675.

Thank you for your attention to this request. Please let me know of anything else you need.

Sincerely,

Kent Reineking
Kent's Harbor Marina
Brookville Enhancement Partners

EXHIBIT
B

DNR Indiana Department of Natural Resources

Eric Holcomb, Governor
Cameron F. Clark, Director

Division of State Parks
402 W. Washington Street, W298
Indianapolis, IN 46204
317-232-4140

Billie Davis, Paralegal
Natural Resources Commission
Division of Hearings
Indiana Government Center-North
100 North Senate Avenue, Room N103
Indianapolis, IN 46204

May 14, 2020

Dear Ms. Davis,

Please know that we are in receipt of a petition to establish a slip rate based on an approved interim rate for five existing slips located on I-Dock from Kent Reineking, owner/operator of Kent's Harbor Marina on Brookville Lake. The division has reviewed the request and find the request to be reasonable and justified. We approve the petition to go forward.

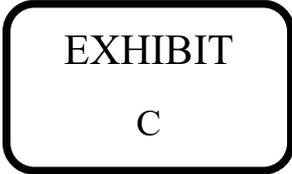
If you have questions or require additional information, please do not hesitate to contact me.

Sincerely,



Terry R. Coleman, Deputy Director
Division of State Parks
Indiana Department of Natural Resources

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



IN THE MATTER OF:)
)
PETITION FOR RATE ESTABLISHMENT) **ADMINISTRATIVE CAUSE**
BY KENT’S HARBOR) **NUMBER: 19-143P**

PROPOSED
**FINDINGS AND RECOMMENDATIONS TO THE U.S. ARMY CORPS OF ENGINEERS
BY THE NATURAL RESOURCES COMMISSION**

A. Proposed Findings

1. The scope of the informal review accorded by the Natural Resources Commission (the “*Commission*”) in Information Bulletin #20 (Fifth Amendment) (*IB #20*) is addressed to petitions for rate increase or rate establishment at marinas and related facilities on properties owned or leased by the Department of Natural Resources (the “*Department*”).
2. Although the Department may appropriately exercise whatever rights are provided in a ground lease with respect to marina facilities, as well as any other rights provided by law or equity, the scope of review provided in *IB #20* is limited to the subject of the petition for rate increase or rate establishment. The Commission ultimately recommends action on the petition to the U. S. Army Corps of Engineers (“*Corps*”), and the Corps may either accept or reject the recommendation.
3. Kent’s Harbor, in its Petition, requests establishment of an interim rate for five (5) existing slip locations on I-Dock. Reineking is seeking formal establishment of the \$2,438.00 rate originally approved as an interim rate by the Department. No requests for a public hearing were received.
4. In determining whether to grant the rate establishment, the Department is to analyze similar facilities and compare rates with those sought by the Petitioner. The consideration of rates charged by comparable marinas is fundamental to determining the propriety of proposed rate increases or rate establishments to marina slips and mooring buoys. The preponderance of information in the record indicates that the rate establishment proposed by Kent’s Harbor is within the range of lodging and boat slip rental rates for comparable facilities
5. A Hearing Officer’s or the Commission’s recommendation for rate establishment shall not be withheld unless the rates proposed exceed the fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

6. Further, the Commission exercises its authority to recommend approval of the rate establishments as requested by Kent's Harbor.
7. The requested rate establishments, are within the industry range and supportable. The rates approved by the Commission are set forth in the attached table, which includes all rates previously established as well as the rates recommended for approval through this action

B. Proposed Recommendation

The Natural Resources Commission recommends to the U.S. Army Corps of Engineers that the rate establishment sought by the Kent's Harbor Marina be approved as requested

Dated: _____

Bryan Poynter, Chair
Natural Resources Commission

Commission Slip Rate Recommendation

COMPREHENSIVE RATE LIST		
KENT'S HARBOR MARINA SLIP SIZE & DESCRIPTION	CURRENT RATE	COMMISSION RATE RECOMMENDATION for IMPLEMENTATION JANUARY 1, 2021
<u>B through G - Docks</u>		
20'	\$1,710.00	\$1,710.00
26'	\$2,360.00	\$2,360.00
30'	\$2,685.00	\$2,685.00
36'	\$3,085.00	\$3,085.00
40'	\$3,435.00	\$3,435.00
50'	\$3,940.00	\$3,940.00
Over 50' (Per Ft.)	\$82.50	\$82.50
<u>H - Dock</u>		
24'	\$1,850.00	\$1,850.00
18' x 60'	\$4,755.00	\$4,755.00
Over 60' (Per Ft.)	\$82.50	\$82.50
<u>A - Dock</u>		
24'	\$2,010.00	\$2,010.00
28'	\$2,455.00	\$2,455.00
13' x 24'	\$2,395.00	\$2,395.00
13' x 28'	\$2,765.00	\$2,765.00
14' x 30'	\$3,060.00	\$3,060.00
15' x 30' *	Obsolete	Obsolete
15' x 36'	\$3,470.00	\$3,470.00
15' x 38'	\$3,665.00	\$3,665.00
16' x 36'	\$3,710.00	\$3,710.00
18' x 46'	\$4,595.00	\$4,595.00
20' x 70'	\$7,210.00	\$7,210.00
Over 70' (Per Ft.)	\$101.00	\$101.00
<u>I - J Dock</u>		
24'	\$2,130.00	\$2,130.00
26' **	\$2,438.00 (interim rate)	\$2,438.00

28'	\$2,675.00	\$2,675.00
<u>LODGING</u>		
Studio Unit	\$199.00	\$219.00
One Bedroom Unit	\$249.00	\$259.00
Two Bedroom Unit	\$349.00	\$369.00

* Slip 15' x 30' on A-dock no longer exists; Administrative Cause Number 18-135P.

** 26' slips on I-dock are the only affected slips